PUBLIC PARTICIPATION GUIDELINES FOR STAKEHOLDERS IN THE MINING INDUSTRY

Coordinated by
Consultative Forum on Mining and the Environment
consisting of NGOs and CBOs, Labour and Mining Industry

With logistic and financial support by the
Chamber of Mines of South Africa

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FOREWORD

Dialogue between the South African Chamber of Mines, Non-Governmental Organisations (NGOs) and Community-based Organisations (CBOs) started after a chance meeting in Parliament in 1998 at the hearings on the National Environmental Management Act (NEMA) (No 107 of 1998). The different parties realised that they had much in common and the dialogue focussed on issues of public participation and sustainable development. In 1999, the group convened two workshops, during which mining executives and members of NGOs and CBOs discussed how best to improve communication between the mining industry and its neighbours. The objective was to foster a relationship of mutual understanding and trust in order to try and prevent conflict situations arising from the environmental impacts of mining, including impacts on the biological, physical, social, economic, cultural and historical environment.

The Consultative Forum on Mining and the Environment was established and a Task Team was appointed to coordinate the activities of the Forum. The Task Team identified the need for a guide for public participation and initiated the process for developing these Guidelines.

These Guidelines were developed in a consultative process between December 2001 and May 2002 in which representatives of the mining industry, Community-based Organisations, Non-Governmental Organisations and Labour participated. The Guidelines were enriched by the views of the people who participated. We thank you for your time and effort. Furthermore, these Guidelines would not have been possible without the generous financial contribution of the South African Chamber of Mines of South Africa.

The Guidelines aim to provide guidance to stakeholders in the mining industry on how to extract the greatest benefit from public participation. In particular, the document provides guidance on the scale and extent of public participation for different types of project, from short-duration, inexpensive processes through to long, complex and costly processes.

We encourage stakeholders to use and implement these Guidelines actively and to distribute them widely, including to the neighbours of mining companies and other stakeholders. This will assist them in their capacity building to participate meaningfully in public participation processes. The Task Team also recommends that the Guidelines be used as a basis for training.

Lastly, the Task Team hopes to monitor the success of the Guidelines in practice, that is, the degree to which the document assists the authorities, mining companies, their consultants and other stakeholders or interested and affected parties to participate more meaningfully. Should the Guidelines prove to be a useful tool to stakeholders in the mining industry, the Task Team will recommend that it be incorporated by the Department of Minerals and Energy in its suite of regulatory tools.

Mr M Diliza

Chief Executive: Chamber of Mines of South Africa
August 2002
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Meadowlands Environmental Group

Minerals and Energy Policy Centre

National Union of Mineworkers

Placer Dome (SouthDeep)

South African National Civics Organisation

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The Chamber of Mines of South Africa
For financial and logistic support.

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EXECUTIVE SUMMARY

In recent years, South Africa has witnessed that the public and regulators increasingly influence mine planning, design, operation and closure. In addition, international efforts aimed at sustainable development, to which mining companies and other stakeholders are striving, emphasise the important role of stakeholders (Chapter 1 of these Guidelines).

When appropriately conducted, public participation offers clear benefits to mining companies, the authorities and other stakeholders alike (Chapter 2). Perhaps its greatest benefit is its contribution to sustainable development. Different sectors of society represent the different dimensions of sustainability (economic growth, social equity and ecological integrity). During public participation, stakeholders contribute essential local knowledge and wisdom to project planning and design, and clarify the degree to which they are willing to accept or live with the trade-offs between these three dimensions. Thus, public participation assists decision-makers in making more informed and integrated decisions about the sustainability of a proposed policy, programme, project or plan.

Public participation is a process leading to a joint effort by stakeholders (including the authorities and project proponents) and technical specialists, who work together to produce better decisions than if they had acted independently. Public participation includes the promise that the public’s views — representing the views of many sectors of society — will be considered by the decision-maker. What is critically important, however, is that the level of engagement and the objectives it intends to achieve, are explicitly clarified at the outset of the process (Chapter 3).

The good-practice principles against which a public participation process is measured (Chapter 4) include the so-called “Core Values” of the International Association for Public Participation (IAP2). Other principles are flexibility to accommodate local needs; transparency and honesty (presenting both positive and negative information); independent facilitation; efficiency in terms of time and cost; respect for cultural diversity; participation according to ability and interest level; sufficient and accessible information; inclusivity (engaging all relevant sectors of society); representivity (consulting the ‘right’ people); ample announcement of the opportunity for involvement; ample opportunity for comment in various ways; opportunity to expose the viewpoints of different sectors of society to each other; and lastly, ongoing feedback and acknowledgement.

There is no blue-print public participation process. No two public participation processes are the same. Why, then, are some processes considered appropriate and others not? The level of effort in environmental assessment and public participation required for a project is a function of a combination of the scale of anticipated impacts and the scale of public sensitivity. When both the scale of anticipated impacts and the scale of public sensitivity are expected to be high (e.g. proposed open-cast mining bordering a National Park), the process is likely to be complex, with high cost, high publicity and many time-consuming iterations, and vice versa. Criteria for determining the scale of predicted impacts and the scale of public sensitivity are provided in Chapter 5, as are other considerations that influence the level of effort required.

Any public participation process follows a set of generic steps, each step representing an objective to be achieved (Chapter 6). Any public participation process will move through all of these steps:

Scoping phase
Step 1. Identify stakeholders (representing all relevant sectors of society, both as potentially directly affected and as interested parties).
Step 2. Announce the opportunity to comment (using any of a variety of methods, but focusing on providing sufficient information for stakeholders to understand the proposed project and why their comment is being sought).
Step 3. Obtain issues and suggestions for alternatives (using any of a variety of methods, both verbal and written).
Step 4. Verify that all issues have been recorded, and recorded correctly (usually by way of a Draft Scoping Report and Issues and Response Report, as well as an event where different sectors of society can share views with the authorities and the proponent).
Impact assessment phase

Step 5. Present findings of specialist investigations for comment, and for stakeholders to verify that their issues were indeed considered in the investigations (focusing on providing the findings in easy-to-understand lay terms, both verbal and written; usually by way of a Summary Report and an Issues and Response Report, as well as an event where different sectors of society can share views with the authorities and the proponent).

Decision-making phase

Step 6. Announce authority’s record of decision (including the manner in which stakeholders may appeal the decision).

The objectives, approach and likely public participation techniques or methodologies that can be employed during each step are also outlined in Chapter 6. The emphasis is on practical guidance, including the special efforts required to involve previously disadvantaged people, and the additional checks and balances that are required for projects where public sensitivity is high.

Chapter 7 provides guidance on determining time, resources and costs, given that there is no blue-print public participation process. Chapter 8 outlines the roles and responsibilities of the project proponent, the technical specialists, the public participation practitioner/facilitator and stakeholders as interested and affected parties.

Lastly, Chapter 9 deals with some frequently asked questions in regard to public participation.

Finally, the Guidelines are supplemented with, and in some instances rely on, an understanding of information that is contained in five appendices.

Appendix 1 discusses the changing role of the public, outlining the international drivers of change that have brought about an empowered public that has an increased awareness of their rights, and increasingly influence decision making.

Appendix 2 explains the difference between process and content objectives. Not understanding this difference and not applying it in practice results in difficult and sometimes disastrous public participation processes. The role of what is termed “risk communication” in satisfying process objectives is also discussed, and pointers given on how to communicate risk, perceived or real.

The South African regulatory requirements for public participation are listed in Appendix 3. In particular, it lists those principles of the National Environmental Management Act (NEMA) that deal with public participation. The NEMA principles are referred to several times in the body of the Guidelines.

Appendix 4 outlines the basics of what is termed a mine’s neighbour relations programme, a form of ongoing public participation. Personnel of mines that do not have an ongoing neighbour relations programme, and in stead rely merely on traditional public relations for contact with their stakeholders, are often shocked when a public participation process for what may be a routine upgrade that requires environmental approval, results in decades of mistrust and anger surfacing during the public participation process. A public participation process is much easier where a mine is already in touch with its stakeholders.

The final Appendix, Appendix 5, provides guidance on avoiding pitfalls and confusion during a public participation process. It begins by highlighting the common misconceptions about public participation. It then discusses the differences between public participation and social impact assessment, and between public participation and company public relations. Not understanding these differences often leads to inadequate or confusing public participation processes. Lastly, it deals with the difficulty of integrating public issues and technical assessments, often the Achilles heel of environmental assessments.
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# Glossary

## Definitions

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<td>Authorities</td>
<td>The national, provincial or local authorities which have a decision-making role or interest in the proposal or activity. The term includes the lead authority as well as other authorities.</td>
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<tr>
<td>Environment</td>
<td>The term “environment” is used in its broadest definition during an environmental assessment process. As such, it includes the biological environment, physical environment, social environment, economic environment, cultural environment, historic environment, etc.</td>
</tr>
<tr>
<td>Environmental consultant or environmental technical specialists</td>
<td>Individuals or firms whose role it is to act as independent, objective environmental information providers to stakeholders in order to inform the decision-making process. Although they are a roleplayer in the decision-making process the principle of independence and objectivity excludes environmental consultants from being considered stakeholders.</td>
</tr>
<tr>
<td>Interested and affected parties (I&amp;APs)</td>
<td>Individuals, communities or groups, other than the proponent or the authorities, whose interests may be positively or negatively affected by a proposal or activity and/or who are concerned with a proposal or activity and its consequences. These may include local communities, investors, business associations, trade unions, customers, consumers, farmers, residents, environmental interest groups and a host of others. Environmental consultants or stakeholder engagement practitioners are not considered I&amp;APs due to the requirement that they remain independent and objective.</td>
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<tr>
<td>Lead authority</td>
<td>The environmental authority at the national, provincial or local level entrusted in terms of the national legislation, with the responsibility for granting approval to a proposal or allocating resources and for directing or coordinating the assessment of a proposal that affects a number of authorities.</td>
</tr>
<tr>
<td>Proponent</td>
<td>Any individual, government department, authority, mining company, industry or association putting forward a proposal for a proposed development. In the mining industry, “proponent” would refer to the mining company proposing to embark on for example mineral exploration, an expansion to an existing mine or minerals processing facility, a proposed new mine or minerals processing facility, or closure of a mine.</td>
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<tr>
<td>Public</td>
<td>The “Public” is made up of ordinary citizens who have diverse cultural, educational, political and socio-economic characteristics (Glavovic et al., 2001). The public is not a homogeneous and unified group of people with a set of agreed common interests and aims. The public is “…a constantly shifting multiplicity of affiliations and alliances that group and regroup according to the issues and their understanding of the issues, perceptions of risk and the natural evolution of informal structures. There is no single public. There are a number of publics, some of whom may emerge at any time during the process depending on their particular concerns and the issues involved.” (Roberts, 1995 as cited in DWAF, 2001).</td>
</tr>
<tr>
<td>Public participation practitioner/ facilitator</td>
<td>Individuals or firms whose role it is to act as independent, objective facilitators, mediators, conciliators or arbitrators in the public participation process. Although they are a roleplayer in the decision-making process the principle of independence and objectivity excludes such practitioners from being considered stakeholders.</td>
</tr>
<tr>
<td>Ramsar site</td>
<td>A site of international importance for the breeding of wildfowl, in terms of the Ramsar Convention.</td>
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<tr>
<td>Roleplayers</td>
<td>The stakeholders, environmental consultants and/or public participation practitioners who play a role in the environmental decision-making process. This role is determined by the level of engagement and the objectives set at the outset of the process.</td>
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<td>Scoping report</td>
<td>Although this term has virtually become equated with the Environmental Impact Assessment (EIA) process under the Environment Conservation Act, the Department of Minerals and Energy has indicated that a scoping report will in future become a requirement of environmental assessments under the Minerals Act (Hendrik Naudé, pers com, March 2002). As it is, good practice world wide dictates that any environmental or social assessment, regardless of which legislation it needs to satisfy, would commence by scoping the issues at hand and capturing these in report form.</td>
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Stakeholder engagement / public participation

The Department of Environmental Affairs and Tourism’s 2002 Integrated Environmental Management Information Series 3 on Stakeholder Engagement uses the term “stakeholder engagement” in preference to the term “public participation”. Stakeholder engagement refers to the process of engagement between stakeholders (the proponent, authorities and I&APs) during the planning, assessment, implementation and/or management of proposals or activities. The level of stakeholder engagement varies depending on the nature of the proposal or activity as well as the level of commitment by stakeholders to the process. Stakeholder engagement can therefore be described by a spectrum of increasing levels of engagement in the decision-making process.

Stakeholders and key stakeholders

A sub-group of the public whose interests may be positively or negatively affected by a proposal or activity and/or who are concerned with a proposal or activity and its consequences. The term therefore includes the proponent, authorities (both the lead authority and other authorities) and all interested and affected parties (I&APs). The principle that environmental consultants and stakeholder engagement practitioners should be independent and objective excludes these groups from being considered stakeholders.

“Key stakeholders” are a smaller sub-group of I&APs. They are people who stand to be directly affected, people who are spokespersons for their sectors, people with the authority to say “yes” or “no,” people whose local knowledge is important, people who may want to derail the process for personal gain, and all those who think they are key stakeholders.

Acknowledgement to DEAT, 2002 for many of these definitions.

ACRONYMS

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<tr>
<td>CBO</td>
<td>Community-based organisation</td>
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<tr>
<td>DANCED</td>
<td>Danish Co-operation for Environment and Development</td>
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<td>DEAT</td>
<td>Department of Environmental Affairs and Tourism</td>
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<tr>
<td>DFID</td>
<td>British Department for International Development</td>
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<td>DWAF</td>
<td>Department of Water Affairs and Forestry</td>
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<tr>
<td>EIA</td>
<td>Environmental Impact Assessment</td>
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<td>EMPR</td>
<td>Environmental Programme Management Report</td>
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<tr>
<td>EPA</td>
<td>Environmental Protection Agency (of the United States of America)</td>
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<td>EU</td>
<td>European Union</td>
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<td>I&amp;APs</td>
<td>Interested and Affected Parties</td>
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<td>IAIA</td>
<td>International Association for Impact Assessment</td>
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<td>IAP2</td>
<td>International Association for Public Participation</td>
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<td>ICME</td>
<td>International Council on Metals and the Environment (now the International Council for Mining and Minerals (ICMM))</td>
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<td>ICMM</td>
<td>The International Council for Mining and Minerals</td>
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<td>IFC</td>
<td>International Finance Corporation</td>
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<td>ISO</td>
<td>International Standards Organisation</td>
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<td>IUCN</td>
<td>World Conservation Union (previously the International Union for the Conservation of Nature and Natural Resources)</td>
</tr>
<tr>
<td>MMSD</td>
<td>Mining, Minerals and Sustainable Development</td>
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<td>NEMA</td>
<td>National Environmental Management Act (Act 107 of 1998)</td>
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<td>NGO</td>
<td>Non-governmental Organisation</td>
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<tr>
<td>NOSA</td>
<td>National Occupational Safety Association</td>
</tr>
<tr>
<td>UNCED</td>
<td>United Nations Conference on Environment and Development</td>
</tr>
<tr>
<td>UNEP</td>
<td>United Nations Environmental Programme</td>
</tr>
<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
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<tr>
<td>WESSA</td>
<td>Wildlife Society of Southern Africa</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organisation</td>
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1. INTRODUCTION

Internationally, the role of the public has changed. This has brought about new social challenges facing minerals exploration, mine planning, design, operation and closure. The drivers of this change are discussed in Appendix 1. In recent years, South Africa, too, has witnessed that the public and regulators increasingly influence mine planning, design, operation and closure.

Along with their international counterparts, South African mining houses are actively participating in international efforts aimed at sustainable development, and are subscribing to the guidelines and principles that flow from these processes. Many of these guidelines and principles deal with the role of public participation, stakeholder engagement and partnerships with stakeholders in achieving sustainable development. The recommendations of the Mining, Minerals and Sustainable Development (MMSD) Southern Africa process place particular emphasis on the important role of stakeholders.

In addition, the notion of public participation or stakeholder engagement is firmly entrenched in South Africa’s laws, starting with the country’s Constitution. What is needed now, however, are practical guidelines and procedures to guide these efforts - which stakeholders to involve, in which way, why, when and to what degree.

Development projects demand difficult choices of society, particularly rooted in the trade-offs between the three dimensions of sustainability: economic growth, social equity and ecological integrity. Resource management issues are difficult to resolve. They are complex, involve multiple stakeholders and large amounts of complex technical information are often needed to assist in the process. In addition, lay people and experts often see things differently.

Public participation is no silver bullet. It will not make these challenges go away magically. For it to be successful, the process must be designed and conducted with these challenges in mind.


1.1 THE AIM OF THESE GUIDELINES

These Guidelines aim to provide clarity and guidance on how to achieve the results and benefits of public participation. The public participation principles and processes outlined here are equally applicable to the different phases of exploration, environmental assessments for proposed new mining ventures, expansions during operation, and closure. Equally, the principles and processes could apply beyond environmental assessments to any decision-making process that will affect economic growth, social equity and ecological integrity during a mining company’s normal operations.

1.2 THE TERM “STAKEHOLDERS”

Stakeholders are those individuals, groups, communities, organizations, associations or authorities whose interests may be positively or negatively affected by a proposal or activity and/or who are concerned with a proposal or activity and its consequences. The term therefore includes the proponent, authorities and all interested and affected parties (I&APs). Environmental consultants or stakeholder engagement practitioners are not considered stakeholders due to the requirement that they remain independent and objective.

Where it is necessary to distinguish between the roles of the project proponents, the authorities and other stakeholders (or interested and affected parties), these Guidelines refer to “project proponents, the authorities and other stakeholders.”

1.3 THE TERM “ENVIRONMENT”

The term “environment” is used in its broadest definition during an environmental assessment process. As such, it includes the biological environment, physical environment, social environment, economic environment, cultural environment, historic environment, etc.

Important to note is that social and economic considerations are part and parcel of an environmental assessment.

1.4 THE IMPACT ASSESSMENT PROCESS

These Guidelines refer in several instances to the various stages of an impact assessment process, and the objectives of public participation in each. These stages are as follows:

- **Scoping**
  
  Any environmental or other assessment commences by "scoping" the issues at hand, that is, determining the scope of the assessments or investigations that will be required. The scope of the assessment is determined in consultation with the authorities, the project proponent, other stakeholders, and the technical environmental specialists.

  The term “scoping” has virtually become equated with the Environmental Impact Assessment (EIA) process in terms of the guideline document *Environmental Impact Assessment Regulations on the implementation of Sections 21, 22 and 26 of the Environment Conservation Act*. However, the Department of Minerals and Energy has indicated that a scoping report will, in future, become a requirement of environmental assessments under the Minerals Act. This is because good practice worldwide dictates that any environmental assessment, regardless of which legislation it needs to satisfy, would commence by scoping the issues at hand and capturing these in report form.

- **Impact assessment**

  Once the scope of the environmental investigation has been determined, the specialist technical environmental investigations are conducted during the *impact assessment phase*. Their findings are consolidated into one report for comment by stakeholders. The EIA Guidelines uses the term “Environmental Impact Report” for this report, while environmental assessment processes in terms of the Minerals Act culminate in the development of an Environmental Programme Management Report (EMPR).


1.5 REFERENCES

These Guidelines make extensive use of previously published material. References are provided in small font at the end of each section so that they do not clutter the text. References that appear in the appendices are included in the reference list at the end.
2. BENEFITS OF PUBLIC PARTICIPATION

Public participation has many benefits. Box 1 provides some guidance on how to view public participation. Box 2 provides case examples.

BOX 1. HOW TO VIEW PUBLIC PARTICIPATION.

Mining personnel and their technical specialists/consultants should read public participation as:
“Interested and affected parties and the authorities help us think,” or “They give us an up-front indication of environmental issues which may cause us future difficulties and delays”.

Authorities should read public participation as:
“Interested and affected parties, the mining company and technical specialists help us to understand the environmental consequences of our decisions. Their inputs inform our decisions and help us to consider all three dimensions of sustainable development – economic growth, social equity and ecological integrity – in our decision-making.”

Other stakeholders should read public participation as:
“The authorities, the mining company and their technical specialists are made aware of our concerns and suggestions and consider them fairly along with all the others.”

Internationally, business, industry, governmental and other institutions have learned that top-down decisions, while made quickly, often produce failures, costly delays and conflict. The essence of public participation is to start a participatory process before disputes arise.

When appropriately conducted, public participation provides the mining company, the authorities and other stakeholders with an up-front indication of issues which may:
• prevent a project from proceeding beyond initial investigations, saving time, money and effort all round;
• cause costly project delays later if these impacts are not properly mitigated up-front;
• result in enhanced and shared benefits, especially where stakeholders are able to make suggestions for mutual benefit and where they are able to discuss their differences directly, often leading to creative new solutions.

2.1 BENEFITS TO THE MINING COMPANY

Benefits specific to the mining company are:
• Clearly communicating and demonstrating that the mining company is committed to effective management of its obligations and demonstrating environmental responsibility. Shareholders and investors increasingly take into account companies’ environmental performance in making investment decisions. It is therefore important for companies to communicate and demonstrate their environmental commitment effectively.
• Demonstrating to the authorities and other stakeholders that due process is being followed, and gaining respect and trust in the process. Gaining the respect of the authorities paves the way for permit and license applications.
• Making decisions relating to the operations which are fully informed by as many perspectives as practicable, including local knowledge, thus increasing the level of confidence in the likely outcome of the results of the decision.
• Developing and maintaining credibility for a company that is open to other stakeholders’ suggestions and opinions.
• Avoiding bad press and image loss, thus reducing risk to share value or image risk.
• Helping to identify and resolve the public’s concerns before they turn into major problems, often helping to prevent opposition to projects or even their cancellation, and helping to manage single-issue viewpoints through an interactive process that allows a broad range of balancing perspectives and values.
• Allaying undue fears amongst other stakeholders and countering undue expectations by providing up-front, open and transparent information, and by seeking stakeholders’ comments and contributions.
• Substantially improving neighbour relations and, as a result, reducing social risk (the risk of being
Public Participation Guidelines for Stakeholders in the Mining Industry

challenged publicly, or of legal action).

- Establishing a sense of ownership among other stakeholders for a new or existing project.
- Helping to avoid public conflicts that arise as a result of inaccurate information.
- Fulfilling part of the mine’s ongoing environmental management which includes regular information to
  neighbours and other stakeholders. Many companies find that their six-monthly or annual report-back to
  their neighbours and other stakeholders need not be repeated in a year in which an appropriate public
  participation process for a proposed expansion was also conducted.

2.2 Benefits to other stakeholders

Benefits to other stakeholders are, amongst others:

- Contributing issues of concern relating to potential negative impacts that should be avoided or reduced,
  and, in so doing, improving their future quality of life.
- Contributing aspects that have caused fears or undue expectations in the past and receiving information
  to put these into perspective.
- Contributing suggestions for enhanced and mutual benefits between the mining company and other
  stakeholders.
- Being able to contribute local knowledge to improve the outcome of a particular project.
- Obtaining information and increasing their level of knowledge not only about the particular project but
  also about environmental management, new trends in legislation and a host of other aspects.
- Becoming familiar with the circumstances of other stakeholders and being able to appreciate the
  difficulties of others.
- Meeting face-to-face with representatives of the mining company, the authorities and other stakeholders,
  and being able to build new relationships.


<table>
<thead>
<tr>
<th>BOX 2. BENEFITS OF PUBLIC PARTICIPATION – CASE EXAMPLES.</th>
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<tr>
<td>A source of raw material</td>
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<td>A project proponent proposed to mine raw material from a</td>
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<td>particular piece of land. Within three months of the start</td>
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<td>of the participation process, it transpired that a) there</td>
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<td>was a dispute with regard to who holds the mineral rights,</td>
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<td>b) there were two yet-to-be-registered land claims on the</td>
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<td>land, c) the land had been allocated by a local department</td>
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<td>for a community development project, and d) a forestry company</td>
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<tr>
<td>came forward with a 17-year lease on the land. Needless to</td>
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<tr>
<td>say, another source of raw material was found.</td>
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<th>Liquid effluent</th>
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<td>In the mid 1990s, a minerals beneficiation company</td>
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<td>established many years ago had difficulty in keeping the</td>
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<td>volume and quality of its liquid effluent in line with</td>
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<td>more recent regulatory control of water quantity and quality</td>
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<tr>
<td>standards. Despite substantial spending over several years</td>
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<td>to implement measures to reduce the effluent, and</td>
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<td>considerable improvements in its effluent management</td>
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<tr>
<td>measured against historic performance, the company could</td>
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<td>not reach the specified regulatory targets. Pressure from</td>
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<tr>
<td>the authorities and the other stakeholders called for a</td>
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<tr>
<td>further measure that would cost tens of millions of Rands.</td>
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<tr>
<td>However, the company was due and committed to change its</td>
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<tr>
<td>beneficiation process within the next three years, at which</td>
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<td>point its effluent volume would automatically reduce to</td>
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<tr>
<td>well below regulatory requirements. The</td>
</tr>
<tr>
<td>authorities had their own conundrum. Closing down the</td>
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<tr>
<td>operations would result in large-scale job losses and</td>
</tr>
<tr>
<td>consequent negative social impacts.</td>
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A process of public participation was commenced to make the situation public and to debate it. The company, various
authorities and a wide range of other stakeholders participated, including those who had expressed most concern about
the effluent. The latter included representatives of a National Park and a private nature reserve. Technical specialists
respected by all parties were engaged to make recommendations on the potential success of technical and engineering
measures proposed to curb the effluent over the three years that it would take the company to adapt its beneficiation
process.

There was general agreement, including amongst downstream stakeholders concerned about water quality, that the
proposed measures would not be without risk, that the effluent at least contributed to the continued flow of the river
during periods of drought, that less drastic interim measures were possible, that the expenditure would not justify the
effort and that the money could be more meaningfully applied elsewhere, providing of course that the company solved
the problem three years hence. This is an example where stakeholders were able to provide the authorities with a clear
indication of the trade-offs between the three dimensions of sustainable development that they would accept.
2.3 **BENEFIT TO SUSTAINABLE DEVELOPMENT**

Public participation is objectives-orientated and decision-oriented. Its greatest benefit is its contribution to achieving sustainable development. For a policy, programme, project or plan to be sustainable, it has to take all three dimensions of sustainability into consideration:

- economic growth
- social equity
- ecological integrity.

These three dimensions are seldom in balance and there are always trade-offs based on local needs and circumstances. Therefore, the point of sustainable development differs from project to project.

Public participation assists decision-makers in establishing the point of sustainable development for each project. Different sectors of society represent the different dimensions of sustainable development. For example, the mining industry represents the economic growth dimension, previously disadvantaged people represent the social equity dimension and environmental NGOs represent the ecological integrity dimension. During public participation, they contribute essential local knowledge and wisdom to project planning and design, and clarify the degree to which they are willing to accept or live with the trade-offs. Thus, public participation assists decision-makers in making more informed and integrated decisions about the sustainability of a proposed policy, programme, project or plan (see Figure 1).

*References:* IAP2, 2002.
3. PUBLIC PARTICIPATION: LEVELS, DEFINITIONS AND OBJECTIVES

This chapter outlines different levels of public participation, the definition as employed in these Guidelines and the objectives of public participation.

3.1 LEVELS OF PUBLIC PARTICIPATION

A confusing aspect about public participation is that different bodies have different definitions and use different terminology. What is important is that most organisations recognise public participation as a spectrum rather than an absolute, as outlined below.

3.1.1 International Association for Public Participation (IAP2)

The International Association for Public Participation (IAP2) differentiates between five levels of public participation, each with different objectives and with an increasing public impact on decision-making:

- **Inform** - The objective is to provide the public with balanced and objective information to enable people to understand the problem, alternatives and/or solutions.
- **Consult** - The objective is to obtain public feedback on analysis, alternatives and/or decisions. It involves acknowledging concerns and providing feedback on how public input has influenced the decision.
- **Involve** - The objective is to work directly with the public throughout the process to ensure that public issues and concerns are understood and considered at every stage and directly reflected in the planning, assessment, implementation and management of a particular proposal or activity.
- **Collaborate** - The objective is to work with the public as a partner on each aspect of the decision, including the development of alternatives and the identification of the preferred solution.
- **Empower** - The objective is to place final decision-making in the hands of the public.

3.1.2 The World Bank

The World Bank identifies three types of involvement:

- **Passive participation** - This level involves only the dissemination of information to stakeholders, such as disseminating information during an awareness campaign.
- **Consultative participation** - Stakeholders are consulted before the organisation makes a decision but they do not share decision-making responsibility. An example would be the consideration of stakeholder issues expressed during a workshop.
- **Interactive participation** - Stakeholders are involved in collaborative analysis and decision-making. Learning methodologies are used to seek multiple perspectives.

IAP2, the World Bank and other organisations list information provision as part of the spectrum of public participation. Although public participation relies strongly on the provision of information and cannot take place without it, the objective of public participation is also to receive the comments of stakeholders and to incorporate these into the decision-making process. Information provision in itself thus does not constitute public participation.

3.1.3 Department of Environmental Affairs and Tourism, South Africa

In its Integrated Environmental Management (IEM) Information Series 3 on Stakeholder Engagement, the Department of Environmental Affairs and Tourism uses the term “stakeholder engagement” in preference to “public participation”. This is principally because the definitions for “participation” differ widely in the degree to which stakeholders influence decision-making as outlined in the previous two sections, and the confusion that this could bring about.
The DEAT document contains a valuable discussion of the different levels of public participation based on the IAP2 spectrum. It does not advocate any particular level of public participation - the “right” level will depend on the particular situation and circumstances.

3.1.4 Public participation and decision-making

South African regulatory requirements for public participation are summarised in Appendix 3. South African legislation does not equate “public participation” with “decision-making”. Interested and affected parties are not the decision-makers. Our Acts clearly indicate which government authority will make the final decision about what issues. For example, the Department of Minerals and Energy decides on mining-related matters, the provincial environmental departments decide on various environment-related matters, the Department of Water Affairs and Forestry decide on water-related matters, and so on.

The project proponent, in this case the mining company, also has to make decisions. For example, the regulatory authority may have decided that the company may go ahead with a proposed project, but has made the decision conditional on a set of environmental measures. These measures may be very costly and the mining company then has to decide whether or not to continue with the project at all.

In essence, decisions are made at the level where the accountability and liability for the decision lie. Accountability for the responsible execution of a project lies with the authorities and the proponent, and not with other stakeholders. At the same time, however, our legislation clearly requires public consultation prior to decision-making and specifies in many instances how the decision-making authority should consider the public’s contributions in its decision-making. Therefore, public participation includes the promise that the public’s views – representing the views of many sectors of society – will be considered by the decision-maker. What is critically important, however, is that the level of engagement and the objectives it intends to achieve, are explicitly clarified at the outset of the process.


3.2 Definition of public participation employed in these Guidelines

These Guidelines are based on the following definition of public participation:

Public participation is a process leading to a joint effort by stakeholders (including the authorities and project proponents) and technical specialists, who work together to produce better decisions than if they had acted independently. This leads to informed decision-making for sustainable development.

This definition embodies the spirit of public participation as well as the results it should achieve and its benefits.


3.3 The objectives of public participation

Does public participation mean that a mining company can no longer make its own decisions? Or does it mean other that stakeholders can dictate to a mining company on how to run its business? No. The definition of public participation means that mining companies have, in public participation, a tool to improve their own decision-making. It means that the authorities have a tool to assist them in making informed decisions that will contribute to sustainable development, and that other stakeholders have a tool to ensure that their views are considered.
Public participation leads to improved decision-making by making the process that is adopted by an initiative transparent, inclusive and fair. This creates trust and a shared vision among stakeholders who are then more willing to contribute their ideas, needs, suggestions or information. This adds to the technical and scientific content of the information that informs decisions about the initiative. Enhanced content improves decision-making. Appendix 2 provides more details on process and content objectives and on the role of risk communication in satisfying process objectives.

3.3.1 Objectives during an environmental assessment

The specific objectives of public participation during an environmental assessment (see Box 3) for mining and other types of development are to provide stakeholders with sufficient information to:

During the scoping phase
- raise issues of concern and suggestions for enhanced benefits.
- verify that their issues have been recorded
- assist in identifying reasonable alternatives
- contribute relevant information to the environmental assessment.

During the Impact assessment phase
- contribute relevant information to the environmental assessment
- verify that their issues have been considered in the environmental investigations.
- comment on the findings of the environmental assessments.

BOX 3. SCOPING PHASE AND IMPACT ASSESSMENT PHASE.

These Guidelines use the terms "scoping" and "impact assessment". In South Africa, these terms have become virtually equated with the EIA process under the Environment Conservation Act. However, they represent the two standard phases in any environmental or other assessment, regardless of which legislation the assessment needs to satisfy.

Any environmental or other assessment commences by "scoping" the issues at hand, that is, determining the scope of the assessments or evaluations that will be required. The scope of the assessment is determined in consultation with the authorities, other stakeholders, the project proponent and the technical specialists. Once the scope has been determined, the specialist technical/environmental studies or investigations are conducted during the impact assessment phase.

In addition, the Department of Minerals and Energy has indicated that a scoping report will, in future, become a requirement of environmental assessments under the Minerals Act.


3.3.2 Objectives during ongoing engagement with stakeholders

Personnel of mining companies that do not have an ongoing neighbour relations programme as a form of ongoing public participation are often shocked when a public participation process for what may be a routine upgrade that requires environmental approval, results in decades of mistrust and anger surfacing during the public participation process. On the other hand, mining companies that maintain ongoing, cordial relations with their neighbours (be these neighbouring landowners, other mines and industries, local communities, local government or other stakeholders) find that public participation for proposed new projects or expansions hold few surprises.

Public participation should thus not be a once-off effort. The objective is to stay in touch with other stakeholders and deal with local issues of concern on an ongoing basis. Traditional public relations, which in practice is mostly a one-way process of providing information, does not meet this objective. Appendix 4 provides guidance on a neighbour relations programme.
4. PRINCIPLES AND PRACTICAL GUIDANCE

This chapter lists the good-practice principles of public participation and provides some practical advice for incorporating them into the design of a process. These principles will be the aspects against which the process will ultimately be measured in terms of:

- the requirements of interested and affected parties as stakeholders for a good-practice process (i.e. their process needs are being met); and
- regulatory requirements (i.e. the principles of the National Environmental Management Act (NEMA)).

The good-practice principles as listed here are linked to the NEMA principles (see Appendix 3) where relevant. Whereas this chapter focuses on meeting the needs of stakeholders, they also have responsibilities in the process. These are listed in Chapter 8.

References: This chapter based on Greyling and Manyaka, 1999; Greyling, 1999b; RSA, 1998.

4.1 CORE VALUES OF THE INTERNATIONAL ASSOCIATION FOR PUBLIC PARTICIPATION (IAP2)

IAP2 has developed a set of core values to help make better decisions that reflect the interests and concerns of potentially affected people and entities. These core values are:

- The public should have a say in decisions about actions that affect their lives.
- Public participation includes the promise that the public’s contribution will influence the decision.
- The public participation process communicates the interests and meets the process needs of participants.
- The public participation process seeks out and facilitates the involvement of those potentially affected.
- The public participation process involves participants in defining how they participate.
- The public participation process provides participants with the information they need to participate in a meaningful way.
- The public participation process communicates to participants how their input affected the decision.

References: www.iap2.org/corevalues.

4.2 STAKEHOLDERS SHOULD HAVE A SAY IN HOW THEY WILL BE CONSULTED

Stakeholders should have an opportunity to suggest how the process can accommodate local needs. In some situations, people simply don’t read and need meetings and visual presentations rather than documentation. They should have the opportunity to indicate their requirements (see NEMA principle 2 in Appendix 3).

Stakeholders could either assist in designing the participation process (e.g. ask a few key respected stakeholders for the preferred local participation methods) or, as a minimum, be afforded the opportunity to comment on or adapt the proposed process (e.g. describe the process in the very first document for stakeholder comment and formally ask for comment by way of a specific question on a comment sheet). Alternatively, establish a Process Review Committee (see Section 6.9 later).

4.3 FLEXIBILITY

The process must be sufficiently flexible to accommodate local needs, and be appropriate to local circumstances. Flexibility also needs to be maintained during the process itself. If, at a public meeting, a significant issue arises (e.g. a group of local landowners suggest an alternative route for a proposed conveyor) the process needs to be sufficiently flexible to accommodate a focus-group meeting with the specific parties afterwards.
Obtain upfront agreement from stakeholders on the time required for each round of consultation, but also be flexible if there is good reason to extend time periods or change deadlines.

4.4 TRANSPARENCY AND HONESTY

Transparency and honesty must characterise the process. Negative issues must be presented along with the positive (see NEMA principle 6 in Appendix 3). There must be no hidden agendas on the part of either the mining company, other stakeholders or the authorities. Where the activities of a company stand to impact on a certain group of stakeholders, this must be stated and explained openly and joint fact-finding allowed to minimise the impacts and maximise the benefits.

Mistrust of the authorities and project proponents have various causes, most of them related to previous lack of transparency, previous environmental neglect and previous failed relationships. Mistrust may take years to resolve. However, it is often possible during the process to resolve mistrust that is rooted in perceptions by way of caucus meetings between the authorities, the proponent and other stakeholders, and by way of joint fact-finding to establish transparency and to demonstrate honesty. In several cases, it has been useful to ask technical specialists, respected by both parties, to provide information and advice. Often, when stakeholders are able to meet personally with, and have ongoing access to, an individual representing what they had hitherto only perceived as a large corporate threat or big, distant bureaucracy, the personal contact assists in establishing mutual trust and understanding.

4.5 INDEPENDENT FACILITATION

People find it easier to raise their issues with an independent and neutral person who can provide a safe, grey space into which everyone can move as equals for joint deliberation. Trained and independent facilitators are also able to prevent vociferous stakeholders from depriving others of the opportunity to participate and can assist all parties to collectively raise multiple options and joint criteria by which to assess those options.

4.6 EFFICIENCY

Participants may elect to discontinue their participation if the process is not perceived to be efficient. A few pointers to ensure efficiency are:

- Many people resent sitting in meetings all day, especially when they perceive duplication of issues. Hook on to existing events (e.g. farmers days, local council meetings, residents association meetings) where there is a need to obtain a sector’s views.
- Announce major meetings at least four weeks before the event. Set clear objectives for meetings and structure the agenda accordingly. Always prepare discussion documents and always distribute them in advance - the best ideas occur with prepared minds. The agenda and documentation should reach stakeholders well before the meeting. Make special efforts to ensure that key stakeholders (see Section 6.2.6) attend.
- Allow enough time for comment, but do not waste stakeholders’ time on options that are no longer viable, or which have been extensively deliberated before.

At the same time, participants should appreciate the principle of efficiency of process and should not demand that:

- Meetings be repeated because they did not attend, despite having indicated that they would.
- Documents be translated just to make a point about language.
- Time periods for comment be extended despite having received ample advance notification of such time periods and not having indicated at the time that they would have difficulty.
4.7 Respect for Cultural Diversity

Some stakeholders prefer meetings to be opened with a prayer. On the other hand, a prayer may offend those serving different deities. If you are not sure, rather allow one minute of silence during which everyone can say their own prayer. During meetings, accommodate the catering requirements of different religions and food preferences (e.g. vegetarians). Clearly mark the different kinds of food.

4.8 Participation According to Ability and Interest Level

Stakeholders with different abilities take different lengths of time to be able to comment, depending on their existing understanding and knowledge.

Highly technical documents should be presented only to technically-minded stakeholders; simplified documents should be prepared for those who are not technically-minded. Thus, should the technical team have prepared a lengthy, 70-page document, the document should be simplified and summarised into a 12-page discussion document or even reduced further into a 6-page translated summary. Stakeholders can then request the kind of document they wish to receive by way of reply sheets appended to the letters announcing the availability of these documents.

Special briefing sessions may be necessary to explain complex concepts to groups of lay people before they will be able to contribute meaningfully. Concerted capacity building may be necessary for previously disadvantaged people (see Sections 6.8 and 9.6).

4.9 Sufficient and Accessible Information Builds Capacity to Participate

The importance of sufficient and ongoing information cannot be overemphasised. Information provides stakeholders with the capacity and understanding to participate meaningfully (see NEMA principles 2 and 6 in Appendix 3). As shown in Figure 2, sufficient information assists in allaying undue fears and in jointly deliberating options that will contribute to a sustainable project.

Information must be easily accessible. It should be:

- presented in a language (see Box 4) and style that stakeholders can understand, with simple explanations of complex concepts;
- presented both in writing (letters, information sheets, discussion documents, newsletters, poster displays) and verbally (during meetings, workshops or small-group discussions), since some stakeholders are better at hearing than at reading, and vice versa;
- presented visually to those stakeholders who require capacity-building (e.g. simple line drawings, photographs or other graphics);
- easily obtainable; discussion documents should be mailed or e-mailed to individuals and available at stakeholders’ representative organisations, on the Web and in public places such as libraries or community centres.

Figure 2. Information provision to stakeholders: two scenarios.
The best results are obtained by using a combination of verbal, written and visual information during a public participation process.

**BOX 4. TRANSLATION.**

The language in which communication with stakeholders takes place will depend on several factors. In the recent past, stakeholders have used the NEMA principles to indicate to the authorities that consultation has been inadequate since local people could not understand the information. In addition, several mining companies hold the view that if the company stands to impact profoundly on people's lives, written communication will take place in their home language (at least letters and short summaries of longer documents). Should the proposed project be a highly sensitive one (the example under HIGH in Table 1 later), translation of letters and summaries of longer documents from English into two or three other languages cannot be avoided.

In other cases, local stakeholders may use language as a proxy for other issues and may initially refuse to contribute unless documents are in their home language. Demonstrating during the early stages of the process that the company is clearly willing to accommodate such stakeholders often obviates the need for translation during the rest of the process. It is, however, possible to use only one language (usually English) during a process, by agreeing up front with other stakeholders and the authorities which language/s will be used. Every case needs to be judged on merit in terms of the risk that it holds for the process versus the cost of translation.

4.10 INCLUSIVITY

The process must include all sectors, perspectives and interests of society (see NEMA principles 1 and 3 in Appendix 3). Implementation is more likely to be accepted if the contributions of all stakeholders have been equally considered than if one interest group dominates the process. Developing a stakeholder database is outlined in Section 6.2.3.

Key stakeholders whose inputs are crucial should be identified up front and special efforts made to consult them, in some cases on a person-to-person basis (see Section 6.2.6).

4.11 REPRESENTIVITY

Due care must be taken that all sectors, perspectives and interests of society are represented in the process (see NEMA principles 1 and 2 in Appendix 3). For example, should a local community be likely to be affected, ensure that the process involves the right people in the community, that is, the people that community members feel can represent them. Consult not only the spokesperson for a group or sector (e.g. a traditional leader) but also a few individual members of that group or sector (e.g. the local ward councillor, a religious leader in that group and some women and youth leaders).

4.12 AMPLE ANNOUNCEMENT OF OPPORTUNITY FOR INVOLVEMENT

The opportunity to become involved should preferably be announced several times during at least the first month or two of the process, and in different ways. This could include letters addressed personally to stakeholders and organisations, announcements in the print and broadcast media, placing documents in public places or encouraging word of mouth to ensure that the broadest spectrum of stakeholders is aware of the opportunity to participate (see NEMA principles 2 and 3 in Appendix 3).

4.13 AMPLE OPPORTUNITY FOR COMMENT IN VARIOUS WAYS

It is not acceptable sending a short-notice one-page fax to invite stakeholders to a meeting, not sending them information in advance and then saying that they have been consulted merely because they have attended a meeting.

Stakeholders should be given the opportunity to comment at various milestones throughout the process. They must know well in advance what these milestones are and the kind of comment that will be required at each. Comment on complex issues should only be sought once the process has advanced beyond the initial stages. People need time for things to “gel” in their minds.
Stakeholders must be able to comment in various ways. Some are better at giving written comment (by way of written submissions, comment sheets), others verbal comment (at meetings or workshops) and others through their organised bodies.

4.14 OPPORTUNITY TO EXPOSE VIEWPOINTS OF DIFFERENT SECTORS OF SOCIETY TO EACH OTHER

Stakeholders from different sectors of society should have the opportunity to exchange information and viewpoints. Often, when stakeholders hear each other's views, they can begin to appreciate other stakeholders' circumstances that they have never before considered. They are then more willing to indicate trade-offs between the three dimensions of sustainable development that they are prepared to live with.

Opportunities for the systematic review and improvement of the decision process in response to concerns of stakeholders are best provided by way of open problem-solving sessions, as has been established by the MIT Harvard Dispute Resolution Programme. In such sessions (i.e. multi-stakeholder workshops, public meetings), all stakeholders have a chance to hear each other's ideas and suggestions and enter into dialogue with each other. This cannot be achieved to the same degree at formal hearings or open-house type events. The open-house method (with informative displays on view) has been criticised by stakeholders as not allowing sufficient opportunity for discourse and joint fact-finding. The open-house method is certainly not conducive to achieving a convergence in viewpoints between different sectors of society. Nevertheless, it has a distinct advantage in terms of visual information transfer. However, it should preferably be combined with events that create opportunity for interaction. This could, as a minimum, take the form of small-group discussions during the open house itself.

On the other hand, the success or failure of public meetings or other multi-stakeholder events is very dependant on the capability of the facilitator. Poorly-run public meetings may have catastrophic consequences for a project, regardless of the merits that the project may have. The likelihood of extreme reactions from members of the public is much reduced if the kind of process recommended in these Guidelines has been followed from the start. In practice, however, a very skilled facilitator is essential. Hence, while well-run public meetings add the most value to the process in terms of reaching convergence in viewpoints, they may, in some cases, be counter-productive.


4.15 ONGOING FEEDBACK AND ACKNOWLEDGEMENT

Stakeholders should have their contributions reflected back to them after each milestone in the process (see NEMA principle 6 in Appendix 3). They need to feel heard, otherwise they either lose interest or will mistrust the process. In particular, they must be able to see where their issues have been taken up in the process, and if not incorporated, must receive an explanation as to why not.

Thus, each round of information distributed to stakeholders should list and discuss the issues raised to date and indicate how they will be taken further. An Issues/Response Report is useful in this regard (see Section 6.5). This report should be expanded as the process progresses and serves as a useful record of all comments raised.

Acknowledge written contributions in writing (a short pro-forma letter will suffice). Acknowledge comments raised at meetings by distributing the proceedings within a month of the meeting, formally asking those that attended to ensure within five working days of receiving the proceedings that their contributions have been captured accurately. Thereafter, the proceedings should be updated and distributed to other stakeholders who may have an interest, as well as to all key stakeholders (see Section 6.2.6).
5. TAILORING PUBLIC PARTICIPATION TO PROJECT REQUIREMENTS

No two public participation processes are the same. They have different stakeholders, take place in different areas, apply different methods, apply them in a different order and are conducted in different languages by different people. Some take a long time (years in extreme cases) and are very costly, while some take barely two or three months and are inexpensive. Why, then, are some processes considered adequate and others not?

5.1 WHEN IS PUBLIC PARTICIPATION ADEQUATE, AND WHO DECIDES?

A public participation process is not only evaluated by minimum legal requirements. As it is, current South African legislation and the NEMA principles leave the door wide open for disagreement on whether a process was adequate or not.

Different players evaluate public participation by different sets of requirements, each of which must be satisfied if it is to be deemed adequate by all players. These sets of requirements are:

- Letter-of-the-law legal requirements.
- Stakeholder requirements in terms of the international good-practice guidelines for public participation (Chapter 4).
- Proponent requirements in terms of whether the public participation process resulted in an increase or decrease in the company’s social risk.

Until such time as more comprehensive regulatory requirements for public participation for the mining industry may be in place, the various role players will battle with the letter-of-the-law versus the spirit-of-the-law process. While a letter-of-the-law process has its place, following it could result in costly delays and extensive rescheduling of feasibility investigations and project implementation where the issues are sensitive and the public angry and insistent.

5.2 DETERMINING PROCESS REQUIREMENTS

It has been suggested that the total capital investment of a proposed project may be a determinant of the level of effort and costs of environmental technical assessment and public participation. This is only true on a very broad scale. A new development in an already disturbed area may require massive capital investment but little public participation. Conversely, a small-sized new facility with limited capital investment in an undisturbed or environmentally sensitive area may require major technical assessment and public participation.

Statistics based on recent environmental assessments (EIAs as well as EMPRs) show that the level of effort in environmental assessment and public participation required for a project is a function of a combination of the following:

- The scale of anticipated impacts.
- The scale of public sensitivity.

Figure 3 illustrates this approach. When both the scale of anticipated impacts and the scale of public sensitivity are expected to be high (e.g. proposed open-cast mining bordering a National Park), the process is likely to be complex, with high cost, high publicity and many time-consuming iterations.

Conversely, when both the scale of anticipated impacts and the scale of public sensitivity are expected to be low (e.g. a small extension to a deep underground mine where the mine holds the surface rights and no impacts to landowners are expected), the process will be simple, inexpensive, take little time and is not likely to attract any publicity.
Criteria for determining the scale of predicted impacts and the scale of public sensitivity are provided below, noting that the decision on where to “pitch” the process on Figure 3 is nevertheless a value judgement that requires some experience.

<table>
<thead>
<tr>
<th>Scale of anticipated impacts</th>
<th>Scale of public sensitivity</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>High</td>
</tr>
<tr>
<td>Standard Environmental Assessment</td>
<td></td>
</tr>
<tr>
<td>Complex processes</td>
<td>LOW COST, LESS TIME, LITTLE PUBLICITY</td>
</tr>
<tr>
<td>Scoping only</td>
<td>Low</td>
</tr>
<tr>
<td>Standard Environmental Assessment</td>
<td></td>
</tr>
<tr>
<td>Low</td>
<td>Very low</td>
</tr>
<tr>
<td>LOW COST, LESS TIME, LITTLE PUBLICITY</td>
<td></td>
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</tbody>
</table>

Figure 3. The degree of environmental assessment and public participation required for a project is a function of a combination of the scale of anticipated impacts and the scale of sensitivity of public perceptions. The latter is often linked to the sensitivity of the receiving environment and to socio-economic factors.

5.2.1 Scale of anticipated impacts

The level of effort for technical environmental evaluation and public participation will increase with:

- Size of footprint of impacts (a facility with air emissions on the Mpumalanga Highveld may, for example, affect industrial forestry in the Lowveld; industrial effluent may affect users and dams far downstream).
- A Greenfields (new development in a previously undisturbed area) vs Brownfields (expansion to an existing facility or mine) project.
- Where aggregate and cumulative impacts are anticipated to be significant, for example, increased air emissions in areas already suffering air pollution, or job losses and negative socio-economic consequences in areas where this may recently have occurred.
- Increasing scale at which the impacts would be felt (ie. local, provincial, national, or international), in particular in regard to social and economic impacts.
- Number of issues expected to be raised by the authorities and other stakeholders that would need to be incorporated into the specialist assessments (e.g. in some areas, only groundwater may be of concern to stakeholders thus only one specialist study may be required; in other areas, the full suite of specialist studies may have to be conducted, including groundwater supply and quality, surface water supply and quality, air quality, materials handling and safety, socio-economics, etc). By implication, the more specialist studies, the more stakeholder groups will be involved, increasing the time and cost of the public participation process.

5.2.2 Sensitivity of public perceptions

The sensitivity of public perceptions is often linked to the sensitivity of the receiving environment, but not limited to this. Public perceptions linked to the socio-economic context are becoming increasingly sensitive.

Public sensitivity will be higher when any of the following features stand to be impacted:

- Important water catchment areas, or stressed catchments with multiple sectors of users where there is conflict between users.
• Major drainage lines / rivers.
• Areas of archaeological or historic value.
• Areas with a spiritual or religious value.
• Areas with a sense of place such as conservancies, nature reserves, National Parks, Ramsar or Heritage Sites as well as areas with the potential to be recognised as such (e.g. a 5-km road in an already built-up area in an existing servitude would require much less effort than for the same road in an undisturbed area in the vicinity of a Ramsar or World Heritage site).

Other determinants of the sensitivity of public perceptions are linked to fears (often due to lack of information) and loss of credibility and trust. Some examples are listed below, noting that this list is not exhaustive:
• Fear of contamination and impacts to human health, often linked to recent cases, media articles or films (e.g. the film Erin Brockovich).
• Past environmental neglect by government or the project proponent.
• Past environmental neglect by other mining or industrial companies in the immediate area (stakeholders often do not distinguish between companies, especially if companies do not have ongoing neighbour relations programmes).
• Past environmental neglect by branches of the proponent company elsewhere in the world (stakeholders increasingly make use of the Internet to verify a company's environmental compliance).
• Lack of compensation for past impacts.
• Time pressure during the environmental assessment.

Socio-economic factors that increase public sensitivity include the following:
• Past expropriations or relocation of people (in many processes in South Africa, land owners and local communities raise issues relating to events that occurred decades ago).
• Potential impacts to private land especially where this involves farms that have been in families for generations.
• Potential impacts to communal land, especially if used for subsistence agriculture.
• Recent down-scaling and retrenchments.
• Relocation of local people.
• Poverty levels, and potential for undue expectations.

5.3 MATCHING PROCESS TO PROJECT – PUBLIC SENSITIVITY SCALES

Applying the above criteria, it will be possible to make an informed decision of where to "pitch" both the environmental assessment and public participation on Figure 3. The scale of anticipated public sensitivity as determined by applying the criteria can be broadly broken down as follows:
• Very low
• Low
• Medium
• High
• Very high.

Each of the sensitivity scales will require a different level of effort during public participation. The higher the public sensitivity, the more iterations will be required during the process, the longer the process will take and the more it will cost - and vice versa.

5.4 MATCHING PROCESS TO PROJECT – FURTHER DESIGN CONSIDERATIONS

In addition to the criteria listed above, the following considerations will also influence the level of effort required:

• Previous public participation processes: If little or no previous public participation has taken place in the area, more effort and iterations will be required to explain the purpose, process, rights and
responsibilities of stakeholders. If previous processes resulted in mistrust, fears and unmet expectations, or if stakeholders felt excluded from previous processes, more effort, information and iterations will be required.

- **Degree of trust in the authorities and the proponent:** If major stakeholder groupings mistrust the authorities and/or the proponent, more effort, information and iterations will be required.
- **Degree to which stakeholders are empowered:** If the level of understanding and experience is low, more information and iterations will be required.
- **Degree to which stakeholders are already organised:** If most major stakeholder sectors are represented by efficient, organised structures such as local environmental and water forums, the process will be easier and less costly.
- **Sectors of society represented in project area:** The more sectors of society, the more effort will be required to ensure that spokespersons for all sectors are captured on the database and consulted.
- **Number of languages:** If it is not possible to conduct the process in English only, time and cost for translations will increase.

References: Greyling, 2001b; Greyling, 1999a; Greyling and Manyaka, 1999; Acknowledgement to Alex Weaver, CSIR, for initial version of Figure 3.
6. PUBLIC PARTICIPATION GENERIC STEPS AND METHODOLOGIES

This Chapter provides step-by-step guidance on how to design and conduct a public participation process. It begins by explaining the generic steps which every process will follow, and the objectives that every step should achieve. It then applies the generic steps to each of the public sensitivity scales shown in the previous chapter (very low, low, medium, high, very high) together with potential public participation techniques that could be employed (see Table 1). Thereafter, it outlines in some detail a process where public sensitivity is expected to be high. Lastly, it provides guidance on involving previously disadvantaged people, and on additional checks and balances for high-sensitivity processes.

6.1 GENERIC STEPS IN A PUBLIC PARTICIPATION PROCESS

Any public participation process follows a set of generic steps, each step representing an objective to be achieved, regardless of:
- whether the process is to be conducted for minerals exploration, a proposed new mine or minerals processing facility, expansion of an existing mine or minerals processing facility, or closure;
- the kind of regulatory requirements it must satisfy; or
- the scale of public sensitivity.

What will differ, however, is the level of effort during each of these steps based on the scale of public sensitivity, as described in Chapter 5. The steps are briefly described below and shown in Figure 4.

References: Greyling, 2001b.

Figure 4. Any public participation process, regardless of what kind of project it is for, or the scale of public sensitivity, or the regulatory requirements that it must meet, will move through all of these steps (i.e. will have all of these objectives).
Public Participation Guidelines for Stakeholders in the Mining Industry

Scoping phase

- **Step 1. Identify stakeholders** (representing all relevant sectors of society, both as potentially directly affected and as interested parties).
- **Step 2. Announce the opportunity to comment** (using any of a variety of methods, but focussing on providing sufficient information for stakeholders to understand the proposed project and why their comment is being sought).
- **Step 3. Obtain issues** and suggestions for alternatives (using any of a variety of methods, both verbal and written).
- **Step 4. Verify that all issues have been recorded, and recorded correctly** (usually by way of a Draft Scoping Report and Issues and Response Report, as well as a public meeting or workshop where different sectors of society can share views with the authorities and the proponent).

Impact assessment phase

- **Step 5. Present findings of specialist investigations for comment and for stakeholders to verify that their issues were indeed considered in the investigations** (focusing on providing the findings in easy-to-understand lay terms, both verbal and written; usually by way of a Summary Report and an Issues and Response Report, as well as a public meeting or workshop where different sectors of society can share views with the authorities and the proponent).

Decision-making phase

- **Step 6. Announce authority’s record of decision** (including the manner in which stakeholders may appeal the decision).

Table 1 applies the public sensitivity scales and generic public participation steps in practice. For each of the public sensitivity scales, it shows a proposed public participation process, each at a different level of effort and each with a different time period.

The steps and methodologies outlined in the rest of this Chapter follow the example for HIGH sensitivity on Table 1. **Note that processes with different levels of sensitivity require different levels of effort, as illustrated in Table 1, thus not all the steps outlined below will be required for all public participation processes.** Furthermore, the methods below are examples – there are various methods and techniques that could be used, as indicated in the note to Table 1.

References: after Manyaka and Greyling 1999; Greyling 2001b.

6.2 **Step 1: Identify Stakeholders**

This is the first step in any public participation process. This section outlines who to consult, how to identify them and how to set up a stakeholder mailing list.

6.2.1 Objectives

The objectives of this step are to:

- Inform all relevant interested and affected parties of the proposed project and the opportunity to become involved.
- Identify key stakeholders whose involvement must be proactively ensured.

6.2.2 Approach

Stakeholders representative of a broad range of sectors of society, but not every individual except in the case of directly affected landowners (see Appendix 5), should be given the opportunity to participate.

Although challenging, the more successful approach is to identify in advance of any public announcement those stakeholders who should be directly informed about the proposed project, and then to inform them by way of letters addressed to them by name, rather than by relying on media or impersonal flyers. Unless these stakeholders indicate that they do not wish to remain on the mailing list, they receive all further announcements for comment even though they may not have “formally” registered by returning their first reply sheet.
Table 1. Tailoring public participation to project circumstances. This table illustrates that processes with low anticipated public sensitivity require less iterations, and vice versa.

Note: It is very important to note that there is no blue-print process. The process examples on this table, including the numbers of stakeholders to be consulted and the duration, are merely a guideline. Furthermore, a balance needs to be sought on a case-by-case basis between satisfying good-practice principles and cost-efficiency. Secondly, the methodologies and techniques shown on this table are presented as examples. There are many other available techniques. The DEAT 2002 Stakeholder Engagement document as part of the new IEM Information Series contains a full list of techniques, modelled on the “Toolbox” of the International Association for Public Participation.

<table>
<thead>
<tr>
<th>SCALE OF PUBLIC SENSITIVITY</th>
<th>NATURE OF ENVIRONMENTAL ASSESSMENT</th>
<th>PUBLIC PARTICIPATION METHODS</th>
<th>DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>VERY LOW</td>
<td>Scoping and specialists assessment</td>
<td>Step 1. Identify stakeholders • 5 – 20 stakeholders/immediate neighbours/community leaders Step 2. Announce opportunity to comment; Step 3. Obtain issues • Advertisement in one local paper to announce proposed project, environmental assessment and opportunity to comment • Letters and phone calls to immediate neighbours to advise of proposed project and obtain issues (should local communities without communications technology be involved, a visit to community leaders) • Compile issues list and present to technical team Step 4. Verify issues; Step 5. Present findings for comment • Display issues list and findings of study in local library/other public place for comment Step 6. Announce authority decision • Advise immediate neighbours/community leaders of authority record of decision</td>
<td>1 – 2 months</td>
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<td>(e.g. a minor process upgrade or change to an existing minerals beneficiation plant)</td>
<td>concurrently</td>
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<td></td>
</tr>
<tr>
<td>LOW</td>
<td>Scoping and specialists assessment</td>
<td>Step 1. Identify stakeholders • 20 – 75; 3 – 15 key stakeholders/immediate neighbours/community leaders Step 2. Announce opportunity to comment; Step 3. Obtain issues • Advertisement in one local paper • Letters and phone calls to immediate neighbours to advise of proposed project and obtain issues • Interview (either in person or telephonically depending on circumstance) immediate neighbours/community leaders to obtain issues • Compile issues list and present to technical team Step 4. Verify issues; Step 5. Present findings for comment • Display issues list and findings of study in local library/other public place and provide to concerned neighbours for comment Step 6. Announce authority decision • Advise immediate neighbours of authority record of decision</td>
<td>2 – 4 months</td>
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<tr>
<td>(e.g. proposed extension of shallow, narrow strip mining over 20 years on existing mine property in disturbed area, concurrent rehabilitation of new and old mining, existing neighbour relations good)</td>
<td>concurrently</td>
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</table>
## Public Participation Guidelines for Stakeholders in the Mining Industry

<table>
<thead>
<tr>
<th>SCALE OF PUBLIC SENSITIVITY</th>
<th>NATURE OF ENVIRONMENTAL ASSESSMENT</th>
<th>PUBLIC PARTICIPATION METHODS</th>
<th>DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEDIUM</td>
<td>Scoping and specialist environmental assessment concurrently, but not without risk</td>
<td><strong>Step 1. Identify stakeholders</strong>&lt;br&gt;• 75 – 200; 20 – 40 &quot;key stakeholders&quot;&lt;br&gt;<strong>Step 2. Announce opportunity to comment</strong>&lt;br&gt;• Advertisement in one local and one regional paper and if local communities involved, on appropriate local radio station&lt;br&gt;• Possibly media releases to same media&lt;br&gt;• Letters to all stakeholders on database to advise of project, invite involvement and initial issues&lt;br&gt;• Letter accompanied by a Background Information Document (4 – 6 pages) with initial details of proposed project and process&lt;br&gt;• Copies of Background Information Document left in 3 – 5 public places in immediate area</td>
<td>4 – 9 months</td>
</tr>
<tr>
<td></td>
<td><strong>Step 3. Obtain issues</strong>&lt;br&gt;• Individual, in-person consultations/interviews with potentially directly-affected people&lt;br&gt;• Telephone calls to key stakeholders&lt;br&gt;• Focus group meetings with small groups of stakeholders e.g. local community leaders/CBOs, local government, farmers associations, NGOs, etc&lt;br&gt;• Compile formal Issues/Response Report in association with environmental specialists</td>
<td><strong>Step 4. Verify issues; Step 5. Present findings for comment</strong>&lt;br&gt;• Letter to all stakeholders on database to announce availability of Draft Scoping Report/Environmental Management Plan (EMP), Issues/Response Report and date of public meeting&lt;br&gt;• Draft Scoping Report, EMP and Issues/Response Report distributed to key stakeholders and those that register to attend public meeting&lt;br&gt;• Reports left in 3 – 5 public places in immediate area&lt;br&gt;• Public meeting/open house&lt;br&gt;• Distribution of proceedings to those who attended and key stakeholders&lt;br&gt;• Letter to all stakeholders on database to announce availability of Final Scoping Report, EMP and Issues/Response Report&lt;br&gt;• Distribute Final Scoping Report, EMP and Issues/Response Report to key stakeholders and those who request</td>
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</table>
### Scale of Public Sensitivity

**High**
(e.g. proposed new 50-km conveyor across private agricultural, communal and municipal land; streams, rivers, wetlands, roads, infrastructure along the way, no existing servitude; mine's neighbour relations programme does not cover the total project area)

### Nature of Environmental Assessment

- Distinct public scoping phase combined with specialist environmental scoping
- Distinct specialist environmental assessment phase

### Public Participation Methods

**Step 1. Identify stakeholders**
- 200 – 400; 40 – 60 "key stakeholders"

**Step 2. Announce opportunity to comment**
- Advertisement in two local and one regional papers and on appropriate local radio station/s
- Media releases to 5 - 10 newspapers/publications
- Telephone calls to potentially directly affected people
- Letters to all stakeholders on database to advise of project, invite involvement and initial issues
- Letter accompanied by a Background Information Document (4 – 6 pages) with initial details of proposed project and process (in this case, a fairly detailed map insert is essential)
- Copies of Background Information Document left in 10 – 15 public places in affected area

**Step 3. Obtain issues**
- Individual, in-person consultations/interviews with potentially directly affected people
- Telephonic interviews with selected key stakeholders
- Focus group meetings with small groups of stakeholders e.g. local community leaders/ CBOs, local government, farmers associations, NGOs, etc
- Key stakeholder workshop
- Compile formal Issues/Response Report

**Step 4. Verify issues**
- Letter to all stakeholders on database to announce availability of Draft Scoping Report, Issues/Response Report and date of public meeting
- Draft Scoping Report and Issues/Response Report distributed to key stakeholders and those that register to attend public meeting
- Reports left in 10 – 15 public places in area
- Public meeting/open house
- Distribute proceedings to those who attended and key stakeholders
- Letter to all stakeholders on database to announce availability of Final Scoping Report and Issues/Response Report
- Distribute Final Scoping Report, EMP and Issues/Response Report to key stakeholders and those who request

<table>
<thead>
<tr>
<th>Scale of Public Sensitivity</th>
<th>Nature of Environmental Assessment</th>
<th>Public Participation Methods</th>
<th>Duration</th>
</tr>
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</table>
| High                        | Distinct public scoping phase combined with specialist environmental scoping | **Step 1. Identify stakeholders**
  - 200 – 400; 40 – 60 "key stakeholders"
**Step 2. Announce opportunity to comment**
  - Advertisement in two local and one regional papers and on appropriate local radio station/s
  - Media releases to 5 - 10 newspapers/publications
  - Telephone calls to potentially directly affected people
  - Letters to all stakeholders on database to advise of project, invite involvement and initial issues
  - Letter accompanied by a Background Information Document (4 – 6 pages) with initial details of proposed project and process (in this case, a fairly detailed map insert is essential)
  - Copies of Background Information Document left in 10 – 15 public places in affected area
**Step 3. Obtain issues**
  - Individual, in-person consultations/interviews with potentially directly affected people
  - Telephonic interviews with selected key stakeholders
  - Focus group meetings with small groups of stakeholders e.g. local community leaders/ CBOs, local government, farmers associations, NGOs, etc
  - Key stakeholder workshop
  - Compile formal Issues/Response Report
**Step 4. Verify issues**
  - Letter to all stakeholders on database to announce availability of Draft Scoping Report, Issues/Response Report and date of public meeting
  - Draft Scoping Report and Issues/Response Report distributed to key stakeholders and those that register to attend public meeting
  - Reports left in 10 – 15 public places in area
  - Public meeting/open house
  - Distribute proceedings to those who attended and key stakeholders
  - Letter to all stakeholders on database to announce availability of Final Scoping Report and Issues/Response Report
  - Distribute Final Scoping Report, EMP and Issues/Response Report to key stakeholders and those who request | 8 – 12 months |
<table>
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<tr>
<th>SCALE OF PUBLIC SENSITIVITY</th>
<th>NATURE OF ENVIRONMENTAL ASSESSMENT</th>
<th>PUBLIC PARTICIPATION METHODS</th>
<th>DURATION</th>
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<tr>
<td>(HIGH, continued)</td>
<td></td>
<td>Step 5. Present findings for comment</td>
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<tr>
<td></td>
<td></td>
<td>• Letter to all stakeholders on database to announce availability of full Draft EMPR/findings, Summary Draft Findings Report, Issues/Response Report and date of public meeting</td>
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<tr>
<td></td>
<td></td>
<td>• Summary Draft Findings Report and Issues/Response Report distributed to key stakeholders and those who register to attend public meeting</td>
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<td>• Reports left in 10 – 15 public places in area</td>
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<td>• Public meeting/open house</td>
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<td>• Distribute proceedings to those who attended and key stakeholders</td>
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<td>• Letter to all stakeholders on database to announce availability of Final full EMPR in public places and Issues/Response Report</td>
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<td>• Display full Final EMPR in 10 – 15 public places</td>
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<td>• Distribute Final Issues/Response Report to key stakeholders and those who request (if required, update Summary Findings Report and distribute)</td>
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<td>Step 6. Announce authority decision</td>
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<td>• Letters to all stakeholders on database</td>
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<td></td>
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<td>• Advertisements if a legal requirement</td>
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<tr>
<td>VERY HIGH</td>
<td>Distinct and elaborate public scoping phase including establishment of a Process Review Committee and specialist scoping. Distinct specialist environmental assessment phase, including independent scientific peer review of selected studies</td>
<td>Step 1. Identify stakeholders</td>
<td>12 – 24 months</td>
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<tr>
<td></td>
<td>1 000 – 3 000 country-wide, some internationally; 200 – 300 key stakeholders</td>
<td>Step 2. Announce opportunity to comment</td>
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<td></td>
<td>• Visits to brief potentially directly affected parties prior to public announcement of proposed process</td>
<td>• Telephone calls to brief key stakeholders prior to public announcement of proposed process</td>
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<td></td>
<td>• Letters to all stakeholders on database to advise of project, invite involvement and initial issues, prior to advertising and media releases</td>
<td>• Letter accompanied by a Background Information Document (4 – 6 pages) with initial details of proposed project and process. Invite nominations for members of a Process Review Committee</td>
<td></td>
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<tr>
<td></td>
<td>• Copies of Background Information Document left in 100 public places in the country</td>
<td>• Advertisements in two local and two regional and three national papers and on appropriate local, regional and national radio stations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Media releases to 50 – 150 newspapers/publications</td>
<td>• Public participation methods up to the Authority Record of Decision</td>
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<tr>
<td>SCALE OF PUBLIC SENSITIVITY ¹</td>
<td>NATURE OF ENVIRONMENTAL ASSESSMENT</td>
<td>PUBLIC PARTICIPATION METHODS² UP TO THE AUTHORITY RECORD OF DECISION</td>
<td>DURATION³</td>
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<tr>
<td>(VERY HIGH, continued)</td>
<td>Step 3. Obtain issues</td>
<td>• Individual, in-person consultations/interviews with potentially directly affected people, possibly accompanied by a social scientist&lt;br&gt;• Telephonic interviews with selected key stakeholders&lt;br&gt;• Focus group meetings with small groups of stakeholders e.g. local community leaders/CBOs, government at three spheres, conservation agencies/authorities, environmental NGOs, possibly accompanied by a social scientist&lt;br&gt;• Key stakeholder workshop&lt;br&gt;• Establish Process Review Committee (formal invitations, terms of reference, role and functions etc)&lt;br&gt;• Letter to all stakeholders on database to announce availability of proceedings of workshop and Process Review Committee as a Discussion for further comment&lt;br&gt;• Distribute proceedings to key stakeholders and those who request&lt;br&gt;• Compile formal Issues/Response Report&lt;br&gt;• Distribute to Process Review Committee members for comment&lt;br&gt;• Media releases to 50 – 150 newspapers/publications</td>
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<td></td>
<td>Step 4. Verify issues</td>
<td>• Letter to all stakeholders on database to announce availability of Draft Scoping Report, Issues/Response Report and date of public meeting&lt;br&gt;• Draft Scoping Report and Issues/Response Report distributed to key stakeholders and those who register to attend public meeting&lt;br&gt;• Reports left in 100 public places in the country&lt;br&gt;• Briefings in local languages for local community leaders&lt;br&gt;• Public meeting/open house followed by afternoon/evening one-on-one or small-group discussions&lt;br&gt;• First meeting for Process Review Committee to verify that all issues have been captured and captured correctly, prior to finalising Final Scoping Report and Issues/Response Report, to deliberate appointment of independent specialist reviewers and establishment of a NEMA Section 35 agreement (see Section 3.7)&lt;br&gt;• Letter to all stakeholders on database to announce availability of proceedings of public meeting, Process Review Committee meeting, Final Scoping Report and Issues/Response Report&lt;br&gt;• Distribute above reports those who attended meetings, to key stakeholders and to those who request&lt;br&gt;• Media releases to 50 – 150 newspapers/publications</td>
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<tr>
<td>SCALE OF PUBLIC SENSITIVITY</td>
<td>NATURE OF ENVIRONMENTAL ASSESSMENT</td>
<td>PUBLIC PARTICIPATION METHODS</td>
<td>DURATION</td>
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<tr>
<td>(VERY HIGH, continued)</td>
<td>Step 5. Present findings for comment</td>
<td>Keep stakeholders informed of progress while specialist assessments being conducted</td>
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<td></td>
<td>• Letter to all stakeholders on database to report on progress with specialist studies and to announce names of specialist reviewers agreed to by Process Review Committee</td>
<td>Announce availability of draft findings for comment</td>
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<td></td>
<td>• Letter to all stakeholders on database to announce availability of full Draft EMPR/findings, Summary Draft Findings Report, Issues/Response Report and date of public meeting</td>
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<tr>
<td></td>
<td>• Advertisements in two local and two regional and three national papers and on appropriate local, regional and national radio stations</td>
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<td></td>
<td>• Media releases to 50 – 150 newspapers/publications</td>
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<td></td>
<td>• Distribute Summary Draft Findings Report and Issues/Response Report to key stakeholders and those who register to attend public meeting; include Draft NEMA Section 35 agreement</td>
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<tr>
<td></td>
<td>• Display full set of reports, including full specialist studies, peer review reports and draft NEMA Section 35 agreement in 100 public places in the country</td>
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<tr>
<td></td>
<td>Obtain comment on draft findings</td>
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<td></td>
<td>• Briefings in local languages for local community leaders to explain findings</td>
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<td>• Public meeting/open house</td>
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<td>• One-on-one or small-group discussions</td>
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<td></td>
<td>• Update Issues/Response Report with comment received and distribute to members of Process Review Committee</td>
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<td></td>
<td>• Second meeting of Process Review Committee to verify that all comments have been captured and captured correctly</td>
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<td></td>
<td>• Letter to all stakeholders on database to announce availability of proceedings of public meeting and Process Review Committee meeting, and to report on progress</td>
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<tr>
<td></td>
<td>Make updated findings available</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Letters to all stakeholders on database to announce availability of Final Full EMPR/findings, Final Summary of Findings, Final Issues/Response Report and Final NEMA Section 35 agreement</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>• Distribute above reports to those to key stakeholders and to those who request</td>
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<td></td>
<td>• Display in public places</td>
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<td>• Media releases</td>
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<td></td>
<td>Step 6. Announce authority decision</td>
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<td>• Telephone calls to key stakeholders</td>
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<td>• Letters to all stakeholders on database</td>
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<td></td>
<td>• Advertisements in same papers as earlier</td>
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<tr>
<td></td>
<td>• Media releases to same papers as earlier</td>
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</tbody>
</table>
Notes to Table 1.

1 Examples shown for LOW, MEDIUM AND HIGH sensitivity are real, recent examples. The example shown for VERY HIGH sensitivity is fictitious but modelled on a real, fairly recent industrial project.

2 Neither the public participation methods, nor the number of iterations, nor the timing suggested for each scale are cast in concrete. Local needs and circumstances, sensitivity to process requirements, and experience with other techniques, will assist to refine these.

3 Timing here relates to the public participation process per se. After stakeholders have been informed of the approximate scheduling for an environmental assessment and its public participation process, the process is often delayed due to the technical component of the environmental assessment (e.g. additional environmental or social studies may be required, monitoring systems may need to be put in place, data could not be gathered due to excessive rain or drought, etc). Should the environmental assessment studies take longer than initially anticipated, stakeholders need to be advised of the reason for any delay.

4 Combining Step 4 (verifying that all issues have been covered) with Step 5 (presentation of the findings for comment) has the risk of new issues being raised after the environmental assessments have been completed. Should such new issues be substantial, portions of the environmental assessments may have to be repeated. In extreme cases, stakeholders may refuse to comment at all on the findings until such new information has been provided. The decision not to conduct Step 4 as an iteration on its own needs to be judged on merit.

5 Fully explaining the many potential permutations and iterations that could be required for a process with VERY HIGH sensitivity is beyond the scope and required length of these Guidelines. Suffice it to say that such a process should be designed and facilitated by a highly experienced public participation team.

6.2.3 Methodology

Stakeholders can be identified in various ways and by various methods, but with the emphasis on following a structured approach. Three methods are noted below:

- **Starting from the three dimensions of sustainable development:** This is done firstly by sectors of society, then by organisation, as shown in Figure 5.
- **Land-use patterns:** Use a map and identify sectors and groupings based on land-use patterns.
- **A series of questions, such as:**
  - Who may be affected immediately? Or will be in future? Who has unmet needs?
  - Who pollutes or may pollute in the area? Does, or will, this set a precedent?
  - Which organs of state have an interest?
  - Whose activities affect, or may affect, the proposed project?
  - Who may be positively affected? Who should be positively affected?
  - Who may be negatively affected?
  - Who is already organised into groupings? Who is not but should?
  - Whose cooperation, expertise or influence would be helpful to the success of implementation?
  - Who are disadvantaged and therefore need special consultation efforts?
  - Who supports or opposes the proposed project?
  - Whose opposition could be detrimental?
  - Who can represent gender and race?
  - Add your own questions.

Once there is a reasonable idea of who should be on the stakeholder list, the list can be developed through a process of mostly telephonic networking and referral. This involves one or two dedicated people making telephone calls for a day or two, depending on the scope of the process. For example, where land owners along a conveyor route are involved, the networking process can start off with a telephone call to the nearest office of the SA Agricultural Union which is likely to provide the name and contact details of the chairperson of the local Farmers Union. The chairperson can in turn provide the names and contact details of landowners in the area. Alternatively, one can start off by asking the relevant authorities who to consult, and then network further based on the contact names supplied.
6.2.4 Sectors of society

The stakeholder database should always be categorised into sectors. Two thousand entries on a database may sound impressive, but this does not guarantee that all sectors are represented. The following list can be used to cross-check that all relevant sectors are included. Not all the sectors on this list will, however, be involved in all projects. Examples of sectors are:

- Government (national, provincial and local, all relevant departments)
- Traditional leaders
- Conservation and environmental bodies
- NGOs (environmental and development-focused)
- Commerce and business
- Industry
- Mining
- Agriculture
- Forestry
- Transport
- Tourism and recreation
- Civil society (voluntary organisations, community groupings, religious and welfare organisations, residential organisations, women’s organisations, youth organisations)
- Local communities
- Labour
- Researchers and consultants
- Local media (print and broadcast)
- Water bodies
- Education bodies
- Health bodies
- International (cross-border) stakeholders
- Personnel of the mining company (where an expansion to an existing mine or facility is involved, company personnel and employees, including shop stewards, have first-hand knowledge of current operations and are often able to contribute advice or point to potential impacts that can be reduced or avoided).

6.2.5 Database and record-keeping

An electronic database of stakeholders’ contact details is recommended from which mail merges can be done. The database should be categorised by sector of society, and contain title, first name, initials, surname, position, organisation, province, address, telephone, fax and email. Do stakeholders the courtesy of not misspelling their names. If more than one language is to be used, also categorise the database into language preference of stakeholders.

Lists of stakeholders received from other organisations should be verified before being added to the database. Ongoing upkeep of the database is needed (see Box 5), since it goes out of date by some 10% every two to three months.

Allow for “creep” in the database when budgeting. As stakeholders respond to media releases and/or through contact with colleagues and friends, their names should be added to the database and they should receive subsequent letters along with all others.

Record-keeping is a very important component of public participation. Some databases can automatically code every mailing to stakeholders, with fields created for every meeting attended, comment sheets returned etc, thus providing an ongoing record of participation activities. In addition, comments by stakeholders can be recorded on the database, linked to the name of the person who made the comment and key word searches can be undertaken.

**BOX 5. UPKEEP OF STAKEHOLDER DATABASE.**

- Follow up on return-to-sender envelopes and obtain new address details, or remove from mailing list.
- Provide space on comment sheets for stakeholder details, and always verify against database when returned.
- Verify attendance registers completed at meetings against database.

6.2.6 Key stakeholders

“Key stakeholders” should also be identified at the start of the process. They will include anyone whose involvement would be crucial to the project.

Figure 6 shows that every sector has what can be termed “key” stakeholders. They are people who stand to be directly affected, influential people, respected people, spokespersons for their sectors, people with the authority to say “yes” or “no,” people whose local knowledge is important, people who may want to derail the process for personal gain and all those who think they are key stakeholders.

The easiest way to identify key stakeholders initially is to ask other stakeholders. The mandate of key stakeholders to speak for their constituents can only be established as the process evolves, but their early involvement ensures that the views of all sectors are accommodated, and that certain sectors cannot later say that they were not consulted.
The public participation process must make special efforts to obtain the contributions of these stakeholders. They may either be very busy people (in which case they may not respond to invitations to comment), or they may be people not familiar with the topic at hand, or people suspicious of being consulted. Therefore, the process must go the extra mile to accommodate them. Typically, the following special efforts would be made to ensure their contributions:

- Small-group briefing sessions at venues convenient to them.
- Checking their diaries before setting dates for major meetings.
- At all times, sending them all documentation for comment, even proceedings of meetings they did not attend or discussion documents they did not request. This would ensure that such people cannot delay the process during the later stages by claiming that they have not been consulted. Electronic records should be kept of these activities.


6.3 STEP 2: ANNOUNCING THE OPPORTUNITY TO PARTICIPATE

The next step in the public participation process is to announce to stakeholders the opportunity to participate. The more thorough this initial announcement, the more defendable the process and the less likely the chances for surprises during the process.

6.3.1 Objectives

The objectives of this task are to ensure that interested and affected parties are aware of the proposed project and process and the opportunity to contribute, to promote their continued involvement and to obtain their initial issues of concern and suggestions for enhanced benefits.

6.3.2 Approach

A multi-pronged approach should be followed by announcing the project and the opportunity to comment both verbally and in writing. The initial information to stakeholders should be easy and fairly quick to read and should give them the opportunity to decide whether they want to participate or not.

6.3.3 Methodology

The opportunity to comment and to raise issues for evaluation should be announced to the broadest range of stakeholders. This may be done by way of one or more of the methodologies listed below, depending on the sensitivity scale.

6.3.3.1 Letters of invitation

A short letter of invitation can be addressed by name to those on the database. Where the letter is not accompanied by a Background Information Document (see below), the letter itself should provide the
required information.

6.3.3.2 Background Information Document
Compile a Background Information Document (BID) in non-technical language and, where possible, illustrated by way of simple line drawings, usually 4-6 pages long and containing the following information:

- Names of the proponent and their environmental consultants, and some brief background to each.
- A simplified description of the proposed project (always include a simple map).
- Motivation for the proposed project (without being promotional).
- The technical process to be followed in developing the EMPR.
- The issues of concern raised to date about mining in the area, and the issue likely to be investigated in the environmental evaluations that will be conducted to develop the EMPR.
- The time schedule for the environmental investigation.
- The role of stakeholders – how they can contribute and at what points.
- How and when decisions will be made, and by whom.
- If language is an issue in the area, indicate the language/s which are proposed to be used and ask for comment.
- Name and contact details of a person in the public participation office.

Distribute the letter of invitation with the BID and comment sheet attached. Leave it in a few public places in the area where the broader public will have access to it (libraries, council offices, community halls, local offices of organisations, etc). In addition to mailing, it can also be sent electronically to organisations to forward to their members and additional copies can be sent to community leaders to distribute to community members.

The BID should include a loose-leaf comment/reply sheet for stakeholders to indicate whether they wish to remain on the mailing list, to indicate their initial issues of concern and suggestions for enhanced benefits, and to comment on the proposed public participation process and preferred languages.

6.3.3.3 Advertising and media announcements

- Establish which newspapers people in the area read (taking language preferences into account). Find out if regulatory requirements specify the type/wording of the advertisement/s or other requirements. Depending on the geographic scale of the project and the public sensitivity scale, place at least one advertisement in a local newspaper. If the anticipated impacts are likely to be felt at regional or national scale, also place advertisements in regional and/or national newspapers.
- The size of advertisements need not be large and therefore unduly expensive. What is important, however, is that they are not hidden in the legal section of the paper. The more sensitive the project is, the more prominent the advertisement should be. The aim is to ensure that stakeholders are aware of the opportunity to comment at this early stage.
- Where rural or previously disadvantaged communities are likely to be affected, an announcement on an appropriate local radio station in a local language should be arranged.

Media releases can be distributed. However, newspaper editors retain their prerogative to edit them and there is no guarantee that the correct message will be conveyed or that the contact details of the public participation office will be published. This is especially true of the larger newspapers because asking people to comment on a proposed project is not newsworthy to the majority of their readers. As local newspapers are more focused on their communities a call to the editor to indicate the benefits to the community of the paper announcing the opportunity to comment, usually pays off.

6.3.3.4 Telephone calls/visits to communities
Depending on the sensitivity of the project and the degree to which stakeholders are likely to be substantially affected, contact key stakeholders by telephone prior to sending their letters or placing advertisements in the media. If private or communal land will be directly impacted by a proposed project, do the landowners/occupants the courtesy of advising them in person.
Telephonic contact with landowners can normally only be done in the early morning and early evening as farmers are normally not at home during the day. Should it be a community without telephones, visit them in person.

The criterion for determining whether this step should be taken is to place yourself in the shoes of the people to be affected and to imagine how you would have reacted if you had to read in a newspaper that a proposed project will profoundly affect your life, in stead of having been informed first hand.

6.4 **STEP 3: OBTAINING ISSUES FOR EVALUATION AND SUGGESTIONS FOR ALTERNATIVES**

The next step in the public participation process is to actively obtain issues that should be evaluated in the environmental assessments. Whereas stakeholders would have received the BID and some would have completed the reply sheet with their initial issues, others take time to digest the information and to discuss the potential impacts with friends, neighbours and colleagues. Therefore, the following additional steps are required.

6.4.1 **Objectives**

The objective of this task is to obtain issues of concern and suggestions for enhanced benefits for consideration in the environmental assessments to develop the EMPR. This is in line with the requirements of “scoping” (i.e. to define the scope of the investigations for the project) taking into consideration the issues raised by:

- The authorities.
- Personnel of the mining company (the project proponent).
- Other stakeholders representing different sectors of society.
- Members of the technical assessment team.

6.4.2 **Approach**

Using a multi-pronged approach, issues should be obtained from across a spectrum of sectors of society, and pro-actively sourced early in the process by a variety of methods.

If they be likely to be affected, representatives of previously disadvantaged people should also be consulted—this is an important requirement of the NEMA (see Principle 2 in Appendix 3). In particular, their capacity should be built to understand the proposed project and the process, and especially the ways proposed for their involvement (see also Section 6.8 on involving previously disadvantaged people).

When obtaining issues, try not to focus only on potentially negative impacts that should be avoided or reduced, but also on potentially positive impacts that should be enhanced and, in particular, where there could be mutual benefits for other stakeholders and the mining company.

Lastly, and particularly for sensitive projects, first consult separately with sectors of society, small groups or individuals prior to exposing them to a multi-party situation such as a public meeting, because:

- It gives an advance indication of sensitive or difficult issues.
- Different sectors have different issues and nuances to issues; whereas they may raise their issues broadly at a public meeting, they may not provide the details or nuances.
- Not everyone is eloquent in a public situation, thus their issues may go unnoticed.
- Where people are angry or mistrust the proponent or government, they may disrupt a public meeting; this is less likely where they have already been allowed to voice their anger and mistrust and especially if a process of dialogue with the mining company could have already been initiated.
- If the issues of various sectors are known beforehand, the public participation facilitator can better assist the different sectors to appreciate each others’ views and to avoid conflict.
6.4.3 Methodology

Various methods can be used to obtain issues for evaluation, depending on local circumstances, project size and public sensitivity, outlined below.

6.4.3.1 Issues received in writing

Issues are often received in writing (either on the reply sheet, in separate submissions or by letter). The reply sheet that accompanies the BID should invite stakeholders to use additional sheets if required.

6.4.3.2 Telephonic consultation

It is possible to obtain issues telephonically by establishing which stakeholders are spokespersons for their sectors or organisations (often a few telephone calls are necessary to establish this) and then to interview them by telephone. These interviews should take place only after people have read the Background Information Document. It is useful to e-mail or fax such stakeholders the record of issues received by telephone to verify correctness.

6.4.3.3 Person-to-person or small-group/focus group consultation

Depending on the sensitivity of the project and the degree to which stakeholders are likely to be substantially affected, person-to-person consultation may be required to obtain people's issues. The benefits of such individual or small-group consultation cannot be overemphasised. Criteria to determine whether this should be necessary include:

- If private or communal land is likely to be directly impacted by a proposed project.
- If resettlement, servitudes, land swaps or buying of private property may be necessary.
- If stakeholders have been in (especially public) conflict with the mining company in the past (such stakeholders may be unwilling to contribute their views initially).
- If stakeholders have issues that stand to affect materially the proposed project.

In these cases, it is often advisable for the public participation practitioner to meet with stakeholders in the absence of technical specialists or mining company personnel in order to commence a process of dialogue.

Such consultation is also useful in the following ways:

- Determining who the "real" spokespersons are for various sectors.
- Obtaining the names and contact details of other stakeholders who should be consulted.
- If a small, "brainstorming"-type multi-stakeholder workshop is intended to assist the technical specialists to focus their studies, obtaining suggestions for who should be invited.
- Establishing whether future meetings should be held during the day, in the evenings or over weekends.
- Advising landowners if members of the specialist team will conduct work in the area, obtaining permission for access to their land; notifying them as to how these team members will identify themselves and how their vehicles can be recognised to ensure that security-related incidents do not arise.

6.4.3.4 "Brainstorming"-type multi-stakeholder workshop

Such workshops are useful in cases where:

- The project has many stakeholders from many different sectors of society.
- The project is sensitive or very complex, in other words multiple issues about a range of different potential impacts are likely to be raised.
- Where the environmental specialists need to commence work immediately (e.g. when it is expected that monitoring systems would have to be installed to deliver a year’s data prior to construction of the proposed new facility).

Such workshops do not constitute a public meeting, but rather should be seen as a “brainstorming” session where some 15 – 25 representatives of different sectors of society, the mining company, technical personnel and the authorities can put their heads together about the potential issues. The workshop should be held early during the process. Normally, it is by invitation only but based on the suggestions made by
stakeholders themselves (determined either during individual or small-group consultation or as indicated in the BID). It is very important, however, that no one should be turned away; if people express a keen interest in attending, it is probably because they have something to say!

These workshops are useful to focus the minds of all stakeholders on potential issues that may have a bearing on the viability of the proposed project. They are instrumental in focusing the environmental specialists on issues that could constitute a potentially fatal flaw. Selected representatives of the authorities should attend, not to make decisions about the proposed project at this stage but to contribute issues and to provide guidance in relation to the process.

The proceedings (see Box 7) of the workshop should be produced immediately. The proceedings in themselves serve the purpose of a Discussion Document for raising further issues by the broader body of stakeholders. The proceedings should contain a more detailed description of the proposed project, including maps and graphics where necessary, record all the issues raised, be distributed to those who attended, to all other key stakeholders and the authorities and be available upon request to all other stakeholders.

**BOX 6. INTRODUCTION TO PUBLIC EVENTS.**

All public events during a public participation process should commence with an introduction by the facilitator to:

- Welcome those present and outline the objectives of the meeting.
- Outline the regulatory requirements for the process, referring also to the NEMA principles.
- Indicate how the public’s issues will be considered, who the decisions will be made by, and when.
- Indicate that those present are welcome to disagree, i.e. that consensus is not being sought but rather diversity of opinion.
- Provide some “housekeeping” information (time, breaks, proceedings etc).
- Introduce the environmental consultants and the proponent (in this order!).

**BOX 7. PROCEEDINGS OF MEETINGS.**

A major shortcoming in public participation is that proceedings of meetings are often too cryptic. A good set of proceedings that fully describes a proposed project along with graphics and maps, that describes the environmental assessment and public participation process and fully records the issues raised by stakeholders and the authorities by name, has many advantages. Such proceedings:

- are excellent in illustrating to stakeholders that their views have been heard;
- can be used as a Discussion Document to stimulate comment by other stakeholders;
- can indicate to different sectors of society how others view the proposed development, and assist different sectors or people in developing an appreciation of the views of others;
- can be used in the development of the Issues Report and the Scoping report (i.e. sections of text can be directly copied);
- are an excellent record to illustrate to the authorities that due process was followed.

### 6.5 Step 4: Verification that Issues have been Captured and Considered

#### 6.5.1 Objectives

The most important objective of this step is that it assists in “fixing” the scope of the project. Furthermore, the EIA Guidelines and international good-practice guidelines for public participation specifically note that stakeholders should have the opportunity to verify that all issues they have raised have indeed been captured and considered.

#### 6.5.2 Approach

The approach used to good effect is to record all issues raised by stakeholders in a single report, an Issues and Response Report (see below), to compile a Draft Scoping Report and then to provide both written and verbal opportunity for comment on these reports for a period of 3 – 6 calendar weeks.
Whereas the availability of these reports should be announced to all stakeholders on the database, the reports should be pro-actively sent to all key stakeholders, including the relevant authorities and to everyone registered to attend the public meeting if one is to be held, and upon request to other stakeholders.

While it is more expensive to make reports directly available to stakeholders, only leaving reports in public places denies the proponent, the authorities and the environmental specialists the benefit and peace of mind of having agreement on the scope of the environmental assessment, and also runs the risk of additional issues being raised later on. As it is, not all stakeholders on the database request these reports, and only those who are potentially affected or are really interested usually do so. Therefore, only a few dozen as opposed to hundreds of copies are usually required. The copying costs are well worth the expense.

6.5.3 Methodology

The various components of this step are shown below.

6.5.3.1 Announce opportunity to verify issues
This is done by sending a letter to all stakeholders on the database. The letter announces the availability of the Draft Scoping Report and Issues/Response Report, the date of a public meeting and/or open house (if these are to be held), where the contents of these reports will be presented for comment and the list of public places where the full set of reports will be available for public scrutiny. The comment period and due date for comment must be clearly indicated.

The letter is accompanied by a reply sheet for stakeholders to indicate whether they wish to receive these reports (or a Summary of the Draft Scoping Report or translated copies of the documents, should these be available) and to register for the public meeting or open house.

6.5.3.2 Issues/Response Report
The key deliverable of the public participation process is a record of the issues raised by all stakeholders and the responses to these, that is, the Issues/Response Report. All steps in the process are aimed at enriching the contents of this report, since it:

- serves as a communication tool with which to illustrate to stakeholders that their issues have been heard and provides them with feedback at various milestones during the process;
- is an important tool for stakeholders to verify that their issues have been captured, thus it is a key tool in fixing the scope of the environmental investigations;
- is a key input to the Scoping Report and terms of reference for the specialist studies; and
- is a useful record for the decision-making authority on the public participation process.

Table 2 provides an example of an Issues/Response Report. The report should ideally be categorised into disciplines required for conducting the specialist investigations. The response column should be used to indicate to stakeholders how their issues will be, or have been, dealt with.

The report should be updated as the process proceeds and, at the end of the process, presented to the authorities and other stakeholders together with the EMPR as a full record of issues raised.
Table 2. Example of an Issues/Response Report accompanying the Draft Scoping Report, being presented to stakeholders to verify that their issues have been captured. The example in this table represents a real report but names of commentators have been changed (Greyling, 2001b).

<table>
<thead>
<tr>
<th>ISSUE RAISED</th>
<th>COMMENTATOR</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>That it be indicated whether the mine will use the available groundwater for the proposed mining operations</td>
<td>Mr Wilie Rautenbach, Zoetendal</td>
<td>Water for mining is proposed to be obtained from Rand Water and not from groundwater sources. In addition, contaminated water will be reused as far as possible.</td>
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<tr>
<td>That when geohydrologists took water samples on his farm, it seemed they did not take all water resources into consideration.</td>
<td>Mr Giel van Rooyen, Somersveld</td>
<td>Samples that were taken by the geohydrology specialist team were for the first scan to determine the background water quality and were not intended to cover every possible source of water at that stage.</td>
</tr>
<tr>
<td>That quarterly tests of the level of the water table in boreholes, and the quality of water, be commenced now already and continue during mining operations as before-and-after proof of potential impacts by mining.</td>
<td>Mr Karel Joubert, on behalf of the Agricultural Union</td>
<td>Yes, this is indeed being planned. This kind of monitoring will be helpful in future to determine whether any impacts have resulted from the proposed extension, should it be approved by the authorities. The frequency of monitoring will be noted in the water management plan that is proposed to be drawn up for the operation.</td>
</tr>
<tr>
<td>That it be investigated whether the old mining areas that will be sealed off will not fill up with water since this water will become polluted and may pollute both ground and surface water.</td>
<td>Several stakeholders, see proceedings of stakeholder/authorities workshop on (date)</td>
<td>Yes, this is indeed being investigated. The current Colliery appointed specialists to determine the water situation in the mined out areas. The results will be incorporated in the Groundwater Specialist Study for the proposed extension.</td>
</tr>
</tbody>
</table>

Note. The wording in the response column will differ once the findings of the specialist environmental assessments are available. At that stage, the response will present a very short description of the findings with a page reference number to the EMPR or Summary Report where more details of the findings can be obtained.

6.5.3.3 Draft Scoping Report

The purpose of a Scoping Report is to fix the scope of the project by obtaining agreement from all parties that their issues will be considered in the environmental assessments. The Scoping Report is usually about 50 pages in length. It contains the same type of information as outlined earlier for the BID, but in much more detail. In addition, it should outline the aspects of specialist studies to investigate relevant issues.

The more technical sections of the Scoping Report are usually prepared by the environmental consultants. The document should be edited by the public participation team so that it can be accessible to a non-technical audience, with graphics and photographs where necessary to assist the non-technical reader to grasp the content. Editing should include a cross-check on whether all stakeholder issues have been considered and, if not, explanations provided for their omission.

Where necessary, such as when the project is very complex, or should previously disadvantaged people stand to be impacted, a Summary of the Draft Scoping Report should be prepared and translated into the appropriate language(s). Alternatively, only relevant sections can be summarised and translated.

6.5.3.4 Making reports available in public places

Place the full set of reports in a number of public places in and around the study area, even though some stakeholders receive their own copies.

6.5.3.5 Public meeting

The decision on whether to convene a public meeting or an open house should not be taken lightly, as discussed earlier in Section 4.14. Nevertheless, during a public meeting, one gains the advantage of exposing the views of different stakeholder groupings to those of others. This often broadens people's perspectives, manages single-issue viewpoints, contributes to reason prevailing and adds value to the project, especially in regard to obtaining the views of different sectors of society representing the three dimensions of sustainability. Box 8 lists the key requirements for a public meeting.

When appropriately organised and facilitated by a very skilled facilitator, public meetings are also excellent in achieving the process objectives of a project, that is, those objectives of establishing trust, creating a shared vision and promoting a partnership between the protagonists and their public. Public meetings provide a
Public Participation Guidelines for Stakeholders in the Mining Industry

sense of occasion and an important milestone to which both the public and the proponents and their consultants can work towards.

If the project area is very large and involves hundreds or thousands of stakeholders, more than one public meeting should be held. Firstly, this makes them accessible to more stakeholders in terms of travel distance. Secondly, it groups together people of particular areas, where issues may be specific to those areas and not to the study area as a whole. Thirdly, it makes the meeting more manageable (60 – 80 people at a public meeting is more manageable than 600 – 800 people).

The proceedings should be produced immediately after the meeting and should record all the issues raised, verification that issues raised previously have been captured and verification that the terms of reference of the Specialist Studies would address the issues. The proceedings should be distributed to everyone who attended the meeting, with a request to cross-check the way in which their contributions were recorded and an invitation to raise further issues within a week of receiving the proceedings.

**BOX 8. KEY REQUIREMENTS FOR A SUCCESSFUL AND USEFUL PUBLIC MEETING.**

- A participatory process should have preceded the meeting. The meeting should not be held as a stand-alone event.
- Consider whether the meeting should be held during the day, in the evening or over the weekend. Ask stakeholders for their preference and go with what suits the majority.
- The meeting must have a clear purpose and thus the objectives of what needs to be achieved by the meeting must be clearly defined.
- A very skilled facilitator should be used, especially where the project is of a sensitive nature.
- Stakeholders should receive notification of the meeting date and its objectives at least four weeks in advance. Assure people that they will be able to use the language of their choice during discussion sessions.
- An advance registration process should be followed to allow reports to be sent ahead of time to everyone who registers and to obtain an indication of the number of chairs and catering that will be required.
- Once people have returned their reply sheets to register for the meeting, follow this up with a short, proforma letter confirming their attendance.
- Stakeholders should receive documentation for the meeting well before the meeting, as a minimum four of five working days before, but depending on the volume and complexity of the documentation.
- Capacity building of previously disadvantaged people needs to take place before and during the meeting (to satisfy the NEMA principle of capacity building). Thus, the public meeting should preferably contain an open house component, where the proposed project and the process can be illustrated visually and used before and during the public meeting to brief small groups of people in their own languages.
- A dry-run meeting for project team members needs to be conducted in advance of the meeting to agree on the content and comprehension levels of their presentations and to strategise for discussion sessions.
- Apart from written notification, pro-actively encourage/remind the key stakeholders that are identified spokespersons for their sectors (usually around 25 people) and the authorities by telephone calls about 10 days before the meeting.
- Stakeholders should be free to use the language of their choice during the public meeting, with informal translation into other languages done by members of the public participation team if required.
- Public meetings usually last 4 – 5 hours. No more than half of the time should be devoted to presentations. Remember, the meeting is being held to obtain people's views.
- Catering should be provided – hungry people get irritated and, besides, they are setting aside their own time to contribute.
- Allow time directly after the meeting (i.e. during lunch) for stakeholders to have one-on-one discussions with members of the environmental assessment team.
- Convene the public meeting in the middle of the comment period. This allows time for stakeholders to study the reports both before and after the meeting and allows time for stakeholders to submit further comment after the meeting. It frequently happens that, once stakeholders have participated in the public meeting and have a bigger-picture understanding of the proposed project and its potential impacts, other issues occur to them.

**6.5.3.6 Further individual or small-group meetings**

Should issues have arisen during the public meeting (or during the open house should one have been held) which require more attention, further individual or small-group meetings can be held to resolve such issues. This is seldom necessary at this stage, but the process should be sensitive to this potential need.
6.5.3.7 Progress feedback letter
At this stage, a letter should be sent to all stakeholders on the database to announce the availability of the proceedings of the public meeting, the Final Scoping Report and the Issues and Response Report. Inform them that these reports now represent the scope of the environmental investigation, that the investigations will commence shortly and when the findings are likely to be available.

6.5.3.8 Final Scoping Report
The Final Scoping Report and Issues/Response Report are prepared after the close of the comment period and is updated with additional issues raised by stakeholders and the new information generated. The reports are distributed to key stakeholders, the authorities and those who specifically request them in response to the progress feedback letter.

6.6 Step 5: Present findings for comment and for verification that issues were considered

6.6.1 Objectives
The objective of this task is to provide stakeholders with the opportunity to comment on the findings of the environmental assessments and for them to verify that their issues were indeed considered in the investigations. Stakeholders comment on the findings as part of their role in having their views heard in the decision-making process. Once the extent of potential negative and positive impacts are known, and the measures to reduce/avoid negative impacts and to enhance positive impacts are explained, stakeholders often find that their initial fears would not materialise and are thus willing to indicate the trade-offs that they are willing to accept to the authorities and the proponent.

6.6.2 Approach
The approach to this step is similar to that of Step 4 (verification that issues have been captured and considered), except that it is the findings of the environmental assessments that are presented for comment during Step 5.

6.6.3 Methodology
The methodology for Step 5 is exactly the same as for Step 4, except that, in Step 5, the report presented for comment is a Draft EMPR (or a report that could be turned into an EMPR) of approximately 120 pages in length, and not a Scoping Report.

This document would generally be written in fairly technical language and is not suitable for general public consumption. Therefore, a Summary of the Draft EMPR should ideally be prepared in simple language and translated into the appropriate language(s) where necessary. The Summary should focus on the issues raised by stakeholders, the findings of the assessments and the mitigation measures to reduce or avoid negative impacts and to enhance positive impacts.

Include a comment sheet, asking stakeholders to comment as follows:
- Verify that the issue/s they have raised have been included in the report.
- If the issue is not specifically considered in the report, verify that an indication has been provided of where and when it will be addressed.
- Indicate which of the findings they agree with, and which not.
- For those of the findings that they do not agree with, stakeholders should be asked to provide reasons and supporting information, or at least the sources where such information can be obtained. They are also welcome not to agree because of personal preference.
The findings are accompanied by the Issues/Response Report, in which the response column has now been updated to provide a brief indication of the findings related to each issue, as well as the page reference/s of the Draft EMPR or its Summary where more information can be obtained.

Should individual specialist studies have been conducted, these reports should be placed in public places along with the Draft EMPR, Summary and Issues/Response reports. Should stakeholders request a copy of one of the specialist reports, it should be provided to them.

In summary, follow the same methodology as outlined for Step 4.

6.7 **STEP 6: ANNOUNCE AUTHORITY DECISION**

At the end of the process when the authority decision has been made, all stakeholders on the database should be informed of what the decision was and thanked for their participation. The letter should summarise the key components of the decision, and offer the full text. It should also outline the process for stakeholders to appeal the decision. The relevant authority may also call for the decision to be advertised.

According to the Draft Minerals and Petroleum Resources Bill (see Appendix 3), any person who feels aggrieved by any action or decision that a Director: Mineral Development has taken or made may, within 40 days from the date on which such action or decision was taken or made, lodge an appeal in writing with the Director-General. Any person who feels aggrieved by any action or decision that the Director-General has taken or made in, may, within 30 days from the date on which such action or decision was taken or made, lodge an appeal in writing with the Minister.

6.7.1 **Exit strategy**

This is an example of an exit strategy followed by a North-American mining company after mineral exploration showed that a site in West Africa was not worth pursuing.

The company completed an exhaustive exploration programme followed by a feasibility study which concluded that the property did not meet corporate objectives. The decision was made to withdraw from the project which was situated in a rural area inhabited by traditional tribal people who were largely illiterate, living in villages and dependent on subsistence agriculture.

Although there were no regulations in that country to carry out reclamation at the end of the exploration programme, the company realised that its corporate policy obligated the exploration group to apply North-American standards to the project. This meant full reclamation and rehabilitation of disturbed ground. The company was also committed to implement the concepts of sustainability and looked for a mechanism that would leave a small, sustainable, net gain to the local people. The exit programme adopted included the following:

- Engaging the services of a consultant with extensive experience in the region and who was also knowledgeable of the linguistic, cultural, economic and technical nuances of the people, as well as the capability of local NGOs.
- With the help of the consultant, the services of a local environmental NGO was engaged to set up a three-way agreement between the company, the NGO and the in-country agency of the World Conservation Union (IUCN). The IUCN removed the risk of corruption in an environment prone to this problem.
The IUCN contracted the local NGO to carry out the work with the villagers at the exploration site. In turn, the NGO partnered with the local government and local Chiefs to implement the work programme. The reclamation programme lasted three months and was a success for all involved. It resulted in a number of benefits in addition to restoring the work site. The villagers benefited from skills transfer, the construction of new semi-permanent water sources (after it was discovered that a number of trenches that were to be filled had standing water and had become a source for the villagers) and a feeling of ownership of the land by the villagers. The NGO learned the objectives of reclamation work and can now offer this service to others. The company learned the value of working with a capable local NGO.

References: Thompson, 1999.

6.8 INVOLVING PREVIOUSLY DISADVANTAGED COMMUNITIES

Involving previously disadvantaged communities in public participation processes brings an array of considerations into play. Special efforts are required to involve these people who may be difficult to contact by post, do not speak English, had little or no schooling and have no resources to travel to meetings.

It is also necessary to appreciate that people with different abilities take different lengths of time to comment (see Figure 7).

Whether or not such communities may be affected by a particular project at all, the degree to which they may be affected and the size, sensitivity and complexity of the project will assist to determine the level of effort required.

6.8.1 Reasons for sometimes not participating

Members of previously disadvantaged communities are sometimes accused of not participating, being slack in participating or not responding to invitations to participate. The reason often given for this is that they do not understand why they are being consulted or even that they have the right to be consulted. They do not understand that, by contributing their voice, they would add to the collective wisdom of making a project sustainable.

Furthermore, community members often do not appreciate early in a process how they may be affected by a proposed project. Reasons for this could be that the background information conveyed to them is too technical or generally not made sufficiently clear. These factors highlight the importance of empowering people through information transfer to participate meaningfully and to the best of their ability.

Finally, people who have no income are unlikely to travel to meetings if costs are involved.

6.8.2 Establishing who to consult

Proponents and/or their consultants often start with a public participation process by consulting with one or two people in a community, believing that they are speaking to the correct community leaders. They are subsequently shocked when the process is delayed as a result of community members saying that these people cannot speak for them and do not represent them.

The goal is to obtain the views representative of a spectrum of previously disadvantaged people, not of every community, nor of every person within a community. It is often necessary to consult with both traditional and democratically-elected leaders, as well as other leaders - of women’s groups, religious groups or youth.
groups. It is therefore very important to research thoroughly the correct entry into the community. The key is simply to ask and then to confirm by asking others. For example, ask one of the following people in the community, and then confirm by asking another:

- A few of the leaders in the community, if they are known (e.g. Ward Councillors or Tribal Authority representatives).
- The company's neighbour relations or community liaison officer.
- The Local or District Council.
- An NGO, CBO or other organisation that has close contact with the community, e.g. Community Development Forums.
- The company's shop stewards who live in the community.

In addition, others in the community should also be afforded the opportunity to participate, should they so wish, through media and especially radio announcements and through placing documents in public places such as at a local church, community hall or Tribal Authority offices. Communities should be assisted to provide mandates to selected leaders/members to speak on their behalf at meetings. In the interests of efficiency, it is advisable that these representatives should, if possible, be able to speak English.

6.8.3 Facilitation

Community participation should be facilitated by experienced facilitators who speak local languages and who understand local customs and circumstances. In many cases, social scientists are able to fulfil this role, especially where they are able to speak local languages. It may also be possible to enlist the support of intermediaries such as NGOs, CBOs, church groups or other organisations that have community networks. Community contributions can then be fed into the process through the intermediaries.

6.8.4 Information transfer for capacity-building

Complex information should be summarised and simplified, using concepts with which people can identify. Simplified summaries of longer, complex documents should preferably be made available in the local language. Visual illustrations should be used as much as possible.

Presentations at multi-stakeholder meetings (e.g. public meetings) should keep the ability of the general audience in mind. Nevertheless, presentations will, of necessity, contain information that may be difficult to digest. For this reason, meetings should be coupled with an "open-house" component where small groups of lay people can be briefed in their own language before and after the meeting. Visual illustrations, examples of ore and other raw materials, products to be produced and other visual aids can be displayed.

Visual illustrations need not be costly and can consist of photocopied enlargements of overhead transparencies used by presenters, maps or graphics/line drawings used in reports. There are also informative posters that can be obtained free of charge from, for example, the Departments of Environmental Affairs and Tourism (DEAT) and Water Affairs and Forestry (DWAF). These and other departments also have a range of informative materials available that can be handed out to stakeholders (see Box 9).

**BOX 9. INFORMATIVE MATERIALS USEFUL FOR CAPACITY BUILDING.**

*From the DWAF:*
- Newsletters explaining components of the National Water Act.
- Brochure explaining the Waste Minimum Requirements.
- Posters explaining water quality management.
- Brochure explaining water quality management in dense settlements.
- Various others.

*From the DEAT:*
- Brochure explaining people's environmental rights in terms of the NEMA.
- Newsletters explaining various environmental problems and solutions.
- Informative posters.
- Various others.
6.8.5 Participation in multi-stakeholder meetings

Major multi-stakeholder events may have to be preceded by a briefing session for representatives of previously disadvantaged people who may never have attended such a meeting in order to:

- explain meeting procedure and audio-visual equipment (e.g. people unfamiliar with a laser pointer fail to understand the meaning of the hopping red dot on the screen);
- help them to distil and present the issues they wish to raise; and
- explain maps and charts.

Meetings may have to be co-facilitated by a principal and a community facilitator. Where representatives are unable to speak English, the community facilitator may provide concurrent translation (it is possible to have seating arrangements such that concurrent translation does not disturb other participants).

6.8.6 Support

If a lack of resources will preclude previously disadvantaged people from participating, it will be necessary to assist their representatives with travel arrangements and/or to cover their transport costs.

6.9 Checks and Balances for Higher-Sensitivity Processes

A pervasive issue experienced worldwide is that stakeholders criticise the public participation process itself, either because of unmet process needs due to insufficient public participation or because of unresolved fears, or sometimes as a proxy for not wishing the project to go ahead for any one of a number of reasons. It is often easier for people to criticise the public participation process, especially where the technical content issues in a project are very complex. This is especially pertinent in processes with higher public sensitivity.

For example: the process was either too long or too short; there was too little time to comment, or too much; the process provided too little or too much confusing information; the public participation practitioners were biased; the practitioners cannot claim to be independent because they are being paid for by the proponent (see also Section 9.2), and so on.

For these reasons, it is important to build additional checks and balances into public participation for projects where public sensitivity is higher and to let stakeholders have reasonable control over some of the steps in the process. Checks and balances in the public participation process ensure that the views of all participants are fairly heard and considered, that the process needs of participants are met and that the process itself cannot be unfairly criticised or delayed. It is, however, crucially important to reach front agreement with stakeholders and the authorities on the time and budget available to stakeholders for taking charge of certain elements of the process. Common checks and balances are described below.

References: after Greyling and Manyaka, 1999; Greyling, 1996b; Greyling, 2001b.

6.9.1 Independent review

Independent review is one of the most important examples of checks and balances in high-sensitivity processes where the findings of the environmental assessments are likely to be disputed or where the public participation process is very complex. It can take two forms:

- Independent specialist review.
- Independent process review.

6.9.1.1 Independent specialist review

The internationalisation of civil society and access to information, especially on the Internet, has spawned a worldwide trend for stakeholders to question the validity of technical environmental assessment in high-sensitivity projects. Independent specialist review, where stakeholders have an input in the choice of reviewers, often assists not only to allay stakeholder fears but also contributes to both the authorities and the mining company having additional assurance of the rigour with which information has been provided for their decision-making.
Due to the cost and time that independent review adds to a process, it should not be abused. Where there is disagreement on whether independent review would add value or not, the authorities should be approached for guidance.

Practically speaking, in high-sensitivity cases, the environmental consultant and the mining company may offer independent specialist review to stakeholders at the outset. Alternatively, stakeholders may suggest such a review during the process or, where mistrust of the specialist assessments stands to jeopardise the process as a whole, the public participation practitioner may suggest it.

There are various ways in which stakeholders can have an input in the choice of reviewers:

- Stakeholders recommend a particular specialist who regularly works in their area.
- Stakeholders assign a few technically-minded stakeholders to review the CVs of specialist reviewers proposed by the environmental consultants.
- A Process Review Committee (see below) consisting of stakeholders and authorities selects specialist reviewers after agreeing budget and time frames with the proponent.

### 6.9.1.2 Independent process review

For a particularly complex and sensitive process, it is appropriate to establish some form of Process Review Committee for the public participation process. Such a committee could adopt any name (e.g. Public Participation Process Review Committee, Participation Review Committee, Reference Group etc). Its purpose is specifically to advise on the design of the public participation process and to review its appropriateness throughout the process on behalf of all stakeholders. Any process problems may be referred to this committee which then assesses problems on behalf of its peers.

The committee should be established early in the process, nominated by the broader body of stakeholders and should meet fairly frequently. The committee’s guidance, review process and findings should be communicated to stakeholders at regular intervals. It should consist of 10 - 15 respected and knowledgeable key stakeholders. They should represent a good geographic, racial and gender balance, have local standing and preferably have previous experience in participation processes. It is extremely important that its members be guided to focus on process rather than on content.

In other cases, it may be possible to use existing structures such as a local environmental or water forum to advise on the process in an informal manner.

### 6.9.2 Other process checks and balances

Other process checks and balances include the following:

- **Ask stakeholders for their methodology preferences** (an IAP2 Core Value). For example, stakeholders in a particular area may prefer to meet as sectors (e.g. the local community or local farmers) before participating in a multi-stakeholder event; in other cases, stakeholders may prefer meetings to be held in the evenings or on a Saturday; a local community may prefer its briefing meeting on a Sunday morning; others may only be able to understand verbal and visual information, and so on.

- **Delegate some tasks to stakeholders.** For example, an NGO or CBO may agree to assist in facilitating participation by previously disadvantaged people; a Ratepayers Association may agree to convene a meeting of ratepayers; an existing forum may conduct awareness courses or an existing body may assist in distributing documents to its constituents. Publicly give credit to such groups.

- **Verification by stakeholders.** This is an example of checks and balances that should form part of any public participation process, and is one of the generic steps of the process as outlined earlier.

At the same time, everyone that plays a role in the process should subscribe to the principle of efficiency of process (see Section 4.6). Where there is disagreement, the guidance of the authorities should be sought.
7. DETERMINING TIME AND COSTS

7.1 DETERMINING TIME

The time required for a process is dictated by the level of effort and number of iterations in the process. Approximate time periods are given in Table 1 in Chapter 6.

Disagreement often arises concerning the time period set aside for formal public comment on reports. A rough guide is presented in Table 3. Note that the time period for comment should run from when stakeholders are likely to receive the documents, not from when they are mailed.

Table 3. Rough guide to time periods for formal comment on documents.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Guide to time period for public review, and notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comment on initial Background Information Document (BID), usually 4 – 6 pages, containing an overview of the proposed project and process rather than great detail</td>
<td>2 – 4 calendar weeks, depending on the sensitivity of the process and whether the BID will be followed shortly by a more detailed document on which stakeholders can base their issues. Note that the deadline for comment on the BID does not preclude stakeholders from raising issues during the remainder of the scoping phase. The BID is merely intended to provide an initial indication of the kinds of issues that will be raised.</td>
</tr>
<tr>
<td>Comment on the Draft Scoping Report</td>
<td>3 – 6 calendar weeks depending on the sensitivity of the process and the complexity of the project.</td>
</tr>
<tr>
<td>Comment on the Draft EMPR</td>
<td>3 – 14 calendar weeks depending on the sensitivity of the process and the complexity of the project.</td>
</tr>
</tbody>
</table>

7.2 DETERMINING COSTS

Good public participation costs money, but poor public consultation can cost a lot more. The cost of public participation is driven, for example, by:

- The level of effort that will be required, that is, a combination of the scale of anticipated impacts, the scale of sensitivity of the receiving environment and, most important, the scale of public sensitivity (see Table 1).
- The number of interested and affected parties who need to be consulted. Where a National Park, Ramsar Site or World Heritage Site is involved, the stakeholder base will be international; where the predicted impacts are small and the project to be established is in an already developed area and would not cause cumulative impacts, the stakeholder list would be much smaller; where the project is linear (e.g. a new long conveyor), more stakeholders would be involved.
- The number of iterations or feedback loops that will be required for stakeholders to verify that their issues have been captured and addressed. Where there has been past lack of trust in government or in the proponent or recent negative press, more iterations will be required (i.e. more meetings or discussion documents).
- The degree of empowerment required. Where local stakeholders are not familiar with mining or industrial processes, changes in legislation and/or their environmental rights, more capacity-building efforts are required.
- Whether the process can be conducted in one language only, or whether more than on language can be used, thus incurring translation costs.
- Whether independent review is required. Apart from the actual cost of the review, the public participation process will require additional iterations.

The budget should allow for expenditures such as hiring consultants, conducting meetings and workshops and producing, translating, printing and distributing written material. As a very rough guide and depending on the number of stakeholders involved, the number of languages to be used and the rates of the consultants
employed, the processes shown in Table 1 could, in 2002 terms, cost:

- VERY LOW sensitivity project: as little as R10 000.
- LOW sensitivity project: between R20 000 and R35 000.
- MEDIUM sensitivity project: between R70 000 and R150 000.
- HIGH sensitivity project: between R250 000 and R370 000.
- VERY HIGH sensitivity project: up to R1 million or more.

It is important to note that between 40 and 50% of the cost of a public participation process represents direct disbursements such as venue hire, catering, copying of documents, mailing, etc.

**BOX 10. COMMITTING TO BUDGETS AND TIME FRAMES.**

If a mining company has an ongoing neighbour relations programme (see Appendix 4), technical personnel tasked with overseeing an environmental assessment and its public participation should obtain information from the neighbour relations officer on the degree of public sensitivity prior to committing to a budget and time frame for a particular project. Where a neighbour relations programme is not in place, the public participation process design should not be finalised until there is more clarity on stakeholder concerns. Where public sensitivity is high, even though the issues of concern may not relate directly to the project at hand, it is likely that more iterations in the process will be required before meaningful comment will be contributed.

8. ROLES AND RESPONSIBILITIES

All those who play a role in the process need to understand their roles, as outlined in this chapter. The public participation practitioner should assist these role players (with empathy) to understand and appreciate their own roles, as well as hers/his own role.

8.1 PERSONNEL OF THE MINING COMPANY

- A clear understanding that the public participation practitioners are appointed to act as independent, neutral facilitators in the service of the process and not to promote the project.
- A genuine belief in the value which public participation will add to the project and a clear demonstration of the desire to hear other views.
- Becoming familiar with the principles of risk communication (see Appendix 2).
- Understanding that public participation takes time.
- Not taking final investment decisions before completion of the process, or if provisional investment decisions have been taken, to be willing to take the risk that the project may not be viable.
- Not taking a defensive or patronising stance, having empathy with stakeholders not familiar with complex industrial or other projects.
- Obtaining information from elsewhere in the company (i.e. from those who manage the company’s neighbour relations) on stakeholder views and concerns prior to committing to budget and time for a public participation process.

8.2 THE TECHNICAL SPECIALISTS

- A genuine belief in the value which public participation will add to the project and a clear demonstration of the desire to hear other views.
- Being in the service of the process and not the project proponent.
- Not taking a defensive or patronising stance and having empathy and patience with those who are not technically trained.
- Understanding that technical material will be presented in a non-technical way and taking joint responsibility for its accuracy (i.e. all documents intended for public consumption must be cross-checked by a member of the technical team).
- Willingness and ability to present technical work and findings in a manner that will be understood by non-technical people.
- Using the issues raised by stakeholders as a reality check to ensure that the terms of reference for technical evaluation capture the concerns that must be investigated.
- Not de-emphasising stakeholder concerns, not countering concerns with technocratic justifications.
- See also those pointers in Appendix 2 on risk communication and in Appendix 5 on the integration of public issues and technical assessment.

8.3 THE PUBLIC PARTICIPATION PRACTITIONER/FACILITATOR

- Illustrating the value of public participation to other role players by way of recent examples.
- A clear demonstration of neutrality and independence even though appointed and paid by the project proponent. This is a universally accepted principle.
- Being in the service of the process and not the project proponent.
- An ability to unravel the real issues behind the stated issues. For example, a stakeholder might enquire about the waste products that will be produced, whilst the real concern is what the health impacts would be on her children. The issue is thus human health, not waste products.
- The ability to separate issues from personalities, cultural perspectives and emotions.
- Ensuring that the technical environmental specialists and the proponent are aware of stakeholder comments.
- True empathy with all viewpoints, but being able to prevent vociferous viewpoints from being the only ones that are heard.
• Demonstration of honesty with him/herself as well as with the group, and to fairness and inclusiveness.
• Facilitation skills to, within reason, bring about convergence in viewpoints, whilst assisting stakeholders to agree to disagree on some viewpoints.
• Demonstrable commitment to the highest standards of integrity and ethics.
• See also those pointers in Appendix 2 on risk communication and Appendix 5 on the integration of public issues and technical assessment.

**BOX 11. STAFFING THE PUBLIC PARTICIPATION OFFICE.**

<table>
<thead>
<tr>
<th>On the project management side, people who:</th>
<th>On the content side, people who:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• understand logistics;</td>
<td>• can accurately synthesise and summarise large volumes of technical material;</td>
</tr>
<tr>
<td>• are very good organisers and event coordinators;</td>
<td>• can logically group issues;</td>
</tr>
<tr>
<td>• can work under extreme pressure;</td>
<td>• can extract the real issues behind the state issues; and</td>
</tr>
<tr>
<td>• can deal with large volumes of work;</td>
<td>• do not have a ticking mentality.</td>
</tr>
<tr>
<td>• are bent on delivery;</td>
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<td>• are meticulous record-keepers;</td>
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<td>• have cell phone, can travel;</td>
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<td>• can think on their feet; and</td>
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<td>• have a “ticking” mentality (tick off on the checklist).</td>
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Public participation staff should have the following qualities and skills:

**On the project management side, people who:**

- understand logistics;
- are very good organisers and event coordinators;
- can work under extreme pressure;
- can deal with large volumes of work;
- are bent on delivery;
- are meticulous record-keepers;
- have cell phone, can travel;
- can think on their feet; and
- have a “ticking” mentality (tick off on the checklist).

**On the content side, people who:**

- can accurately synthesise and summarise large volumes of technical material;
- can logically group issues;
- can extract the real issues behind the state issues; and
- do not have a ticking mentality.

**On the process side, people who:**

- can listen and reflect back with empathy;
- can facilitate and engage with people from all walks of life;
- can simplify complex information;
- know a little human psychology;
- know a little about mediation;
- believe in the process; and
- do not have a ticking mentality.

References: Greyling, 2001b.

### 8.4 INTERESTED AND AFFECTED PARTIES AS STAKEHOLDERS

Stakeholders not only have *roles or rights* but also *responsibilities* and they should receive information at an early stage to assist them to understand this. They also need to understand at which points decisions will be made about what aspects and by whom, where the accountability for decisions lies, how their contributions will be taken up and the time available. This information should not be prescriptive but rather form agreed-upon guidelines for an efficient process with room to adapt the process, if necessary, to accommodate local preferences.

**Stakeholders’ roles**

The role of stakeholders is to:

- Participate in deliberating common goals.
- Assist in identifying a diverse range of issues of concern and local problems, as well as suggestions for enhanced benefits and alternatives.
- Assist to prioritise issues to be addressed and to identify criteria for evaluation of trade-offs and, in some cases, sites.
- Contribute their different needs and expectations.
- Contribute local and traditional knowledge.
- Verify that their issues have been considered.
- Comment on the findings of studies.

**Stakeholders’ responsibilities**

If stakeholders want to participate fairly, they have the following responsibilities:

- To become involved from the outset and not to wait until the end of the process before contributing issues.
• At an early stage, to alert the public participation office of other stakeholders who should be consulted.
• At an early stage, to comment on the process to be followed, the methods to be used and the time periods for public comment and then to honour the agreed-upon process.
• Not to waste time revisiting options/alternatives that have been discarded or agreed upon previously.
• To seek actively to understand the concepts involved and to read and familiarise themselves with informative materials made available during the process, or to make efforts to obtain their own materials.
• To read and familiarise themselves with discussion documentation related to the proposed project.
• To respond to correspondence in good time.
• To prepare themselves for public workshops and/or meetings and to attend/participate in them.
• To arrive on time for meetings and to advise the public participation office if they have registered but cannot attend (stakeholders who do not arrive for a meeting should not demand that it be rescheduled).
• To submit contributions and comments by the agreed dates.
• To rise above personal agendas and to understand and appreciate that there will always be trade-offs.
• To understand that it is the sum total of all inputs from all participants that will add value to decision-making and that the process can recognise, but cannot be governed by, individual or vociferous viewpoints.
• To appreciate the cultural diversity and language ability of all participants, including not insisting on using their own home language when they are perfectly able to speak a language that can be understood by all participants.
• To be courteous at all times, focusing on the issue and not the person.
• To refrain from making subjective, unfounded or ill-informed statements to the media.
• To report back to their organisations and to actively seek out the views of their organisations.
• To subscribe to a process that is efficient in terms of time and cost by, for example, not insisting that meetings already held be repeated, not insisting that documents be translated just for the sake of making a point about language and not insisting that comment periods be unduly extended.

References: DWAF 2000; DWAF/Mhlathuze Water, 1999; Roux et all, 1999; Greyling, 2001b.
9. FREQUENTLY ASKED QUESTIONS

9.1 IS IT POSSIBLE TO USE ONLY ELECTRONIC COMMUNICATION?

Many mining industry stakeholders (local landowners, local communities) cannot be consulted electronically and thus it will depend on who the stakeholders are. Electronic communication is, however, increasingly being used to good effect, especially where stakeholders undertake to forward documents to their colleagues and friends.

9.2 HOW CAN THE CONSULTANTS (TECHNICAL SPECIALISTS OR PUBLIC PARTICIPATION PRACTITIONERS) BE INDEPENDENT IF THEY ARE BEING PAID BY THE PROPOINTER?

The public participation practitioner and environmental consultants are in service of the process, rather than of the company. It is important for both stakeholders and mining companies to understand this. Thus, the parties that participate in the process judge the process by way of whether it satisfies regulatory requirements and good-practice requirements (as outlined in these Guidelines). It is useful to illustrate this to stakeholders during the early stages of the process, as follows:

- Explain that South African legislation includes the “polluter pays” principle, i.e. the mining company is obliged to pay for the process. If not, either government or stakeholders will have to pay.
- If the process is being conducted in terms of the EIA Regulations, display a copy of the Declaration of Independence which consultants are required to sign to illustrate that they have no vested interest in the company.
- Provide stakeholders with a copy of the short brochure Your Environmental Rights compiled by the Department of Environmental Affairs and Tourism to explain the NEMA in lay terms, as well as a copy of the NEMA principles relating to public participation. Explain the contents of these to stakeholders at the first meeting.
- Provide stakeholders with a copy of the IAP2 Core Values (see Section 4.1 earlier) or a relevant public participation guide such as this one.
- Explain up front that stakeholders, in accordance with the Promotion of Administrative Justice Act, may demand a written explanation for the authority decision and may appeal the authority decision. Explain the appeals process.
- The public participation practitioner should indicate to stakeholders that he/she would be willing to step down should stakeholders perceive that neutrality and independence have not been maintained.

BOX 12. TWO EXAMPLES OF FAILED INDEPENDENCE.

Sadly, there have been recent cases in South Africa where project proponents attempted to make consultants’ payment conditional to obtaining authority approval for a project. This is unacceptable and presents a grave risk to both the proponent and their consultants. Consultants should rather walk away from such projects. It may hurt their pockets, but will hurt their professionalism and opportunities for future work more if found out.

On the other hand, there has also been a recent case where consultants were negatively biased towards a proposed project from the outset. Their evaluations focused only on the negative environmental aspects. They neglected to make solid recommendations for environmental mitigation or to engage professional environmental engineers who could have recommended fairly standard mitigation measures. Thus, they never gave the project a chance and foreclosed on the socio-economic benefits that could have sprung from the project. This practice is equally unacceptable.

9.3 SHOULD STAKEHOLDERS DEMAND JOINT DECISION-MAKING WITH THE COMPANY/GOVERNMENT?

No. Decisions are made at the level where the accountability and liability for the decision lies. Stakeholders cannot be held accountable and liable for decisions. At the same time, South African legislation requires public consultation prior to decision-making. Therefore, public participation includes the promise that the public’s views will be considered by the decision-maker.
The demand for joint decision-making by stakeholders is often a form of expression of concern, rather than truly a demand for joint decision-making. The challenge during the public participation process is to determine what the real concern is (e.g. job losses), rather than embarking on a futile discussion about joint decision-making.

9.4 SHOULD PEOPLE BE CONSULTED ABOUT ALL ASPECTS OF A COMPANY’S BUSINESS?

People should be consulted about those aspects of a company’s business or projects that have the potential to affect them. These will be different in different areas, for different types of mining ventures, for different companies and will depend on local needs and circumstances.

A mining company that is in touch with its stakeholders (meaning that the decision-makers in the company, as opposed to only the community relations officer, are aware of stakeholder concerns) will usually be able to identify easily those aspects of company business to consult stakeholders about. For example, several mining companies have found that consulting stakeholders about day-to-day aspects of business, such as fire and crime prevention, has lead to substantial joint efforts, mutual benefits, reduced costs and good relations. Others have found that ongoing involvement of stakeholders in groundwater and vibration monitoring has reduced conflicts relating to compensation claims.

Recently, local stakeholders have voiced serious concerns about a company selling its shares to another. It may be difficult for a company to understand why it should inform and consult people about selling its shares to another company, which it may deem to be purely a business transaction. However, not having been consulted created huge fears, be these perceived or real, amongst local stakeholders and caused negative press and social risk to both companies. Not having been provided with information or involved in any way, local stakeholders cited the following fears related to the selling of the shares:

- Retrenchments.
- Socio-economic impacts.
- Change in social responsibility.
- Loss of land.
- Lack of opportunity for enhanced benefits - when neighbouring communities are not consulted they lose out on the opportunity to deliberate a situation that could be beneficial to them without compromising the benefits to the mining companies.

In addition, previously disadvantaged people feel strongly about being consulted about where the human remains of their ancestors are to be re-buried and social responsibility efforts, so that benefits can be directed at the community’s needs.

9.5 SHOULD TRANSLATION BE PROVIDED?

The Constitution and the South African Language Policy and Plan set the tone and expectation for the translation of public documents into other languages. Legislation that requires capacity building and empowerment of stakeholders, such as the NEMA and the Promotion of Access to Information Act, do the same (see Appendix 3).

Indeed, most international and South African guides on public participation recommend translation of at least summary documents as a good-practice principle. For example, the Department of Water Affairs and Forestry’s _Generic Public Participation Guidelines_ states that information should be accessible in terms of language and terminology in order to build the capacity, understanding and knowledge of stakeholders. It further states that material should be easily obtainable and that copies should be available in appropriate languages. The Department’s Communication Strategy also states that the message of all communications must be simple, clear, easy to understand, educative, stimulating to promote, develop awareness and, whenever possible, be multi-lingual.
However, this does not mean that voluminous reports have to be translated, or that all meetings should be conducted with the aid of expensive simultaneous translation equipment. Usually, it is necessary to translate only summaries of reports and to provide informal translation during a public meeting, with all stakeholders using the language of their choice during discussion sessions.


9.6 SHOULD THE PUBLIC PARTICIPATION PROCESS INCLUDE STEPS TO EMPOWER AND EDUCATE STAKEHOLDERS TO PARTICIPATE?

Yes it should, for three reasons:

- Good-practice public participation recognises that lay people cannot meaningfully participate without having sufficient capacity and knowledge to do so. Saying that people have been consulted when they do not understand the issues at hand, constitutes a white-wash and will certainly not achieve sustainable development, that is, decision-makers will be unaware of such people’s real issues which may surface at a later stage.

- Both the NEMA and the Promotion of Access to Information Act require empowerment and education (see in particular Appendix 3, Section 6).

- When the mining company is made aware of people’s issues, concerns and suggestions for mutual benefit at an early stage, the company benefits through being able to deal with such issues in good time. The company can thus, in the planning stage of its project, reduce or avoid negative impacts, maximise positive impacts and establish good relations with stakeholders and neighbours, as opposed to suffering costly delays later on as a result of issues not having being dealt with because stakeholders did not understand the implications.

This does not mean that everyone living around a proposed project area must be given a degree during a public participation process. It simply means that people who are experienced in and comfortable with communicating the details of complex projects and their potential impacts to lay people should assist in the process. Usually, simple line drawings or other visual illustrations and a patient explanation prior to subjecting people to multi-party events will suffice. In addition, public meetings or workshops should preferably be coupled with a visual, open-house component.

9.7 WHO REQUIRES CAPACITY BUILDING AND WHO SHOULD DO IT?

References: This section is a verbatim extract from the SASOL Public Participation Guidelines (June 2001 Edition).

All the role players in public participation need capacity building. Public involvement is a fairly new requirement in environment and development circles throughout the world, both for business and communities alike.

Capacity building is the active empowerment of role players so that they clearly and fully understand the objective of public participation and may in turn take such actions or conduct themselves in ways that are calculated to achieve or lead to the delivery of the objectives.

Capacity building may take the form of imparting knowledge to role players on the one level, but may also require additionally that role players to whom knowledge has been imparted are availed of appropriate material resources and other incentives to do the necessary for the achievement of the objectives of the public participation process.

The following actions are recommended to implement empowerment:

Education
Senior management in business, technicians and politicians need to be exposed to courses and workshops on public participation in order to appreciate the value-adding nature of public involvement for decision-making. These groups of people need to be trained to appreciate that public involvement is not a public relations exercise.
NGOs, CBOs and community representatives also need to be trained on how public involvement enriches environmental decision-making. It is essential for them to be able to draw the link between their participation and the resultant decisions. A clear nexus between the two should highlight the need for these organisations to give of their best to public participation processes.

**Focus of training**
All the role players need to be made aware of the fact that environmental decisions have to meet the common good. The process driving or feeding into such decisions may not be abused or derailed to serve the self-interests of any one role player to the detriment of common environmental, safety and health considerations. The most critical part of this training is perhaps building awareness that the best environmental decisions are achieved through the integration of technical, scientific and social input, with no one input being more important than the other.

**Identifying and addressing constraints other than education**
Even armed with the requisite knowledge, certain groups of stakeholders may, despite the fact that their involvement is critical to the success of the process and the project ultimately, be unable to make their input for reasons unrelated to lack of knowledge or information. In such instances, care must be taken to identify and address their particular difficulties. These may be related to diversity issues. Particularly previously disadvantaged communities, including women and youth, may be illiterate and unable to make their own logistical and other arrangements necessary for attendance at meetings or to articulate their views.

Government bears the primary responsibility to ensure that such people are exposed to education and awareness training and are, to the extent necessary, facilitated for their participation. The means may differ from community to community and from place to place, depending on the circumstances. As a responsible corporate citizen, business has to assist government and invest in education and facilitation of the citizenry in public participation processes.

The general citizenry, NGOs and CBOs also have to contribute to capacity building. NGOs in particular often have access to external funding. They should raise funds for and make special budgetary allocations for this purpose. Both NGOs and CBOs should engage in empowering their members by training and facilitating them for attendance at meetings and participating effectively in public participation processes.

**Building human resources and local institutions**
An important part of empowerment is the ability to streamline participation and communication through the establishment of community environmental forums. All-inclusive public participation may be nebulous, costly and almost impossible unless the communities are organised into representative community environmental forums through which public participation processes can be conducted. The communities are to be assisted to appreciate not only their critical role in public participation, but also that that role may be rendered more meaningful through proper organisation into forums through which they can be contacted and make their input into processes.

**Scope of forum responsibilities**
The forums must be empowered to deal generally with environmental and community safety, health and developmental matters. They must be empowered to engage with industry and the authorities on behalf of their constituents with whom they are expected to consult on an ongoing basis. In between new developments, incidents and public complaints may be handled through these fora.

**9.8 SHOULD STAKEHOLDERS BE PAID TO ATTEND MEETINGS OR PARTICIPATE IN OTHER WAYS?**

Public participation in environmental assessments is voluntary, thus stakeholders are not paid for their time to attend meetings or to participate in other ways. However, if lack of resources will preclude people from participating, it may be necessary to assist them with travel arrangements, and/or to cover their transport costs.
9.9 What are the most common reasons put forward as justification for avoiding public participation?

References: This section is a verbatim extract from a draft public participation document being prepared by Earthlife Africa, Johannesburg (muna@iafrica.com). The organisation has granted permission for using this text, noting that it in no way endorses the document in which the text is quoted, nor the process related to it.

Most of the risks associated with public involvement can be avoided with sound planning. Perhaps more importantly, the lack of consultation and participation may pose a much greater risk to projects in the long term. Some of the common 'reasons' that are put forward as justification for avoiding public involvement are given below.

It's too early; we haven't yet got a firm proposal
The early provision of information to the public will minimise the risk of untrue and damaging rumours about the proposals. Even though the proponent may not have a clear idea of project details, communicating the objectives of the proposals will start to build trust with the community, and can allow useful public input on site constraints and alternatives. The trend in EIA is to undertake public involvement in the feasibility stage when options are still being considered, so that the community concerns can help the proponent devise a robust scheme.

It will take too long and will cost too much
Public involvement can be expensive and time-consuming. If integrated into the project planning, excessive timelines can be avoided. The costs of not involving the public are likely to be even greater in terms of costs arising from delays, and projects which do not achieve their aims.

It will stir up opposition, and the process will be taken over by activists
Those who are likely to oppose a project will not be dissuaded by the lack of a public involvement programme. Such a programme can, however, ensure that all sides of the debate are heard. Importantly, the issues raised by opponents should be thoroughly examined, and treated on their merits. If the impacts cannot be avoided, and the project is considered necessary for other compelling reasons, the public involvement programme should demonstrate to all that the concerns of segments of the community have been fairly treated.

We will only hear from the articulate
Those who are articulate, knowledgeable and powerful find it easier to use the opportunities provided through public involvement. Those preparing and managing such programmes must be aware of this, and incorporate measures to ensure that the views of 'the silent majority' are expressed and understood.

We'll raise expectations we can't satisfy
Great care must be taken in the first phases of a public involvement programme to ensure that unreasonable expectations are not raised. Decisions which have already been made, and which foreclose options, should be communicated at the earliest possible date. The purpose of the community involvement, the study process, and the decision making process, should all be clearly communicated.

The local community won't understand the issues involved.
Lack of technical education does not negate intelligence and the understanding people have of their own surroundings. Often people's knowledge of their environment and how it will react to change can be more accurate than that predicted by models. The spirit of openness is required by proponents if public involvement is to be beneficial. No public involvement programme will be effective unless the proponent genuinely wishes to engage in two-way dialogue with the community. This spirit of openness needs to embrace a willingness to listed to the information, values and concerns of the community, to amend the proposal so as to minimise community concerns, and to acknowledge the value of community input.
9.10 WHAT IS THE ROLE OF GOVERNMENT AND POLITICIANS IN THE PUBLIC PARTICIPATION PROCESS?

All role players in the process - mining companies, their environmental and other consultants, the authorities and other stakeholders, including politicians – participate as single parties in a multi-party process, each bringing their own perspectives to bear on the process.

During the process itself, the authorities participate not at this stage to make decisions, but to contribute issues of concern and to provide guidance in terms of regulatory requirements and possible trade-offs that may be considered. Authorities also participate in the process in order to gain first-hand knowledge of stakeholder issues, concerns and suggestions. Once the process has run its course, the authorities make the decision.
REFERENCES AND FURTHER READING


Glavovic ….. 2001. [GET FROM THE CSIR DOC ON IEM]


International Association for Public Participation (IAP2), 2002. Public participation – critical for sustainable development. Submission to the World Summit on Sustainable Development, 4pp


Further reading

Useful websites
International Association for Public Participation – http://www.iap2.org
International Association for Impact Assessment – http://www.iaia.za.org
Chamber of Mines of South Africa – http://www.bullion.org.za (see in particular the “contacts database”)
THE CHANGING ROLE OF THE PUBLIC

Globalisation as an economic process has brought new social challenges facing mine design, operation and closure. This has brought a new set of pressures and expectations on international companies in particular. Major drivers of change are discussed in this Appendix.

References: This appendix after Joyce 1999 and Greyling 2001a.

1. INTERNATIONAL RECOGNITION OF THE RIGHTS OF INDIGENOUS PEOPLE

The rights of indigenous people have been internationally recognised in, for example, the United Nations Draft Declaration on the Rights of Indigenous Peoples (1993), the International Labour Organisation Convention 169 Concerning Indigenous Tribal People (1991), the World Bank Operational Directive 4.20 - Indigenous People, the International Finance Corporation's Policy on Involuntary Resettlement (OD 4.30 June 1990), the IUCN Indigenous Peoples and Conservation Initiative and Agenda 21, Chapter 26 - indigenous people.

This means that a mining company may no longer, for example, conduct mineral exploration in areas inhabited by indigenous people without following a clear and mutually agreed participative process, as well as a well-defined exit strategy, regardless of whether such a community has formal land rights under the governing law of the country in question (see Section 6.7.1 in regard to an exit strategy).

The International Council for Mining and Minerals (ICMM), previously the International Council on Metals and the Environment (ICME) represents the mining industry internationally. The Council's Environmental Charter (1999) includes “Community Responsibility Principles” as follows:

- Respect the cultures, customs and values of individuals and groups whose livelihoods may be affected by exploration, mining and processing.
- Recognise local communities as stakeholders and engage with them in an effective process of consultation and communication.
- Contribute to and participate in the social, economic and institutional development of the communities where operations are located, and mitigate adverse effects in these communities to the greatest practical extent.
- Respect the authority of national and regional governments and integrate activities with their development objectives.

2. INTERNATIONALISATION OF CIVIL SOCIETY

Globally, communities have become empowered. Global democratisation, coupled with virtually universal access to information communication technology, has brought about a public that has increased access to information and international pressure groups, an increased awareness of their rights, a declining political acceptance of repressive government and industry practices and most of all, the ability to challenge. Even though local communities may not have direct access to computers and the Internet, they are frequently able to collaborate with people who do.

The internationalisation of civil society, its pressure groups and standards, has created expectations for international companies to be ‘global citizens.’ No global player can any longer afford to lower its operating standards in developing countries, when anyone with an Internet connection can broadcast transgressions to the global press. Sadly, this ability has also increased the risk to companies of being victims of inaccurate reporting and becoming the victims of international public opinion.
Pressure by the public has been influential in ensuring that investors are increasingly taking mining companies’ environmental performance into account in making investment decisions. Having a poor relationship with stakeholders may therefore impact on a mining company’s financial performance and ability to attract financing. This has prompted a number of mining companies to embark on a programme of engaging proactively with stakeholders.

An increasingly impoverished society also expects companies to demonstrate high levels of corporate responsibility. All these and other factors have changed the power relations at the site.

3. **THE ROLE OF THE STATE**

In most developing regions of the world, the State has difficulty in effectively applying legislation and regulations due to a lack of resources, ability and capacity and inadequate staff training. This causes fears of contamination and social inequity among neighbours of mining companies, and other stakeholders.

The State in developing countries also has difficulty to improve social conditions, resulting in communities increasingly calling upon companies to act as surrogate governments in developing areas that lack a strong government presence. There are numerous examples in South Africa where local communities, and local and provincial government have indeed approached local mining companies for assistance.

These factors increase the challenge to mining companies of building their own credibility and trust among other stakeholders and neighbours.

4. **INTERNATIONAL EMERGENCE OF ENVIRONMENTAL STANDARDS AND GUIDELINES**

The standards and guidelines of organisations such as the US Environmental Protection Agency (EPA), the World Bank, the European Union (EU), the International Standards Organisation (ISO), the International Finance Corporation (IFC), the World Health Organisation (WHO) and the United Nations Environmental Programme (UNEP) have provided the foundation for the public to demand good environmental management. Increasingly, international funding bodies make their funding conditional on good environmental management. The Development Bank and the Industrial Development Corporation in South Africa are adopting the same approach.

Since 1996, South African citizens have a constitutional right to an environment that is not harmful to their health and well-being. The public now challenges South Africa’s older portions of legislation and demands that guidelines or standards stricter than those currently provided be employed. The Department of Minerals and Energy’s Aide Memoire (see also Appendix 3) and South Africa’s air quality guidelines in terms of the Atmospheric Pollution Prevention Act (Act No 45 of 1965) are cases in point where laws are no longer satisfactory and are being challenged by a wider group of stakeholders.

5. **AGENDA 21 AND OTHER SUSTAINABLE DEVELOPMENT INITIATIVES**

Agenda 21 is a plan to take action in every area in which human activity impacts on the environment. It forms the international blueprint for sustainable development and was one of five documents adopted by 178 Governments at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992. Agenda 21 contains dozens of references to consultation, public participation, information provision, capacity building and stakeholder engagement.

Progress with achieving the requirements of Agenda 21, including its public participation provisions, is currently being incisively reviewed in a world-wide process leading up to the World Summit on Sustainable Development that will take place in Johannesburg in August/September 2002. Meanwhile, the world’s mining industry has participated actively in initiatives to guide sustainable development in the mining industry, including the Global Mining Initiative, the Mining, Minerals and Sustainable Development (MMSD) process.
coordinated by the World Business Council on Sustainable Development, and others. The recommendations and principles of these initiatives clearly emphasise ongoing stakeholder engagement.


6. INTERNATIONAL EMERGENCE OF PUBLIC PARTICIPATION POLICIES AND GUIDELINES

The International Association for Public Participation (IAP2) was established in the early 1990s, demonstrating the degree of importance afforded to public participation worldwide. IAP2 has put forward a submission to the World Summit on Sustainable Development in 2002 on the role of public participation in achieving sustainable development. In addition, organisations such as the Global Access Initiative and others are strongly advocating the three pillars of the Aarhus Convention on Public Participation ratified by European countries: access to information, assess to decision-making and access to justice. The Access Initiative has developed a tool for citizens to monitor how well their governments are doing in this regard.

The Environmental Law Institute in Washington, USA, notes that globally countries have already incorporated provisions for public participation, consultation and stakeholder engagement in their constituencies and other laws. What is still required, however, are practical procedures and guidelines for effective stakeholder engagement.

Most global organisations have policies and guidelines that lay down the principles by which public participation should be conducted, e.g. UNESCO, UNEP, IFC, the US EPA, the Commonwealth Foundation, the World Water Vision Project, the European Bank and others. Most USA and Canadian government departments and councils have public participation guidelines.

In South Africa, public participation guidelines are increasingly being produced, most of them by way of a consultative process, for example:

- The Department of Water Affairs and Forestry has produced several guides:
  - Public participation in the establishment of Catchment Management Agencies and Water User Associations;
  - Generic Public Participation Guidelines.
- Sasol Public Participation Guidelines.
- Earthlife Africa, Johannesburg.
- Wildlife Society of Southern Africa.
- The Gauteng Department of Agriculture, Conservation, Environment and Land Affairs is in the process of producing Gauteng Provincial Integrated Environmental Management (IEM) Regulations which is expected to include minimum requirements for public participation.
- The Department of Provincial and Local Government has produced a guide pack for the development of Integrated Development Plans (IDPs) which includes a component on public participation in the Integrated Development Planning process.

Several of the global-scale mining companies in South Africa have in-house guidelines that include public participation good practice, or use those of the International Finance Corporation. Although not a public participation guide per se, the draft King 2 Report on Corporate Governance refers in several instances to citizen and stakeholder reporting and disclosure as required by corporate governance practice.

7. INTERNATIONAL EMERGENCE OF PARTNERSHIP MODELS

Where already many mining operations have changed their role in the regional community from intruder to good neighbour, mines of the future are likely to strive to be an ‘Agent of Development’ (see Figure 1). This would put a mine in a partnership role with its stakeholders such as NGOs, local communities and the authorities in its quest to achieve sustainable development. This goal does not have to be so distant as it seems.

Environmental assessments and integrated environmental management (IEM) principles in South Africa have the twin aims of mitigating negative impacts and enhancing positive impacts. The challenge is to shift the paradigm from concentrating on the former to concentrating on both.

There are several emerging models of strategic alliances between companies and their stakeholders that increase the legitimacy, credibility and effectiveness of company efforts to the benefit of both company and civil society. Examples are business and development partnerships with local minority communities (increasingly common in Canada and Australia, also recently in South Africa in regard to small, medium and micro-enterprise development), working committees with environmental groups (increasingly now in South America, also in South Africa) and multi-stakeholder groups to build capacity in local and regional government. The MMSD Southern Africa project is a recent example of a multi-stakeholder process.

In South Africa, several mining companies have gained substantial stakeholder credibility and trust by involving stakeholders in the design of compensation or other guidelines, and in fire protection or crime prevention. Other mining companies have used public participation for a proposed new facility to obtain intensive stakeholder contributions to the facility’s Environmental Management Plan (EMP), with stakeholders clearly understanding that, once approved, the EMP would become legally binding on the mine.

In other cases, minerals beneficiation companies have made use of the NEMA to enter into agreement with other stakeholders. Section 35 of the NEMA makes provision for the Minister of Environmental Affairs and Tourism and every MEC and municipality to enter into environmental management co-operation agreements with any person or community for the purpose of promoting compliance with the principles laid down in this Act.

Another valuable opportunity which mining companies already use to interact and reach agreement with other stakeholders is participation in the processes throughout South Africa to develop Catchment Management Agencies, and recently also to jointly deliberate a vision for a desired future class of water resources in catchments.

References: Joyce, 1999; Greyling 1999a; RSA, 1998; MMSD Southern Africa 2002.
1. **PROCESS AND CONTENT OBJECTIVES**

Not addressing the process objectives of a project is one of the major failures of public participation processes. To conduct public participation appropriately requires that issues be dealt with at two levels:

- **The substantive or content level** (the content objectives of the project), focusing on the letter of the law, legal requirements, hard science, technical information, statistics, the results of technical evaluation and the quantifiable aspects of business.
- **The process level** (process objectives), dealing with those factors that cannot be defined in financial and statistical terms such as trust, credibility, feelings and the underlying issue of control.

If process objectives are not met, the content of the project will not be enriched (see Figure 1). Stakeholders will not participate in a process or will participate in an acrimonious and destructive way if the process does not acknowledge with empathy their feelings, fears and expectations, be these real or perceived.

Specialists in negotiation and conflict resolution have long understood the relationship between substantive issues and the process issues of equity and control:

“So long as people feel disempowered on the process issue, they are understandably unbending on the substantive issue, in much the same way as a child forced to go to bed protests the injustice of bedtime coercion without considering whether he or she is sleepy. It isn’t just that people oppose any decision they view as involuntary and unfair, regardless of its wisdom; because the equity and control issues come first, people typically never even ask themselves whether they agree on the merits. Outraged at the coercion, they simply dig in their heels.”

Therefore, mine personnel and their technical specialists who have contact with other stakeholders and with their neighbours should become familiar with and apply the basic principles of risk communication, outlined in the next section.

References: Greyling 2001a; Sandman, 1986

2. **EFFECTIVE COMMUNICATION IN DEALING WITH RISK, PERCEIVED OR REAL**

Any situation in which stakeholders perceive themselves to be at risk (socially, economically, ecologically), be such risk perceived or real, requires what is termed “risk communication.” More than three decades of research and hundreds of articles published in scientific journals underpin the science of risk communication.

Trust, credibility, personal contact and control form the basic foundation for risk communication. Some pointers are listed below, drawn from the international literature:

- Accept and involve the public as a legitimate partner; listen to their specific concerns.
- Understand that the risks that kill people and the risks that upset people are often completely different. In a recent public participation process, neighbours were much more upset about the constant nuisance effects of dust from mine dumps in their area than about the carcinogenic Chrome 6 that could be...
generated in a proposed ferrochrome plant.

- Do not use the DAD model: Decide, Announce, Defend. Leave room for dialogue and resolving disputes before decisions are implemented otherwise costly delays may result later on.

- Express caring, empathy and commitment, and respond humanely. Do not trivialise people's feelings. These attributes account for over 50 percent of trust in high-concern situations. When people are worried and upset, they don't care what you know until they know that you care. People often decide if a person is caring within as little as nine seconds.

- Show respect. Do not negate people's concerns due to cultural or political differences.

- Many people use health, safety and environmental risks as a proxy or surrogate for other social, political or economic concerns. Sometimes it is the only way they know how. Assist them to express their unspoken but real concerns. In a recent process in South Africa, land owners demanded that an alternative route for a proposed conveyor be selected since “it would cause less environmental damage”. One stakeholder threatened to tarnish the name of the company if their demands were not met. Their real concern, however, was stock theft. This they revealed during personal contact. They wanted the conveyor located between them and a settlement. Personally and subsequently publicly expressing caring and sympathy for their situation, and patiently and without technical jargon explaining the environmental criteria for having selected another route, settled the issue.

- Do not use complex and difficult probabilistic or technical language to communicate information about risks. Keep it simple. Avoid technical jargon and any words that teenagers won't understand.

- When people speak emotionally, do not immediately respond with data, but with sympathy and caring. Breaking a conflict is often “a matter of explicitly acknowledging the feeling (and the legitimacy of the feeling) before trying to explain anything substantive — because any effort to explain substance first will be experienced by people as just another way of not noticing how they feel”.

- Be honest, frank, and open. Openly acknowledge past misbehaviour and current problems. Explain plans and financial commitment in place to rectify current problems and ask for suggestions.

- Coordinate and collaborate with other credible sources. If air quality is the problem, compare emissions to international standards and guidelines. If environmental management is the problem, make it known that the mine has ISO certification, and explain what it means.

- Do not use the “wrong” public relations techniques. While public relations textbooks may highlight the need for quality information and mutually beneficial relationships, public relations often employ techniques such as stonewalling, smoke screening, whitewashing and blaming someone else. Union Carbide, Exxon, several US tobacco companies and some South African companies have it on good authority that these techniques do not work.

- Let go of some control. Allow stakeholders to select the dates and times of meetings, to indicate the language of their choice, to indicate by what methods they would like to receive their information, to assist in listing criteria for making choices and to assist in exploring alternatives. Lay people, “undeterred by conventional expert wisdom, often have good ideas that experts can adapt to the situation at hand; at a minimum, lay people are the experts on what frightens them and what would reassure them”.

At the same time, stakeholders need to have empathy with technical people. Sandman (1986) says that “(t)he most common sources of risk information are people who are professionally inclined to ignore feelings. And how do people respond when their feelings are ignored? They escalate — yell louder, cry harder, listen less — which in turn stiffens the experts, which further provokes the audience. The inevitable result is the classic drama of stereotypes in conflict: the cold scientist or bureaucrat versus the hysterical citizen.”

Stakeholders can assist in avoiding such conflict by having empathy with technical people who have difficulty in handling public situations, or difficulty in expressing themselves in simple language. Technical people may have chosen their careers in the first place not to have contact with the public.

SOUTH AFRICAN REGULATORY REQUIREMENTS FOR PUBLIC PARTICIPATION

This appendix provides a description of the different regulatory requirements for public participation that are relevant to the mining industry.

1. THE CONSTITUTION

The Constitution of the Republic of South Africa (Act No. 108 of 1996) defines the role of the public in the activities of all three spheres of government, namely national, provincial and local government (Sections 59, 72, 118; 152 and 154). Chapter 10 of the Constitution (Section 195) states that the basic values and principles governing public administration include encouraging public participation in policy-making and responding to public need.

Chapter 3 (Section 40) requires all spheres of government to adhere to the principles (Section 41) of co-operative governance by informing one another of, and consulting one another on, matters of common interest and providing effective, transparent, accountable and coherent governance for the Republic as a whole.

2. MINERALS LEGISLATION, REGULATIONS AND REQUIREMENTS

This section briefly looks at the requirements for public participation in minerals legislation, administered and controlled by the Department of Minerals and Energy. Of note is that South Africa’s minerals law is in the process of reform.

2.1 THE MINERALS ACT (ACT NO. 50 OF 1991) AND AIDE MEMOIRE

The Minerals Act has no specific regulations with regard to public consultation per se. However, the Act requires Environmental Management Programme Reports (EMPR) as well as Environmental Management Plans (EMP) to be prepared in, for example, Section 28 where it deals with mine closure. The Aide Memoire for the Preparation of EMPRs for Prospecting and Mining requires, in Chapter 2.17, that representatives of interested and affected parties (I&APs) be identified and, in Chapter 5.2.16, that the impacts of the project on the I&APs be described in the EMPR.

When the Aide Memoire was developed in 1992, prior to the establishment of the Government of National Unity in 1994, public consultation did not receive the same kind of emphasis as it does today, both in South African legislation and in society’s expectations. The Aide Memoire is thus vague in regard to consultation and public review of the results of environmental investigation. Unfortunately, a mindset has developed among many mining company personnel and their environmental consultants that, since the Aide Memoire does not specifically guide consultation, only the minimum needs to be done to satisfy the letter of the law. This often creates mistrust and animosity during public participation processes for EMPRs and results in stakeholder issues not being integrated with technical assessment prior to decision-making (see also Appendix 5, for the integration of public issues and technical assessment).

That society’s views have evolved beyond the current scope of the Minerals Act, is illustrated in the Supreme Court judgement in the case of The Director: Mineral Development (Gauteng Region) and Another Versus Save the Vaal Environment and Others. In this case, Save the Vaal Environment (SAVE) protested the right of the Department of Minerals and Energy to issue a mining licence to Sasol without prior adequate stakeholder consultation. The Supreme Court of Appeal emphatically restated the legal and ethical obligation of business to pay due respect to the role of community participation.
This case highlights the issue of the *spirit of the law* versus *the letter of the law*. This case, and other similar cases, have now set the precedent for public consultation in all instances where people are interested in and/or affected by an action, even though the relevant (usually older) legislation might not prescribe public consultation.

The Minerals Act and Aide Memoire are currently in the process of being reformed, as outlined in the next two sections.

### 2.2 **THE MINERALS AND PETROLEUM RESOURCES BILL, DECEMBER 2000**

The Minerals and Petroleum Resources Bill is expected to be promulgated as an Act some time during 2002. The Bill requires consultation with stakeholders in all aspects of mining: mineral exploration, proposed new developments, expansions and closure.

Sections 26 and 38 of the Bill state that the application for a prospecting right and a mining right must include details of consultation and the results thereof. Section 64 of this Bill lists the principles relating to regulatory control in respect of environmental management and remediation of environmental damage and includes the principle that decisions must take into account the interests, needs and values of all interested and affected parties (Section 64(3)(e)). Several sections of the Bill refer to environmental requirements. For example, Section 66 addresses Integrated Environmental Management and the requirements for an Environmental Impact Assessment. Section 64 (3) (b-j) of the Bill repeats the principles of the National Environmental Management Act (NEMA) (Act 107 of 1998) word for word.

### 2.3 **MINING AND ENVIRONMENTAL MANAGEMENT (MEM) GUIDELINES**

These Guidelines are expected to recommend an environmental assessment process structured along similar lines as Environmental Impact Assessments under the Environment Conservation Act (Act 73 of 1989) (see below).

Indeed, many mining companies and the consultants who conduct environmental assessments for their EMPRs are currently guided by the EIA process for more controversial mining projects. This is because the EIA process is more structured, clearly requires public consultation as well as formal public review at two key stages during the EIA:

- once the Draft Scoping Report is available, for stakeholders to verify that all their issues of concern have been captured; and
- once the Draft Environmental Impact Report is available, for stakeholders to verify that their issues were considered in the specialist investigations and to comment on the findings of the environmental assessments prior to finalising them.

### 3. **ENVIRONMENTAL LEGISLATION, REGULATIONS AND REQUIREMENTS**

The requirements, regulations and principles listed below have a bearing on the mining industry.

#### 3.1 **NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT 107 OF 1998)**

The principles that demand communication with society at large are best embodied in the principles of the National Environmental Management Act, 1998 (NEMA) (Act 107 of 1998, Chapter 1). South Africa’s overarching environmental law. Those principles specific to public participation are summarised below (the principles are numbered here to facilitate easy reference to them in these Guidelines):

1. The participation of all interested and affected parties in environmental governance must be promoted.
2. All people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equal and effective participation, especially vulnerable and disadvantaged persons. Women and the youth must also participate.
3. Decisions must take into account the interests, needs and values of all interested and affected parties, including the recognition of traditional knowledge.
4. Community well-being and empowerment must be promoted through environmental education, raising environmental awareness, sharing knowledge and experience and other appropriate means.
5. Workers’ rights to refuse work that is harmful to human health or the environment and to be informed of dangers must be respected and protected.
6. Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.

In addition, several NEMA principles focus on the attainment of sustainable development, in which public participation is inherent.

3.2 ENVIRONMENTAL IMPACT ASSESSMENT (EIA) REGULATIONS

The guideline document *Environmental Impact Assessment Regulations on the implementation of Sections 21, 22 and 26 of the Environment Conservation Act* guide the execution of an EIA. The EIA Regulations specify the following in terms of public participation:

- Public participation must be facilitated by an independent agency in an honest and open manner.
- The agency must produce readable reports.
- The agency must have good record-keeping abilities.
- Interested and affected parties (I&APs) have to participate in the identification of issues and alternatives during scoping.
- I&APs should be given the opportunity (including adequate time) for comment on assessments of impacts and proposed mitigation measures.
- I&APs have to comment on the findings of any environmental investigation as contained in its reports (e.g. Scoping Report and Environmental Impact Report).
- I&APs have the responsibility to submit their contributions within the agreed-upon time period.
- I&AP contributions must be reflected in environmental investigation reports.
- The record of decision should be communicated to I&APs.

4. ZONING LEGISLATION, REGULATIONS AND REQUIREMENTS

Zoning legislation is mentioned here since, in some instances, land for a proposed new mining or minerals beneficiation project may have to be rezoned (e.g. from agricultural to industrial land).

4.1 DEVELOPMENT FACILITATION ACT (ACT NO 67 OF 1995)

Amongst the objectives of this Act is the introduction of measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land and, in so doing, to lay down general principles governing land development throughout the Republic. The objective with the most significance to public participation is to provide for the establishment in the provinces of development Tribunals which have the power to make decisions and resolve conflicts in respect of land development projects.

The Development Facilitation Act requires that interested and affected parties must be notified 65 days prior to a Tribunal hearing for the rezoning of land. The notices must be in two languages, must be adequately communicated, displayed on site and be published once a week for two weeks.

Stakeholders have 21 days to lodge representations or objections to a proposed rezoning, and can do so either in writing or verbally. The Act specifies that a pre-hearing conference be convened to hear stakeholders’ objections, prior to the formal Tribunal hearing from which the decision will flow. The Act allows for the decision to be appealed, and for interested and affected parties to request written reasons for the decision.
5. **WATER LEGISLATION, REGULATIONS AND REQUIREMENTS**

Water legislation has a strong bearing on the mining industry, particularly in regard to protection of water resources, the authorisation and control of water use and waste management.

5.1 **THE NATIONAL WATER ACT (ACT NO. 36 OF 1998)**

The National Water Act obliges the Department of Water Affairs and Forestry (DWAF) to ensure that South Africa’s water resources are protected, used, developed, conserved, managed and controlled in a sustainable and equitable manner for the benefit of all persons.

The Act requires consultation with the public at large. The word “consult” and its derivatives occur no less than 40 times in the Act. Of particular relevance to minerals beneficiation is the requirement for public consultation prior to the establishment of hazardous waste disposal sites and during their operation. These requirements are contained in the DWAF’s Minimum Requirements for Waste Disposal by Landfill (DWAF, 1998).

The DWAF’s Generic Public Participation Guidelines were developed in response to the requirements of the National Water Act, to guide public participation in water-related matters.

5.2 **THE WATER SERVICES ACT (ACT NO. 108 OF 1997)**

The Water Services Act requires the Department of Water Affairs and Forestry to create a developmental regulatory framework within which water services can be provided. The Act gives substance to the Constitutional requirements and provisions that stipulate that local government has the responsibility for providing water and sanitation services, and that National Government has the responsibility to support and strengthen the capacity of municipalities.

The White Paper on Water Supply and Sanitation states that the involvement and empowerment of people is paramount in the provision of water and sanitation services in poor communities. The policy also states that community involvement in the planning, design, financing, construction and maintenance of improved water supplies is necessary for sustainable progress. Mining companies are from time to time involved in initiatives to supply local communities with water and sanitation and need to be aware of the requirements for consultation in this regard.

6. **PROMOTION OF ACCESS TO INFORMATION ACT (ACT NO. 2 OF 2000)**

The Promotion of Access to Information Act recognises that everyone has the Constitutional right of access to any information held by the State and by any other person when that information is required to exercise or protect any rights. The purpose of the Act is to foster a culture of transparency and accountability in public and private bodies and to promote a society in which people have access to information that enables them to exercise and protect their rights.

Objectives of the Act include, as stated in Section 9(e)(i), to promote effective governance in all public and private bodies by empowering and educating people to understand their legal rights and, as stated in Section 9(e)(ii), to scrutinise and participate in decisions made by public bodies, especially when such decisions affect their rights. This latter statement is of particular relevance to public participation. It is often overlooked, or simply not done, because it is perceived to be too time-consuming or costly. Lay people cannot meaningfully participate without having sufficient capacity and knowledge to do so. This Act, as well as the NEMA principles, require those who conduct public participation to build in methods to empower and educate people to grasp the concepts at hand (see also Section 10.8 and Frequently Asked Questions in Chapter 12).
7. **SOUTH AFRICAN LANGUAGE POLICY AND BILL**

Section 6 of the Constitution recognises the historically diminished use and status of the indigenous languages of South Africa and obligates the State to take practical and positive measures to elevate the status and advance the use of these languages.

The draft Language Policy and Plan for South Africa, Section 4, states that it is in conflict with both the spirit and the letter of the Constitution for all documentation to be always in English and only occasionally also in other South African languages, since it will also continue to disadvantage and disempower the majority of the people who are non-English speakers. One of the fundamental principles of the Language Policy is thus the promotion of linguistic diversity in accordance with the provisions of the Constitution (Section 2(3)).

It is furthermore one of the draft policy’s strategic goals, as stated in Section 2(2), to facilitate that all South Africans have the freedom to exercise their language rights by using the official language/s of their choice with specific reference to the access to government services and programmes, and to knowledge and information.

The South African Languages Bill is currently in development and will be published for public comment in the near future.


The Promotion to Administrative Justice Act gives effect to the right of everyone to administrative action (decisions made or not made by an organ of state) that is lawful, reasonable and fair. It also provides the right to demand written reasons for administrative action as contemplated in Section 33 of the Constitution.

Appendix 4

A NEIGHBOUR RELATIONS PROGRAMME

Personnel of mining companies that do not have an ongoing neighbour relations programme are often shocked when a public participation process for what may be a routine upgrade that requires environmental approval, results in decades of mistrust and anger surfacing during the public participation process.

On the other hand, mining companies that maintain ongoing, cordial relations with their neighbours (be these landowners, other industries, local communities, local government or other stakeholders) find that public participation for proposed new projects or expansions that require environmental approval hold few surprises. This is because the mining company is already in touch with stakeholder views and has been able to deal with local issues of concern on an ongoing basis.

1. THE CHALLENGE

The challenge for many mines as well as their neighbours is to overcome many years of mutual mistrust, much of which is a result of South Africa's past. Companies and their neighbours often have undue fears during a public participation process due to their perceptions of how the other might react. Such fears on the part of the company often result in it not implementing a neighbour relations programme at all, believing it to be too challenging and requiring too much effort.

Similarly, local communities or other neighbours are often afraid of approaching a mining company, not knowing the people who work there and seeing the mine as a single, grey entity to which they have no entry. The inevitable result is that the contact that does take place is often through the press and later, the courts. Interestingly, comment from CBOs during the development of these Guidelines was that it would be useful to understand the fears of mining company personnel about involving their neighbouring community and for both parties to enter into a process to overcome their fears - to the benefit of all.

2. BASIC POINTERS

Ongoing neighbour relations need not be difficult or costly for a mine. The foundation of good neighbour relations is proactive provision of information, personal contact, and dealing with local concerns on an ongoing basis.

A few basic pointers for a neighbour relations programme are listed below. They should be read in conjunction with Appendix 2, which deals with achieving process objectives and effective communication of risk.

- Develop a mailing list of neighbours and ensure that it is kept updated. Spell names, surnames and farm names correctly. Use first names, not just initials.
- Proactively distribute information and invite comment. It is often easy to allay undue fears and to counter undue expectations by simply and patiently providing sufficient and accessible information to stakeholders.
- Provide neighbours with short written information on a quarterly basis. Keep information simple. Avoid jargon and explain complex concepts, where possible graphically, to assist people to build their capacity to understand the issues at hand.
- Place neighbours on the distribution list of the mine's internal newsletter, annual and other reports. In that way, they receive regular information from the mine for little extra effort.
- Communicate to all neighbours the issues of concern that have been raised by others, and indicate how these issues were dealt with to everyone's satisfaction.
- Assist neighbours to move from perceiving the mine as a large, faceless intrusion to seeing the people who work there. Get to know neighbours. Introduce them to the company’s environmental officer, community liaison officer and safety officer. Ensure that neighbours have their contact details, and invite comment. Personal contact goes far further than bureaucratically worded flyers. A mining company often
employs a consultant who, having disappeared upon completion of the project, never established direct contact between community members and other neighbours and mining personnel. In other words, there was never an opportunity to establish a good relationship.

- Hold at least an annual information day and a tour of mine infrastructure. Clearly communicate environmental compliance and social responsibility efforts to help establish trust and credibility. Provide opportunity for neighbours to discuss issues of concern, and jointly deal with such issues.
- Involve neighbours in crime prevention and fire management. Several mines have reported that such joint efforts have brought about mutual benefits, cost savings and better relations.
- Advise neighbours of forthcoming disturbances or changes in advance. A mine on the West Rand recently conducted routine upgrading of equipment, resulting in neighbours observing increased heavy vehicle delivery. As it happened, a public participation process for a proposed extension to the mine was being conducted at the same time. Not knowing about the upgrade programme, neighbours believed that the proposed extension was already being implemented and that public participation was merely rubber-stamping.
- In consultation with neighbours, develop a compensation plan or simple compensation principles, guidelines and procedures, and honour them.
- Confirm that the mine will conduct public participation for proposed new extensions or projects.
- If there are serious relationship problems, engage a good mediator or facilitator (not a lawyer!).

3. PATIENCE

Meaningfully interfacing with third parties requires experts and technical specialists to switch from left brain (technical, mathematics) to right brain (feelings, intuition). It is therefore recommended that mining companies select mine personnel who are not strongly opposed to dealing with the public to conduct their neighbour relations programmes and risk communication. In addition, invest in some risk communication and public participation training for those mine personnel who will have contact with stakeholders and neighbours.

At the same time, stakeholders should have empathy with technical mining personnel. Many technical specialists chose their careers specifically not to have to deal with too many people and they may appear somewhat arrogant. In reality, they are experiencing extreme discomfort.

After having bravely instituted a neighbour relations programme, neither mine personnel nor neighbours and other stakeholders should expect immediate positive results. They will both need time to overcome years of mutual mistrust and acrimony. Engagement of the parties normally starts by dredging up all the old skeletons. The parties should undertake to let each other put across its point of view without fear of attack from the other, and then work together to overcome the past - to the mutual benefit of all.

If the issues appear insurmountable, engage the help of a trained facilitator or mediator, and follow his/her advice. Mine personnel may be highly trained professionals but the ability to design a slimes dam expertly is not going to be helpful in resolving public conflict.

References: Greyling, 2001a; Susskind and Field, 1996.
AVOIDING PITFALLS AND CONFUSION

This Appendix discusses the following:
• Common misconceptions about public participation
• Differences between public participation and social impact assessment
• Differences between public participation and company public relations. Not understanding these differences often leads to inadequate or confusing public participation processes.
• Integrating public issues and technical assessments, often the Achilles heel of environmental assessments.

1. COMMON MISCONCEPTIONS

Some public participation myths are listed below.
References: Greyling, 1999b

1.1 BEWARE OF "DAD"

The “DAD” principle (decide, announce, defend) causes stakeholders to lose trust in the process. Public participation should be based on joint deliberations, which lead to perceived fairness and support for implementation (see Figure 1).

1.2 PUBLIC PARTICIPATION DOES NOT IMPLY THAT EVERY INDIVIDUAL OR ORGANISATION IN THE STUDY AREA NEEDS TO BE PERSONALLY CONSULTED

Public participation aims to generate issues representative of the various sectors of society, not of every individual. In the case of linear projects, there could be literally millions of people living in a 100 km corridor either side of a transportation route. Furthermore, when a site of national or international importance is involved, such as a National Park or World Heritage Site, millions of people are potential stakeholders, many internationally.

It is not practical, possible or necessary to consult with millions of people. What is, however, necessary is to provide the broadest possible range of sectors of society the opportunity to contribute, and to be able to prove this. Like-minded people often organise themselves into a group with an assigned spokesperson (e.g. a religious group, environmental group or women's group). Sectors of society do the same, such as local Chambers of Commerce, Farmers’ Unions, environmental NGOs and others. It is necessary to obtain the views of the group or the sector and not that of every individual or organisation in the group or sector.

At the same time, checks and balances must be built into the process to ensure that all issues are received:
• Use a multi-pronged approach to announce the opportunity for stakeholders to contribute (see section 6.3 later). Not all issues are raised, or all stakeholders identified, during the first stakeholder meeting or in response to the first discussion document. Stakeholders need time and various opportunities in various ways to contribute.
• Consult not only the spokesperson for a group or sector (e.g. a tribal leader) but also a few individual members of that group or sector e.g. a religious leader in that group, and some women and youth leaders (see NEMA principle 2 in Appendix 3).
- At some point during the later stages of the scoping phase (i.e. the phase during which issues are raised by stakeholders), people from various sectors usually start raising issues that have been raised before by others, that is, issues are repeated over and over again, with no new issues emerging. If this does not happen and new issues are still being raised, there is a risk that some issues may be missed if scoping is discontinued at that point.

1.3 **Public participation does not constitute the proponent’s neighbour or community relations**

Project proponents not familiar with the purpose of public participation often expect it just to constitute its neighbour or community relations programme. Whereas public participation often paves the way for better community relations, especially where the project proponent demonstrates openness, transparency and a willingness to have personal contact with other stakeholders, the objective of public participation is not to fulfil this day-to-day and ongoing function of the mining company (see Appendix 4 on a neighbour relations programme).

1.4 **Public participation does not necessarily aim at consensus**

It is usually the diversity of opinion that enriches a proposed project and decision-making and not consensus *per se*. Summed up in the words of facilitator and mediator Lucy Moore (1998): “No, consensus should not be the goal (of public participation). To me, it is presumptuous in a public involvement process to assume that consensus can be reached. It is voluntary, and given the unknown number and interests of participants, how can we even have as a goal ‘reaching consensus’?”

Nevertheless, public participation usually brings about a convergence in viewpoints simply because it creates the opportunity for people to share and appreciate each others’ viewpoints, to deliberate jointly the issues at hand and to make suggestions jointly for dealing with difficult issues. Whereas it is highly unlikely that all of the sometimes hundreds or thousands of people involved in a public participation process would reach consensus on a multi-issue project, they are able to indicate trade-offs with which they are willing to live. Since many conflicting views are based on mistrust rather than facts, a sound public participation process should draw different groups together by removing those issues that prevent a common understanding of the facts. This is not to say that people do not have different interests and that there may not be real issues that are irreducible; but it does acknowledge that differences between stakeholders are often rooted in misunderstanding, fear and mistrust.

1.5 **Public participation cannot be done by way of petitions**

A single yes/no answer on a petition is no way to truly consult, and certainly no way to gather issues of concern. It allows no room for join fact-finding, deliberation or discourse. It is not useful in the public participation process merely to indicate people’s opinion - it is necessary to capture the issues of concern and suggestions for mutual benefit so that they can be considered and evaluated. A petition cannot do this.

2. **Public participation and social impact assessment**

In many instances, social scientists and public participation facilitators share the public participation tasks, e.g. with social scientists consulting local communities, and the public participation facilitators other stakeholders. This will depend on project needs and circumstances.

The differences between public participation and social impact assessment are outlined in Table 1. Since both disciplines require contact with stakeholders, coordination between the social assessment and public participation teams needs to run smoothly. Both disciplines should demonstrate an awareness of this requirement as well as the willingness to cooperate to their mutual benefit.

*References: Greyling et al, in prep.*
Table 1. The main differences between public participation and social impact assessment.

<table>
<thead>
<tr>
<th>Public participation</th>
<th>Social impact assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conducted by public participation practitioners, often people with some form of</td>
<td>Conducted by qualified social scientists.</td>
</tr>
<tr>
<td>communication or mediation-related training. Sometimes conducted by social</td>
<td></td>
</tr>
<tr>
<td>scientists.</td>
<td></td>
</tr>
<tr>
<td>Obtains the questions and issues.</td>
<td>Provides the answers to social or socio-economic aspects of</td>
</tr>
<tr>
<td>the project.</td>
<td>the project.</td>
</tr>
<tr>
<td>Identifies and produces a list of issues of concern or suggestions that should be</td>
<td>Evaluates and quantifies issues or suggestions.</td>
</tr>
<tr>
<td>evaluated and quantified. Does not evaluate or quantify.</td>
<td></td>
</tr>
<tr>
<td>Makes recommendations for maximising benefits and reducing negative impacts.</td>
<td></td>
</tr>
<tr>
<td>Deals with all disciplines related to the proposed project, including social aspects.</td>
<td>Focuses on the social discipline within a project.</td>
</tr>
<tr>
<td>Main input during any assessment process is during the scoping phase, i.e. the</td>
<td>Main input is after the scoping phase, i.e. during the Impact</td>
</tr>
<tr>
<td>phase where stakeholders raise their issues. Input continues up to Record of Decision.</td>
<td>Assessment Phase. Input ends after production of a specialist report.</td>
</tr>
<tr>
<td>Product: A list of issues and discussion of these issues.</td>
<td>Product: A specialist report.</td>
</tr>
<tr>
<td>Extensive and ongoing contact with all stakeholders throughout a project.</td>
<td>Focused contact with stakeholders that can contribute to</td>
</tr>
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<td></td>
<td>social evaluation.</td>
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</table>

3. **PUBLIC PARTICIPATION IS NOT COMPANY PUBLIC RELATIONS/AFFAIRS**

Public participation is not public relations. Not understanding this difference sometimes results in personnel of mining companies believing that they can scale public participation for a proposed new project right down since “they’ve already done it”.

Many of the principles of effective communication are shared by both practices. There are, however, essential differences which are shown in Table 2. Public participation never promotes the project or the project proponent but presents in an objective way the information, both negative and positive, relating to the proposed project and the findings of an environmental or other assessment. If stakeholders perceive that the project is being promoted in any way, they brand the public participation process as a white-wash or rubber-stamping.

The key differences between the two disciplines are:
- Public relations focus on distribution of information.
- Public participation focuses on receiving contributions from stakeholders in order to improve decision-making.

Nevertheless, it is essential that there is synergy between the public participation and public relations teams during an environmental assessment. For example, the company’s public relations personnel need to understand that, while the environmental assessment is in progress, the proposed project has not yet received authority approval. Therefore, media releases in regard to the proposed project should emphasise this, rather than portraying the project as a done deal since this will cause stakeholders to see the public participation as a whitewash.
On the other hand, the public participation practitioner may need to approach the company's public relations personnel for simplified information about the company, including performance in terms of NOSA and ISO certification, documented environmental compliance, social responsibility efforts and so on.

On a practical level, it is advisable for the mining company's public relations personnel to attend at least the initial meetings with the environmental specialists and public participation practitioners in order to familiarise themselves with the spirit in which the environmental assessment will be conducted.

Figure 2 presents these concepts graphically, indicating also that an interface is required between the two disciplines. Important to note is that stakeholders receive ongoing and regular information during a public participation process for a specific project that requires environmental approvals. Unless the company conducts ongoing public participation in the form of a neighbour relations programme, a void is left once the process is concluded. Either the company's public relations staff, or its neighbour relations staff (see Appendix 4), should proactively continue to supply stakeholders with regular information. In fact, the company may subsequently continue with the public participation process if there are ongoing issues which are best addressed collaboratively (eg joint monitoring programmes; development of Environmental Management Cooperative Agreements, developing an approach to HIV/AIDS management etc.)

References: Greyling, 2001c.

| Table 2. Differences between company public relations and public participation for environmental assessment processes. |
|---|---|
| **Company public relations / public affairs** | **Public participation** |
| Conducted by the company itself | Conducted by an independent agency |
| Ongoing, for the life of the company | Finite with clear start and finish dates, usually around 6-12 months, depending on the project |
| Communicates about all aspects of the company | Focuses on a particular project |
| Usually about existing activities/projects | Usually about a proposed project |
| Mainly promotional in nature, and awareness creation | Under no circumstances promotional, always by independent agencies |
| Aimed at information transfer and distribution of information | Aimed at receiving contributions |
| Aimed at changing attitudes and mindsets | Aimed at enabling contributions and improved decision-making |
| Promotional material with corporate identity usually in colour, fairly costly to produce | Discussion documents with project identity, seldom in colour, photocopied |
4. THE ACHILLES HEEL: INTEGRATION OF PUBLIC ISSUES AND TECHNICAL ASSESSMENT

A difficulty experienced worldwide is the integration of public issues and technical assessment in projects. Project teams - the technical specialists and public participation practitioners - who cannot achieve integration of public issues and technical assessment fail to meet the core purpose of their task which is to provide decision-makers and other stakeholders with an understanding of the consequences of their choices.

This is the Achilles heel of many projects and the cause of much conflict, costly delay and social risk to mining companies. It is illustrated by a situation where stakeholders have ample opportunity to raise issues and the issues are duly recorded, but they later find that their issues were not evaluated by technical specialists nor taken up in the final outcome (see Figure 3).

True integration can only be achieved when technical specialists and the public participation practitioners are committed to a common, well-defined purpose, that of informed decision-making aimed at sustainable development. Considerable joint planning and ongoing interaction within the framework of a joint vision are required.

In essence, issues raised by stakeholders are questions that the technical specialists (or the mining company as proponent) should answer. Stakeholders should receive feedback on how their issues were dealt with, and if not, why not. In practice, this works as follows during an environmental assessment:

- Stakeholders raise issues.
- The issues are recorded by the public participation practitioner and categorised into the disciplines required for technical assessment (e.g. issues pertaining to groundwater, air quality, etc).
- The public participation practitioner passes the issues to the technical experts who incorporate them into the terms of reference for their technical assessments.
- The technical experts pass the findings of their assessments to the public participation practitioner.
- The public participation practitioner summarises the findings into non-technical language and presents the report/s to stakeholders for comment, assisted by the environmental specialists who present the findings in non-technical language at a public or other meeting.

![Figure 3. Lack of integration results in separate products.](image)

4.1 PRACTICAL STEPS FOR ACHIEVING INTEGRATION OF PUBLIC ISSUES AND TECHNICAL ASSESSMENT

The technical and public participation teams are jointly responsible for achieving integration and must accept this joint responsibility during environmental assessments for EMPRs (see Figure 4). The mining company should insist that its consultants appreciate these requirements. The following practical steps are relevant during the environmental assessment process.
The technical team (at least the environmental assessment manager) should:

- provide the public participation team with technical information of relevance that needs to be included in documents for public comment; a face-to-face briefing to supplement written technical material works best and assists in portraying a joint vision in such documents;
- understand that this material will be presented in a non-technical way and take joint responsibility for its accuracy (i.e. all documents intended for public consumption must be cross-checked for accuracy by a member of the technical team);
- compile the technical sections of reports, passing the documents on to the public participation team to edit the reports for readability and to cross-check that stakeholder issues were indeed considered;
- attend dry-runs with the public participation team to plan for public events and to ensure that technical presentations are presented in a manner that will be understood by non-technical people;
- co-attend (selected members of the technical team) with the public participation practitioner meetings with stakeholders in order to provide information, explain concepts and process and hear stakeholder issues and concerns first-hand (the same applies to the proponent and key authorities);
- convene a briefing session for specialists after scoping in order to focus their terms of reference on relevant issues;
- use the issues report to cross-check that the terms of reference of technical assessments have captured all the concerns that must be investigated; and
- complete the response column of the issues/response report (see Section 6.5).

The public participation team should:

- repackage technical material in a non-technical, yet accurate, fashion, and present this to the technical team for verification before presenting it to the public;
- coherently categorise and summarise stakeholder issues in an issues report for easy reference by the technical team;
- attend a briefing session for specialists to convey stakeholder issues of concern to the technical experts;
- cross-check that stakeholder issues have been incorporated into the terms of reference for specialist studies. The public participation practitioner is ultimately in the service of the process, and must thus ensure that public issues are carried through into the technical work. Practitioners must have the ability to deal with technical material at a fairly high level;
- compile the less technical sections of reports, passing the documents on to the technical team which must verify them for accuracy; and
- produce an “issues trail” at the end of the process, that is, indicate to stakeholders and the authorities where public issues have been taken up in the environmental assessment and, where they have not, assist the technical team to explain why not.

References: Greyling, 2000; Weaver et al 1996.

Figure 4. Example of how public issues are to be integrated with technical assessment during scoping.