



Legal, Authorisations,  
Compliance and Enforcement

# Assessment Protocols in terms of Section 24(5)(a) & (h) of NEMA

IAIASA Webinar

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06 June 2019



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# Assessment Protocols - Background

44 No. 42451

GOVERNMENT GAZETTE, 10 MAY 2019

## DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NO. 648

10 MAY 2019

### NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998)

#### PROCEDURES TO BE FOLLOWED FOR THE ASSESSMENT AND MINIMUM CRITERIA FOR REPORTING OF IDENTIFIED ENVIRONMENTAL THEMES IN TERMS OF SECTION 24(5)(a) AND (h) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998, WHEN APPLYING FOR ENVIRONMENTAL AUTHORISATION

I, Nomvula Paula Mokonyane, Minister of Environmental Affairs, hereby give notice of my intention to prescribe general requirements for undertaking an initial site sensitivity verification and for protocols for the assessment and minimum reporting requirements of environmental impacts **for environmental themes for activities requiring environmental authorisation, as contained in the Schedule hereto.** When the requirements of these protocols apply, the requirements of Appendix 6 of the Environmental Impact Assessment Regulations, promulgated under sections 24(5) and 44 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), are replaced by these requirements.



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# Assessment Protocols – Objectives

- Protocol - legal tool intended to provide guidance to EAPs or specialist preparing an assessment for a specific theme to:
  - Undertake the assessment using a consistent methodology
  - Prepare consistent report, and
  - Answer specific questions to support decision making
- Allow for levels of assessment based on the sensitivity of a site – impact assessment in areas of high sensitivity; compliance statement in low sensitivity – exceptions
  - Birds
  - Heritage
- A protocol provide more guidance than is currently provided in the appendices of the EIA regulations



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# Legal Framework

- Section 24(5) (a) & (h) NEMA –
  - The Minister .. May make regulations ....
    - Laying down the procedure to be followed in the applying for, the issuing of, and monitoring compliance with, environmental authorisations;
    - Prescribing minimum criteria for the report content for each type of report and for each process that is contemplated in terms of the regulations in order to ensure a consistent quality and to facilitate efficient evaluation of reports
- Regulation 10(b) EIA regulations – requirements for an applicant
  - Comply with any protocol or minimum information requirements relevant to the application as identified and gazetted by the Minister
- Regulation 16(3) of EIA regulations - general application requirements – any report or document submitted as part of the application must –
  - Comply with any protocol or minimum information requirements relevant to the application as identified and *gazetted* by the Minister in a government notice;
- Sections 19(1) & 21(3) Reports are to comply with the requirements of appendices or protocols



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# Themes considered

- **GENERAL REQUIREMENTS**
  - General requirements for undertaking an Initial Site Sensitivity Verification where no specific assessment protocol has been identified
- **ENVIRONMENTAL THEMES**
  - **Agriculture**
    - 1(a) Protocol for the assessment and reporting of environmental impacts on agricultural resources
  - **Avifauna**
    - 2(a) Protocol for the assessment and reporting of environmental impacts on avifauna species by onshore wind energy generation facilities where the electricity output is 20 megawatts or more
  - **Biodiversity**
    - 3(a) Protocol for the assessment and reporting of environmental impacts on terrestrial biodiversity
    - 3(b) Protocol for the assessment and reporting of environmental impacts on aquatic biodiversity
  - **Noise**
    - 4(a) Protocol for the assessment and reporting of noise impacts
  - **Defence**
    - 5(a) Protocol for the assessment and reporting of environmental impacts on defence installations
  - **Civil Aviation**
    - 6(a) Protocol for the assessment and reporting of environmental impacts on civil aviation installations



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# Themes being considered

- **ENVIRONMENTAL THEMES**

- **Avifauna**

- 2(a) Protocol for the assessment and reporting of environmental impacts on avifauna species by onshore wind energy generation facilities where the electricity output is 20 megawatts or more
    - **2(b) Protocol for the assessment and reporting of environmental impacts on vultures by onshore wind energy generation facilities where the electricity output is 20 megawatts or more**

- **Biodiversity**

- 3(a) Protocol for the assessment and reporting of environmental impacts on terrestrial biodiversity
    - 3(b) Protocol for the assessment and reporting of environmental impacts on aquatic biodiversity
    - **3(c) Protocol for terrestrial species**
    - **3(d) Protocol for aquatic species**

- **Heritage**

- **7(a) Protocol for the assessment and reporting of impacts on cultural heritage**
    - **7(b) Protocol for the assessment and reporting of impacts on palaeontology**

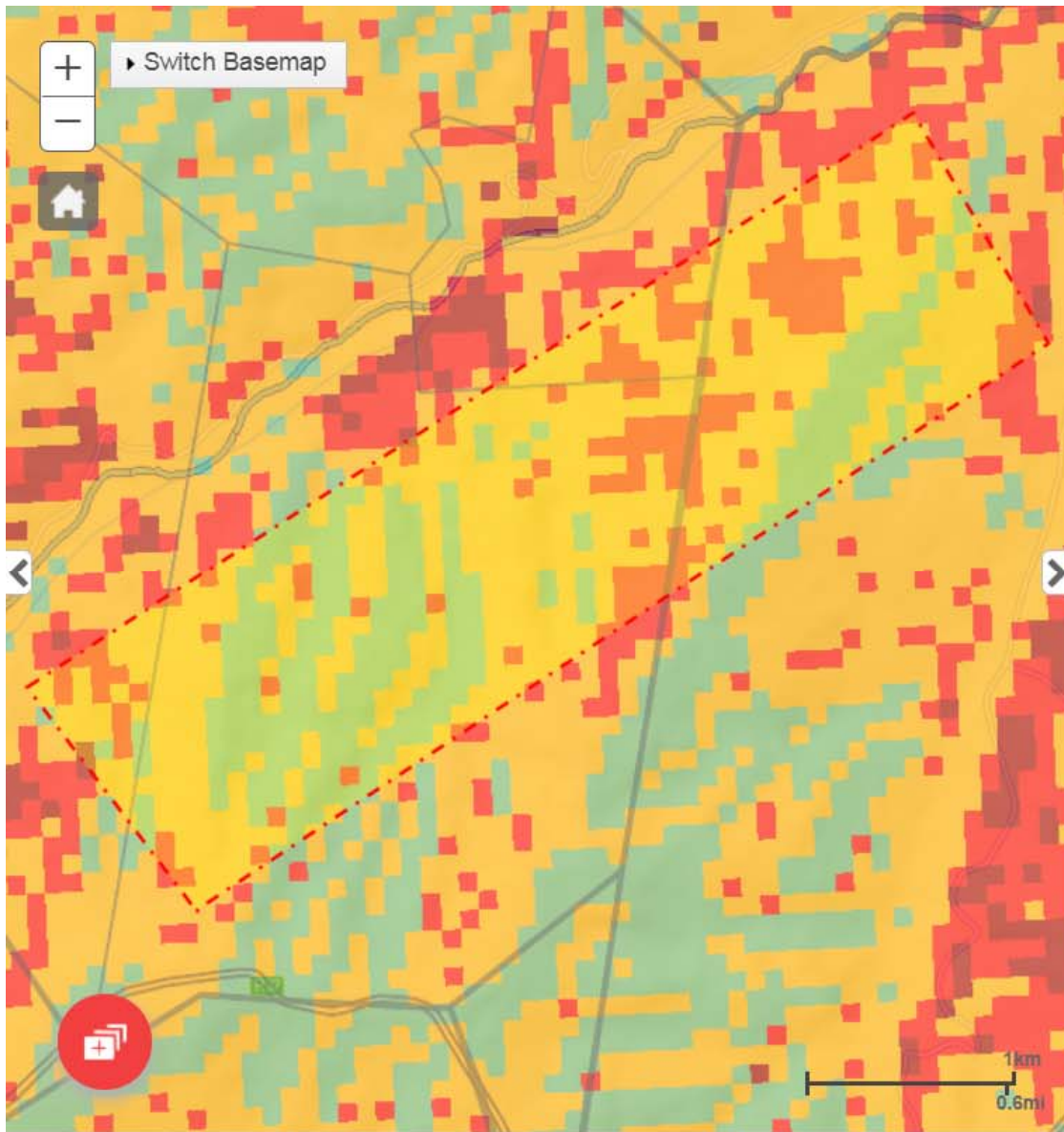


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# Link to the national environmental screening tool



## Check Site Sensitivity

[Get more info...](#)

Check site sensitivity

Download theme layers

Down

Select a Sensitivity Theme to view on the map



Agriculture Theme

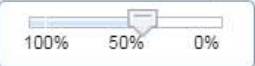


Previous Theme



Next Theme

- Very High
- High
- Medium
- Low



The current area drawn coincides with environmental sensitivities in the following environmental themes:

**Agriculture Combined Sensitivity**

- Very High
- High
- Medium
- Low

Show assessment protocol

Have you [downloaded your site area](#) yet?

Print

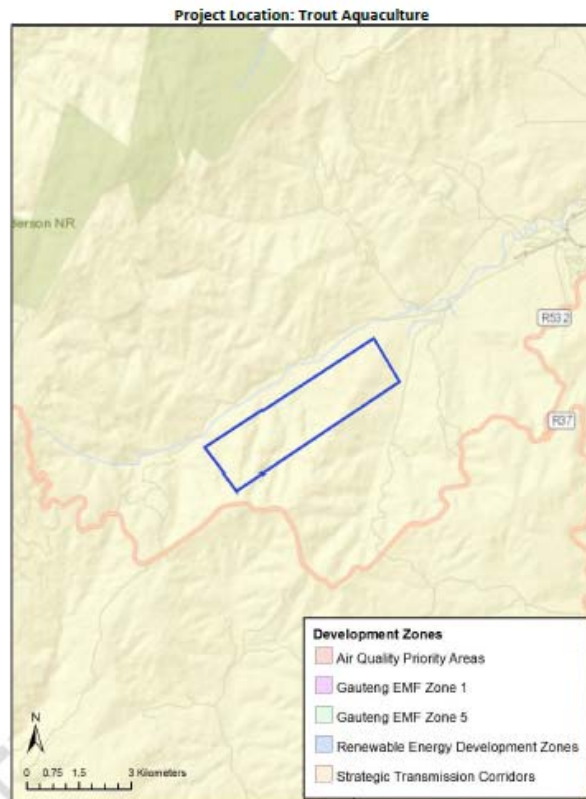
Generate site report

Place footprint



# Link between Screening and Protocols

Map indicating proposed development footprint within applicable development incentive, restriction, exclusion or prohibition zones



## Proposed Development Area Environmental Sensitivity

The following summary of the development site environmental sensitivities is identified. Only the highest environmental sensitivity is indicated. The footprint environmental sensitivities for the proposed development footprint as identified, are indicative only and must be verified on site by a suitably qualified person before the specialist assessments identified below can be confirmed.

Theme	Very High sensitivity	High sensitivity	Medium sensitivity	Low sensitivity
Agriculture Theme	X			
Aquatic Biodiversity Theme	X			
Archaeological and Cultural Heritage Theme		X		

Civil Aviation Theme		X		
Defence Theme				X
Terrestrial Biodiversity Theme	X			

## Specialist assessments identified

Based on the selected classification, and the environmental sensitivities of the proposed development footprint, the following list of specialist assessments have been identified for inclusion in the assessment report. It is the responsibility of the EAP to confirm this list and to motivate in the assessment report, the reason for not including any of the identified specialist study including the provision of photographic evidence of the site situation.

No	Specialist assessment	Assessment Protocol
1	Agricultural Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
2	Archaeological and Cultural Heritage Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
3	Palaeontology Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
4	Terrestrial Biodiversity Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
5	Aquatic Biodiversity Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
6	Marine Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
7	Defense Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
8	Health Impact Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>
9	Socio-Economic Assessment	<a href="https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf">https://screening.environment.gov.za/ScreeningDownloads/Assessment/General/Appendix 6.pdf</a>

## 1. SCOPE

These requirements must be applied when undertaking an Initial Site Sensitivity Verification for a site selected on the national web based environmental screening tool for which no specific assessment protocol related to any theme has been identified. The **purpose of the Initial Site Sensitivity Verification** is to **confirm or dispute the current use of the land and the potential environmental sensitivity of the site as identified by the national web based environmental screening tool** for the specific environmental theme being considered.

## 2. REQUIREMENTS FOR INITIAL SITE SENSITIVITY VERIFICATION

2.1 The Initial Site Sensitivity Verification must be **undertaken by an environmental assessment practitioner or a registered specialist** with expertise in the relevant environmental theme being considered.

2.2 The Initial Site **Sensitivity Verification** must be undertaken through the use of:

- (a) **a desk top analysis**, using satellite imagery; and
- (b) **a preliminary on-site inspection** to identify if there are any discrepancies with the current use of land and/or environmental status quo versus the environmental sensitivity as identified on the national web based environmental screening tool, such as new developments, infrastructure, indigenous/pristine vegetation.

2.3 The outcome of the Initial **Site Sensitivity Verification must be recorded** in the form of a report that-

- (a) **confirms or disputes the environmental sensitivity** as identified by the national web based environmental screening tool;
- (b) contains a motivation and evidence (e.g. photographs) of either the verified or different environmental sensitivity; and
- (c) **is submitted together with the relevant reports** prepared in accordance with the requirements of the Environmental Impact Assessment Regulations.

## 3. REQUIREMENTS FOR ENVIRONMENTAL ASSESSMENT

As no specific assessment protocol has been prescribed, the required **level of assessment** must be **based on the findings of the Initial Site Sensitivity Verification** and must **comply with Appendix 6** of the Environmental Impact Assessment Regulations.

General  
requirements  
for undertaking  
an **initial site  
sensitivity  
verification**  
where **no  
specific  
protocol** has  
been identified



# Biodiversity – Environmental Impacts on Terrestrial biodiversity

## 1 General Information

- 1.1 An applicant intending to undertake an activity identified in the Scope of this Protocol, on a site identified as being of “very high sensitivity” for terrestrial biodiversity on the national web based environmental screening tool must submit a **Terrestrial Biodiversity Impact Assessment**.
- 1.2 However, where the information gathered from the Initial Site Sensitivity Verification identified in section 2.1 of this Protocol or the specialist assessment differs from the designation of “very high” terrestrial biodiversity sensitivity from the national web based environmental screening tool and it is found to be of a “low” sensitivity, then a terrestrial biodiversity impact assessment is not required.
- 1.3 Should paragraph 1.2 apply, a **Terrestrial Biodiversity Compliance Statement** is to be provided. An Environmental Assessment Practitioner or a suitably qualified and SACNASP registered specialist, must append to the **Terrestrial Biodiversity Compliance Statement** a motivation and evidence (e.g. photographs) of the changed Terrestrial Biodiversity sensitivity.



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# Biodiversity – Environmental Impacts on Terrestrial biodiversity

<p><b>LOW SENSITIVITY RATING – for terrestrial biodiversity features</b></p>	<p>2 Terrestrial Biodiversity Compliance Statement</p> <p>2.1 The <b>Terrestrial Biodiversity Compliance Statement</b>, must be prepared by a suitably qualified specialist in the field of ecological sciences, <b>on the site</b> being submitted as the <b>preferred development site</b> and must <b>verify</b>:</p> <p>2.1.1 That the <b>site is of “low” sensitivity for terrestrial biodiversity</b>; and</p> <p>2.1.2 Whether or not the proposed development will have any impact on the biodiversity feature.</p> <p>3 The <b>Terrestrial Biodiversity Compliance Statement</b>, must contain, as a minimum, the following information:</p> <p>3.1 Contact <b>details and cv</b> of the specialist including <b>SACNASP registration</b> number and field of expertise;</p> <p>3.2 A signed <b>statement of independence</b> by the specialist;</p> <p>3.3 Baseline <b>profile description of biodiversity and ecosystems</b>, including the <b>duration, date and season of the site investigation</b> and the <b>relevance of the season</b> to the outcome of the assessment;</p> <p>3.4 <b>Methodology used to verify the sensitivities</b> of the terrestrial biodiversity on the national web based environmental screening;</p> <p>3.5 <b>Methodology used to undertake the site survey</b> and prepare the Compliance Statement, including equipment and modelling used where relevant;</p> <p>3.6 Where required, <b>proposed impact management outcomes</b> or any monitoring requirements for inclusion in the EMPr;</p> <p>3.7 A description of the assumptions made and any uncertainties or gaps in knowledge or data as well as a statement of the timing and intensity of site inspection observations;</p> <p>3.8 <b>Any conditions</b> to which the statement is subjected.</p> <p>4 A signed copy of the full <b>Terrestrial Biodiversity Compliance Statement</b> must be appended to the Basic Assessment Report or Environmental Impact Assessment Report.</p>
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# Way Forward

- Comments are due June 10 2019
- Comments will be incorporated where appropriate
- Comments and responses document will be prepared
- Documents will serve at the July 2019 WG meetings
- Will be gazetted for implementation – around September/October if the Minister agrees
- Will be legally binding procedure as from the implementation date



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