

**ICB DEA Consultative Process towards the establishment of a Registration Authority
for Environmental Assessment Practitioners in South Africa**

Comments and Responses Report for Final Draft Proposal Advertised in February 2009

1. COMMENTS FROM ORGANISATIONS

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| General comments on the establishment of the proposed Registration Authority | | | | |
| 1 | General | Siddiq Adams KZN DAEA | <ul style="list-style-type: none"> • The establishment of an association is supported and believed to be pivotal in ensuring that sustainable development is achieved in South Africa. The document broadly addresses the needs of the association in a clear and understandable manner. • Care should however be taken to ensure that the association does not result in elitism that it is used to restrict professional growth of employees, in this regard it must be clear that the association is not a union. | Noted and agreed |
| 2 | General | Dawie Botha ECSA | <ol style="list-style-type: none"> 1. SAICE is fully supportive of appropriate professional registration for an extensive range of disciplines associated with the Built Environment and in particular with civil engineering. 2. Current legislation does not as yet recognize all the various disciplines in terms of registration and your initiative is a step in the right direction. 3. SAICE is however extremely concerned about fragmentation and lack of integration within the various built environment professions on both the voluntary association as well as the regulatory or statutory level. To illustrate this point, the so-called seven Built Environment Professions Acts of 2000 have the Department of Public Works as its custodian/ while the Planning Profession and the Land Surveying professions are handled by the Department of Land Affairs. According to the registration of EIA practitioners/ the Department of Environmental Affairs and Tourism is designated as the custodian. 4. In the recent past the initiative by the DoW to replace the Built Environment Legislation caused an enormous and intense debate and SAICE is sensitive to the fact that professional registration in our fields needs to be integrated properly. 5. In Civil Engineering there is an initiative to develop Codes of Practice for sub-disciplines in order to "prevent" the development of a plethora of free standing registrations which not only wreak havoc with administration but also with so-called "reservation of work" requirements in terms of an Identification of Work process that is currently underway in terms of the final implementation of the Built Environment professions acts of 2000. The main problem is to address the overlaps, grey areas and so forth when it comes to who is allowed to do what. In terms of EIA | EAPs are regulated in terms of NEMA Section 24H. |

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| | | | <p>registrations, a non-integrated approach in a Department not familiar with/ or associated with for example civil engineering/ could bring about serious challenges.</p> <p>SAICE would therefore like to recommend:</p> <ol style="list-style-type: none"> 1. That SAICE and other affected or interested parties be allowed an extension of time to study the proposals. 2. That consideration be given to calling a workshop where affected and interested parties can interact and discuss issues of overlap and common concern. 3. That the various Departments as mentioned in this memorandum be invited to take part in the discussions. | <p>Body is established in terms of NEMA The Board could take this up in future</p> <p>Agree that transdisciplinarity needs to be addressed.</p> |
| 3 | General | Diane Erasmus IAIA | <ul style="list-style-type: none"> • Environmental Impact Assessment is a legal requirement for a certain activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended and the Environmental Impact Assessment Regulations, 2005. As such it has a vital role to play in the economic development of this country. To ensure the integrity of the profession, it is imperative that there is control over the practitioners undertaking and reviewing assessments, in terms of qualifications, relevant experience and opportunity for disciplinary action if required. • In light of the need for regulation of the industry, IAIAAsa fully supports the establishment of a body for the registration of Environmental Assessment Practitioners and recognises the constructive and inclusive process followed to date, culminating in the comprehensive document currently out for public comment. • IAIAAsa furthermore supports the principle that the body must be an inclusive one that is representative of the full spectrum of practitioners operating in South Africa and that it must be a body that facilitates the entrance of new practitioners into the field. While we understand that there may be certain “teething problems” experienced with a new body, we urge that the Registration Board is formalized as soon as possible. It is important that there is opportunity for the new Board to address issues and amend the constitution as and when required, according to the agreed methods. • Notwithstanding the overall support expressed, comments from IAIAAsa members reflect areas where clarification on certain issues is required, as summarised below. | Noted |
| 4 | General | Carmen du Toit & Rashieda Davids SABTACO | <ul style="list-style-type: none"> • The development and support of environmental black professionals in the built environment is key and largely includes issues pertaining to transformation and gender. • SABTACO's stance is to ensure that this new registration body is more inclusive than other established registration bodies and makes a committed effort to assist in addressing the imbalances in the country through the profession. | Noted |
| 5 | General | Theunis Meyer, SAACT | <ul style="list-style-type: none"> • I have read the documents and do not have any detailed comments at this stage, apart from stating that I support the documents. | Noted |

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| 6 | General | Margaret Wynne SAIEEG | <ul style="list-style-type: none"> There will be no comments from the South African Institute for Engineering and Environmental Geologists. | Noted |
| 7 | General | Diane Erasmus IAIA | In terms of the ECSA experience, it was found that ECSA lays great store on the point that engineers are accepted for registration by their peers, and not by bureaucrats. This principle is implicit in the draft proposal, but it could be stated upfront as a principle implicit in the document. | Agreed and noted. |
| 8 | General | Gerrie van Schalkwyk & Willie du Plessis Eskom | Eskom supports a co-ordinated effort to accredit EAPs and to maintain the integrity of the profession which makes valuable input into decision-making. These comments and suggestions are provided in this spirit. | Noted |
| 9 | General | Richard Fuggle SACNASP | The Working Group that revised the initial draft Proposals for the EAP Registration Authority is thanked for the attention given to the concerns raised by SACNASP and for, by and large, addressing these adequately. | Noted |
| 10 | General | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | 1. In general this document does not take into account the fact that consultants are employees working on projects for clients and are not members of NGOs. The requirements are onerous and should be brought in line with those of other professional registration systems e.g. Pr.Sci.Nat, engineering bodies, etc. | The requirements are no more onerous than similar registration bodies – the EAP qualification is the benchmark |
| 11 | | Peter Dacomb ACTRP | <p>Two submissions made and are related to the general consideration of registered planners in terms of SACPLAN – but not related to the detail of the proposal. The comments and of the detailed memorandum are not included here but were summarised in the covering letter</p> <ol style="list-style-type: none"> By way of introduction, it is confirmed that our Association welcomes the prospect of properly regulating the activities of Environmental Assessment Practitioners on a basis similar to the obligations which rest on Professional Planners, Architects, Engineers and the like. Professional oversight and regulation are critical to protecting the interests of those who may be affected by the activities of such practitioners and the responsibility that attaches to the task of an Environmental Assessment Practitioners deserve appropriate regulation. The manner in which environmental assessment is currently attended to is completely unsatisfactory and does not bode well for the credibility of enforcing the relevant legislation in this regard. In the context of the above, it is also confirmed that our Association is of the strong view that the primary task of an Environmental Assessment Practitioners revolves around the co-ordination of a legal and administrative process, controlled by legislation such as the National Environmental Management Act and the Development Facilitation Act, 1995. It follows that, primarily, the Practitioner must have appropriate knowledge and experience of due process, as | <p>Noted</p> <p>Agreed and noted See the criteria for registration of which EAP qualification and relevant experience</p> |

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| | | | <p>provided for in the relevant legislation and the legal framework within which such process is to be followed, with particular reference to the detailed technical aspects of the controlling legislation.</p> <p>3. Apart from the above-mentioned important point of departure, the Practitioner is required to possess sufficient knowledge and experience with regard to all relevant aspects of land registration and development. It is an undisputed fact that any and all of the activities requiring authorisation as identified in the Regulations to the National Environmental Management Act and those controlled in terms of the Development Facilitation Act, 1995 (Regulation 31), in some way or another attach to a portion or portions of land. The properties in question are, in most instances, the single common denominator which will always be found in respect of any environmental assessment procedure to be followed. Inappropriate and insufficient knowledge and experience in this regard may prove to be fatal to the successful conducting of an environmental assessment procedure in terms of the ruling legislation.</p> <p>4. With regard to the importance of the co-ordinating role to be played by the Environmental Assessment Practitioner, it follows that the Practitioner should be well versed in the multi-disciplinary aspects of environmental assessment, with particular reference to involving various specialists, dependent on the nature of the activity being assessed. This, in turn, presupposes that the Practitioner will have been trained appropriately from a multi-disciplinary perspective. Similar to the academic and professional training of a registered professional planner.</p> <p>5. It is against this background that our Association holds the strong view that any Registered Professional Planner under the provisions of the Planning Professions Act, 2002 (Act 36 of 2002, or the preceding legislation of 1984) will, by implication, qualify in respect of the above-mentioned requirements relevant to an Environmental Assessment Practitioner. These matters are common to the daily tasks and responsibilities of a Practising Professional Planner, as provided for in the Planning Professions Act, 2002 (Act 36 of 2002).</p> <p>6. In the above context it follows that, as a point of departure our Association will insist on appropriate accommodation of Registered Professional Planners who wish to be registered as Environmental Assessment in terms of the relevant Regulations without any requirement to undergo further academic training as may be envisaged by the Regulations. It is common cause that an Environmental Assessment is not a recognised profession and does not currently function under any regulatory framework, given the fact that the tasks and responsibilities of such a Practitioner are not easily defined and are of a generalist nature, similar in many respects to the generalist nature of the regulated planning profession. In this lies an important advantage in respect of the planning profession in that it is already regulated (and has been regulated since 1984). Appropriate knowledge and experience of the legal framework within</p> | <p>are key</p> <p>Reiterate the need to benchmark against qualification.</p> <p>No one automatically qualifies for registration. Regardless of qualifications, all professionals working as EAPs are required to apply for registration regardless of qualification. This includes planners should they wish to work as EAPs.</p> |

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| | | | <p>which Environmental Assessment is to be conducted, proper knowledge and experience of a multi-disciplinary approach to typical evaluation of controlled activities and appropriate knowledge and experience of matters pertaining to the land registration system and land development in a general sense are foremost in the academic training and professional practice of any Registered Professional Planner. Other aspects of Environmental Assessment will, from time to time, require the involvement of a diverse range of specialists to comply with the regulatory requirements of legislation such as NEMA and the DFA. This is no different to the typical day to day tasks and responsibilities of Professional Planners in practice and, having regard to the above-mentioned qualifications (which we believe are not necessarily present in the academic training or professional practice of any other recognised profession) this background more than adequately qualifies Professional Planners for this task.</p> <p>7. It is in this regard that the comments in respect of the Proposal on a Registration Authority for Environmental Practitioners have been approached and whilst the intended formal academic qualification for an Environmental Assessment Practitioners (as contained in the draft) would appear to be a step in the right direction (for persons other than Registered Professional Planners), we view it as equally important that such will not preclude the prospect of a Professional Planner approaching the relevant authorities for registration as an Environmental Assessment Practitioners, as aforesaid.</p> <p>8. We thank you for the opportunity to offer our comments in the above regard and whilst we applaud the initiatives with regard to regulating the environmental assessment industry, the possible exclusion of the planning profession may well prove to be unconstitutional and an unfair practice to the direct detriment to those persons active within the planning profession who wish to also participate in the environmental assessment industry for reasons as set out above. We trust that this may be circumvented by appropriate qualifications being inserted into the proposed Regulations so as to accommodate Registered Professional Planners on the basis explained above.</p> <p>We await the responses in the above regard and the further versions of the Regulations.</p> | <p>See above.</p> <p>Qualifications that conform to the Advanced Environmental Assessment Practitioners qualification will be considered.</p> |

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| 12 | General | Bernadette Vollmer SACLAP | We would like to thank particularly the working group and all parties involved in preparing the documentation to this point. We continue to support the process and look forward to continuing our involvement therein. | Noted |
| 13 | General | David Madurai DPLG | Just a quick response:- We support the proposal that all environmental consultants MUST be accredited and registered, hence a registration authority. However, there must be a concerted effort by the group of current consultants and DEAT to ensure that this consultant is not just from a specific class, creed or race. This however should be managed by a DEAT/DWAF/DLA configuration and not just DEAT. I will get back to you about the specific proposal by Friday. | Agreed |
| 14 | General | Albert Mfenyana EC DEDEA | The letter Ref 12/12/12/3, dated 23 February 2009, from the Director General of the Department of Environmental Affairs and Tourism refers. The Environmental Affairs program has reviewed the Final Draft Proposal referred to in this letter and wishes to comment as follows: 1. The proposal is very comprehensive and covers the key and pertinent issues, including the imperative for transformation of the sector. It is clear that there was extensive consultation and that the key role-players participated effectively. The document in addition also reflects key outcomes of the National Conference on EIA in South Africa which took place in November 2008. 4. We are of the opinion that both DEAT and key role-players need to be congratulated on the quality of both the process and the outcomes of this initiative. | Noted |
| 15 | General | Anthony Barnes WC DEA&DP | The establishment of an Environmental Assessment Practitioners Association in South Africa is long overdue and your Department and the Interim Certification Board for Environmental Assessment Practitioners of South Africa's efforts in this regard are applauded. The task at hand is not an easy one and the drafters of the Final Draft Proposal must be complimented on their efforts to date. | Noted |
| 16 | General | N L Sithole Mpumalanga DALA | I am satisfied with the document as submitted. It is particularly pleasing to note that there will only be one process for registration of Environmental Assessment Practitioners with reviewers and environmental assessment practitioners preparing the assessments reports not being split as was previously proposed. | Noted |
| 17 | | Christo Loots DPE | Thank you for your reminder. I am busy to study the documentation, which we received for comment. I have no knowledge of any prior involvement of our Department in this matter. Can you kindly provide me with details of any such earlier communication, between you and our Department? I look forward to hearing from you urgently. | Noted and details provided via email. |

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| Part 1: Preamble | | | | |
| 18 | General | Anthony Barnes WC DEA&DP | <p>While the preamble on page 4 touched on the need for economic recovery and redevelopment and for poverty and inequality to be addressed it fails to address the need for ecological sustainability. The vision and some of the principles of <i>People – Planet – Prosperity: A National Framework for Sustainable Development in South Africa (July 2008)</i> should be worked into the preamble.</p> <p>The following sections specifically need to be considered:</p> <p><i>Sustainable development is about enhancing human well-being and quality of life for all time, in particular those most affected by poverty and inequality. Resource use efficiency and intergenerational equity are the core principles. If this generation leaves the next generation with degraded economic, social and environmental assets and less wealth, then the result will be an unsustainable future. Fundamental to understanding sustainable development is recognizing the interdependence of our economic, social and environmental systems [between people – planet – prosperity].</i></p> <p><i>In its draft policy on a framework for considering market-based instruments to support environmental fiscal reform in South Africa, the National Treasury notes that:</i></p> <p><i>"As the South African economy continues to develop, it is increasingly important to ensure that it does so in a sustainable way and that, at the same time, issues of poverty and inequality are effectively addressed. It is, therefore, important to appreciate that it's not just the quantity of growth that matters, but also its quality."</i></p> <p><i>As the ASGI-SA strategy recognises, despite the continued upsurge in economic activity, the twin challenges of unemployment and poverty are now the focus because not enough of the country's citizens are sharing in the benefits of rising economic welfare. There is therefore broad consensus over two economic and social challenges for the second decade of South African democracy to deal with this challenge:</i></p> <ul style="list-style-type: none"> • <i>How to boost economic growth to an average 6% and to make sure that there is a more equitable distribution of economic wealth; and</i> • <i>How to eradicate poverty, including the achievement of the MDGs.</i> <p><i>A commitment to sustainable development means recognising there is now a third challenge facing the nation, namely:</i></p> <ul style="list-style-type: none"> • <i>How to decouple economic growth and poverty eradication from rising levels of natural resource use and waste per capita over time.</i> <p><i>If we fail to deal with the third challenge, we will undermine the preconditions required for boosting growth and eradicating poverty. Sustainable development makes it possible to conceptualise ways of decoupling natural resource use from economic growth strategies, thus freeing up scarce financial resources for better use. If all three challenges become the focus of attention of the developmental state, the result will be sustainable shared and accelerated growth.</i></p> | Noted. The preamble updated. |

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| Part 2: Constitution of the Environmental Assessment Practitioners Association of South Africa | | | | |
| 19 | General | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • In places reference is made to a Registrar that should be appointed and in others it implies that a Registrar has been appointed. We propose that the latter be consistently used throughout the document. • It is noticed that in places certain items have been highlighted as the subject for the proceeding next set of numbered paragraphs. This however is not applied consistently throughout the document. For ease of reading and reference it is proposed that the highlighting is applied consistently. | <p>Agreed</p> <p>Agreed, but not always possible due to the document structure. Some paragraphs do not require headings.</p> |
| 20 | Clause 2.1 | Nicole Holland & Karen Shippey, NSI/Aurecon | The registration process needs to be legally mandated for certification to be taken seriously and to be supported by EAPs. In this regard, it should not be referred to as a 'voluntary' association. We request that the definition be updated accordingly. | Registration is not voluntary. It is only the legal personality of the proposed RA that is a "voluntary association" |
| 21 | Clauses under 2 | Nicole Holland & Karen Shippey, NSI/Aurecon | We state that HDI be used and not only PDI. | PDI replaced in this draft with "black" or "female" as appropriate. |
| 22 | Clause 2.4 | Nicole Holland & Karen Shippey, NSI/Aurecon | It is evident that "black" has replaced the "HDI" and "PDI" definitions since the previous draft. We believe it is inappropriate to use such a definition in the new South Africa, and some of our colleagues personally object to the term "black" when referring to people who had no franchise in national elections prior to 1994. "HDI" and "PDI" are considered preferential and more sensitive definitions in this regard. | Redress has specifically focused on gender and race |
| 23 | Clause 2.9 | Siddiq Adams KZN DAEA | "Day" – should be more specific as Saturdays may or may not be considered as ordinary business days | Agreed. |
| 24 | Clauses under 2 | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • "Candidate EAP" is defined on page 8 as "an Environmental Assessment Practitioner who has the required formal qualification, the Advanced Certificate: Environmental Assessment Practice and meets some, but not all, of the criteria related to nature and length of professional experience necessary for registration as an EAP". • "EAP" is defined on page 9 as "an environmental assessment practitioner, namely a person responsible for the planning, management, co-ordination and review of environmental impact assessments, strategic environmental assessments, environmental management plans or any | |

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| 25 | Relating to clauses under 2 and the categories of EAPs | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • While it is supported that the officials responsible for the review of environmental impact assessments must also be registered, it does raise questions related to the competent and delegated authority as defined and specified in NEMA and the EIA Regulations. While Departments should be able to put a system in place that ensures that Registered EAPs review reports, the more senior officials who often are the delegated authority to makes the actual final decision (based on the review and submission of an official who will be a Registered EAP) might not be a Registered EAP. The same applies for appeals where the MEC, who will not be a Registered EAP, will be the appeal authority who ultimate must apply his/her mind to the merits of the case and make the ultimate decision. Based on the review process a competent authority (whether the Minister, MEC, or delegated official) must review all information submitted to them, apply his/her mind to the merits of the case and make a decision. Not all of the aforementioned persons (i.e. Minister, MEC, or delegated official) may necessary have the required educational qualification, experience or prior learning to be registered as an EAP, nor will they necessary be able to obtain aforementioned in their term in office/the post. These complications will have to be addressed. • While it is clear how EAPs as defined in NEMA and the EIA Regulations will be dealt with, it is not clear how "specialists" (i.e. a person appointed, in terms of Regulation 33(1) of GN No. R. 385 of 21 April 2006, by an EAP who is independent to carry out a specialist study or specialized process, and who, in terms of Regulation 33(2) of GN No. R. 385, must have the expertise to carry out the specialist study or specialised process) will be dealt with. The required qualifications and experience for EAPs and specialists are different and not all EAPs are specialists and visa versa. Specialists must, however, also be incorporated into the registration system. The reference in throughout the draft report to "<i>should be a respected and experienced specialists in the practice of Environmental Assessment</i>" is also problematic for this reason. A clear distinction should be made between EAPs and specialists. | <p>The requirement to be registered will include those applying their professional judgement as EAPs, i.e. the case officer or their direct supervisor. This cannot practically extend to heads of department or MECs.</p> <p>At this stage the RA will only register EAPs. All specialists are required to be registered in terms of any relevant legal requirements of their profession.</p> |
| 26 | Clause 2.10 and 2.15 | Diane Erasmus IAIAsa | <ul style="list-style-type: none"> • A REAP is defined as someone who is qualified to undertake EAs, but Paragraph 2.3 then states that the criteria for Registration of an EAP includes (2.3.2(b)) "...a minimum of three EAs or Reviews. ...". The definition of EAP (Part 2 Clause 2.10) states that an EAP is a person responsible for "planning, managing, co-ordination and review of "environmental impact assessments, strategic environmental assessments, environmental management plans or any other environmental assessment instruments introduced through legislation". Does this imply that EAs include "environmental impact assessments, strategic environmental assessments, environmental management plans or any other environmental assessment instruments introduced through legislation"? A definition of EA should be included in Part 2 Clause 2, as it is currently not very clear what an EA is, and seem to be only referring to EIA's, judging from the rest of the document, especially the registration criteria (Part 3). | <p>Added definition for 'environmental assessment'.</p> |

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| | | | <p>terms of which this is decided? Otherwise, in my view, it seems an entirely subjective process?</p> <ul style="list-style-type: none"> • Insert a definition for an EA • EAP: perhaps make it a person responsible for the planning, management, co-ordination, conduct and review of ... | |
| 31 | Clause 3.2 | Bernadette Vollmer SACLAP | In terms of the Purpose (3.2) we propose that "public interest" should be extended to include health and safety. | Noted – but will rather align with NEMA. |
| 32 | Clauses under 3.4 | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • item 3.4.3 'Set and audit academic and other qualifications and competency standards in terms of ...' Should be extended to state that ultimately all academic and other qualifications and competency standards are to be accredited by the Registration Authority so as to validate the registration of the EAP. • Suggest that 3.4.6 follows 3.4.3 as these two functions are linked. • In terms of the note in the box – The Council for the Built Environment has signed a Memorandum of Understanding with the Higher Education Quality Commission of the Council for Higher Education which recognizes that accreditation granted by the Built Environment Councils is endorsed by the Council for Higher Education, provided that all stipulated requirements and conditions are met. We propose that the Registration Authority seeks to establish a similar Memorandum of Understanding so as to expedite the process of accrediting academic qualifications. | <p>Linked</p> <p>This is intended. RA will apply to be ETQA for EAPs.</p> |
| 33 | Clauses under 3 | Anthony Barnes WC DEA&DP | <p><u>Objectives:</u></p> <ul style="list-style-type: none"> • Under objectives on page 10 it is stated that "To provide relevant authorities, development proponents and the public in general with quality assurance regarding EAPs appointed to conduct and regulate environmental assessments...". What is meant by "regulate"? The tasks of an "EAP" are already set out in the definition of an "EAP". Rather delete the section that reads "appointed to conduct and regulate environmental assessments" and simply state "To provide relevant authorities, development proponents and the public in general with quality assurance regarding EAPs by:". • Under objectives on page 10 it is stated that "To promote the empowerment of black and female professionals within the EA field and the transformation of EA practice". What is meant by "and transformation of EA practice"? Rather reword to read "To promote the transformation of the EA profession through the <i>empowerment of black and female professionals</i>". <p><u>Functions:</u></p> <ul style="list-style-type: none"> • Under functions on page 10 it is stated that "<i>The functions of the Association (and/or through its Board or committees) are to: 3.4.1 Register qualified persons as Environmental Assessment Practitioners (EAPs); 3.4.2 Establish and maintain a register of individuals who are qualified to</i> | <p>Agreed</p> <p>Agreed</p> |

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| | | | <p><i>operate as EAPs</i>". In terms of the definition of "registered", both "Candidate EAPs" and "REAPs" will "admitted and included on the register". (In this regard Section 2 on page 36 refers to "register as either a REAP or a Registered Candidate EAP".) Again reference is only made to qualification and not also to experience. The functions should be amended to read "The functions of the Association (and/or through its Board or committees) are to: 3.4.1 Register qualified persons as either Candidate Environmental Assessment Practitioners (Candidate EAPs) or as Registered Environmental Assessment Practitioners (REAPs) depending on their experience; 3.4.2 Establish and maintain a register of individuals who are qualified to operate as either Candidate EAPs or REAPs".</p> <ul style="list-style-type: none"> • Function 3.4.9 on page 11 states "Identify the type of work to be performed by a registered person". This should be amended to read "Identify the type of work that may be performed by a registered person". • Function 3.4.10 on page 11 states "Advise government or the Minister on environmental assessment issues or issues that may impact on sustainable development as necessary". This should be amended to read "Advise the relevant authorities on environmental assessment issues or issues that may impact on sustainable development as necessary". • Function 3.4.11 on page 11 states "Communicate, to government or the Minister, information on matters of public importance acquired during the course of its work." This should be amended to read "Communicate, to relevant authorities, information on matters of public importance acquired during the course of its work". | <p>Agreed</p> <p>Agreed</p> <p>Agreed</p> <p>Agreed</p> |
| 34 | Clause 3.4.9 | Bernadette Vollmer SACLAP | ..states that one of the functions of an Association is to identify the types of work to be performed by a registered person. It should be specified that this refers only to work controlled by the Board. | Agreed, but this can only be within that which is the purview of the Board or the RA |
| 35 | Clause 5.3 | Nicole Holland & Karen Shippey, NSI/Aurecon | We request that the word "all" be removed from the first sentence of this paragraph, as we believe its inclusion gives the Board <i>carte blanche</i> . | Legal advisors confirm sufficient limitation is to purpose and objectives of EAPASA. |
| 36 | Clause 5.4.2 to 5.4.2.2 | Siddiq Adams KZN DAEA | These clauses would be more suited to appear under Clause 9 | These are general powers, not of Board only. |
| 37 | Clause | Nicole Holland & | The paragraph states that "The Board will be entitled to pay any amount of the Association Funds | Sufficient limitation is |

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| | 5.4.2.2 | Karen Shippey, NSI/Aurecon | to another similar voluntary association". This makes some people uncomfortable, therefore we request clarity on what level of protection there is if this entitlement is abused by the Board. | to purpose and objectives of EAPASA. |
| 38 | Clause 5.4.2.2 | Gerrie van Schalkwyk & Willie du Plessis Eskom | The purpose or reason why the Board has the right to pay any amount to other organisations is unclear? The entitlement is very broad and may need qualification to limit abuse. | In the case that EAPASA becomes a Section 21 Company or an alternative Statutory Body, these resources would need to be transferred to support a registration function. |
| 39 | Clause 7.2.1 | Gerrie van Schalkwyk & Willie du Plessis Eskom | The provision is confusing. Will each founding member be applying on behalf of each of its member to be registered with the Association and for any member whose registration is denied membership to that founding member automatically ceases? Some of the founding members may have been created for other purposes and if a person not registered as an EAP no longer becomes a member of that founding member as a result of the provisions hereof, it may not be justifiable and constitutional. The language must be clear that the membership that ceases is of the Association for EAPs and not that of the founding member which may exist for a different purpose. | The registration system applies to individuals and not organisation. Founding members are only members for establishment purposes. They too are required to be registered as soon as a register is established. |
| 40 | Clauses under 7 | Anthony Barnes WC DEA&DP | <p><u>Members of the Association:</u></p> <ul style="list-style-type: none"> • On page 13 It is stated that "7.2.1 The founding Members will, as soon as practical, apply for admission to the Register on the basis that any initial Member whose application is unsuccessful will be deemed to have resigned his/her membership; and 7.2.2 Once the Register has been established, only people admitted to the Register will qualify for membership of the Association". It is not clear why those that were "unsuccessful", will be "deemed to have registered". Only those that meet the criteria, and are therefore "successful", should be registered. • On page 13 point 7.3 states "The Board may at any time, if it reasonably believes this to be in the interests of the Association, terminate the Membership of any person...". This should be amended to read "The Board may at any time, if it reasonably believes this to be in the interests of the | <u>Deemed to have resigned Misread?</u> |

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| | | | <i>Association and/or the practice of Environmental Assessment in South Africa, terminate the Membership of any person...".</i> | Current wording sufficiently broad |
| 41 | Clauses under 7 | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • We propose that the only members of the organization are the Board members. • The Founding Members of the Registration Authority – members is to be replaced by Organizations. • The REAPs and Candidate EAPs are NOT members as you can only be part of the Association if you are registered. | The RA will only accommodate individual members, not organisations Admission to the register, after founding stage, will mean membership of EAPASA. |
| 42 | Clause 7.3 | Gerrie van Schalkwyk & Willie du Plessis Eskom | What would be the criteria to determine the "interest of the Association". This ground of termination is vague and needs to be set out in terms that are clear to all. Breach of the code is reasonable and the code should set the criteria for or standard of conduct, which would then be the grounds for termination under 7.3. | 7.3.1 is linked to the Rule Book and 7.4.4 which is sufficiently explicit. |
| 43 | Clause 8.3 | Nicole Holland & Karen Shippey, NSI/Aurecon | It is questioned why General Meetings of the Association will be held every two years and not annually. | The Board reports annually and holds AGM every two years – seen as sufficient by legal advisors. |
| 44 | Clause 8.3 | Siddiq Adams KZN DAEA | The clause should include a condition that the interval between GMs must not be less than 18 months and not more than 24 months | Too restrictive |
| 45 | Clause 8.3 | Richard Fuggle SACNASP | For a General Meeting that will be held every two years, and which will have to entail much advance planning, provision of only 21 days notice is unreasonably short. It is suggested that advance notice of the date of the meeting and an outline agenda be provided 90 days in advance and that the final agenda be circulated 21 days before. This would enable members of the association to make appropriate changes to work schedules and make airline bookings to attend the General meetings. | Working Group recommends amending to 40 days |
| 46 | Clause 8.5 | Nicole Holland & Karen Shippey, NSI/Aurecon | It is recommended that the sentence should read that "The business of the GM will include, but not be limited to, the following." If the sentence is not reworded there may be confusion that the business of a GM is limited only to those points that are listed and leaves no room for possible other items on the agenda. | Agreed. 8.3 and 8.11 - include the business |
| 47 | Clause 8.7 | Richard Fuggle | 10% of Membership to constitute a quorum is very low, 20% is suggested as being more | Reconsidered with |

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| | | SACNASP | appropriate without being unrealistic. | legal advisor. 10% is seen as sufficient in the experience of turnout at AGMs for national bodies |
| 48 | Clause 9.3 | Nicole Holland & Karen Shippey, NSI/Aurecon | Line 4 reads "... subject nevertheless to such acts and things not being inconsistent with this constitution...". This part of the sentence contains a double negative and should say "... subject nevertheless to such acts and things being consistent with this constitution...". | Agreed. |
| 49 | Clause 9.11 | Carmen du Toit & Rashieda Davids SABBACO | <ul style="list-style-type: none"> • Our recommendation is also that all executive committees and sub-committees to have a representivity and gender condition attached to it. • Our recommendation is that the clause "as far as is practical and possible" be removed as it can become a loop hole. • "If, after election, the complement falls foul of relevant clauses, then the elected officials are authorised and mandated to co-opt members to the executive in line with the spirit of Item 9.5". | Noted. Working Group maintains that the constitution has catered adequately for representivity. |
| 50 | Clauses under 9 | Anthony Barnes WC DEA&DP | <p><u>The Board:</u></p> <ul style="list-style-type: none"> • It is stated on page 16 that the Association must seek to maintain a Board membership which comprises "9.11.1 Nine (9) REAPs of whom Four (4) should preferably be in the fulltime employment of a provincial government, Four (4) should be women and Four (4) should be black and all should be respected and experienced specialists in the practice of Environmental Assessment". What is meant by "respected"? What is meant by "specialist"? The criteria to be met before an EAP can qualify to register as an REAP implies that the person will have known qualifications and experience (thus implying "respected" or "acknowledged" knowledge and experience). "Specialist" also has a specific meaning in terms of the NEMA EIA Regulations and registration, and not all "REAPs" will be specialists. While the Board members should all be REAPs, they must not all be "specialists". The section should be reworded to delete the section that states "<i>and all should be respected and experienced specialists in the practice of Environmental Assessment</i>". The same comments apply to 1.1.1 in Schedule 4 on page 31. • On page 16 point 9.11.1.1 should read "<i>are registered REAPs</i>". In this regard see the comment above regarding both Candidate EAPs and REAPs being "<i>admitted and included on the register</i>". As already stated, Section 2 on page 36 refers to "<i>register as either a REAP or a Registered Candidate EAP</i>". <p>On page 16 point 9.11.1.5 states that the Board members must be "<i>respected for their contribution to the development of EA practice and the community of practitioners in South Africa</i>". This is a difficult one. Some REAPs might be very well experienced and highly skilled, but might not be making a contribution to the development of the practice of EA or the development of the</p> | <p>Removed specialist for clarity</p> <p>Disagree Registered EAPs</p> <p>Disagree, but will take out respected in 9.11.1.5 and replace with acknowledged,</p> |

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| | | | community of practitioners in South Africa. The same comment applies to point 1.1.1.4 in Schedule 4 on page 31. | which could be by their nominator. |
| 51 | Clauses 9.11.1, 9.11.5 and 6; 11.6; 11.7 | Nicole Holland & Karen Shippey, NSI/Aurecon | We strongly believe that the proposed composition of the Board membership and other components of the Association where numbers, in terms of race or gender, are used are completely inappropriate. Whilst it is important to encourage representation of HDI's/ PDI's, the election or appointment of members should be based on competence. We believe the proposed composition of the Board may be discriminatory, given that it is unfair to white males. Such discrimination may be considered unconstitutional. This comment refers to any paragraph or section of the Final Draft document that refers to the number of a particular race or gender required to comprise the various Boards and committees. Rather than stipulate numbers, we suggest that "minority protection" be considered, to ensure that if a particular group is in the minority that they are still heard. | Working Group disagrees. Black female representation will effectively provide space for white males. All will be registered EAPs and need to meet all criteria. |
| 52 | Clause 9.11 | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <ul style="list-style-type: none"> Representation on the Board of the Association should be based on competence rather than gender or racial criteria. Why should the membership include two community members? The rationale behind the Board membership is not apparent. 9.11.1-5 on page 16 — how will the term "respected" be assessed and decided? | As above Removed respected |
| 53 | Clause 9.11 | Diane Erasmus IAIAsa | It may be difficult to find the individuals with the required characteristics, qualities and experience stated in Section 9.11 of the Constitution, to serve on the Board, regardless of historical status. | Maybe but this is what we must aim for as EAPs |
| 54 | | Diane Erasmus IAIAsa | The implementation of a quota system on the Board may be seen as disrespectful to Black practitioners who qualify in terms of their experience and skills. | All meet full set of criteria |
| 55 | Clause 9.11. | Siddiq Adams KZN DAEA | <p>(a) It is suggestion that the phrase "and all should be respected and experiences specialists in the practice of Environmental Assessment" in this clause should be deleted as this is what a REAP is. It is suggested that the requirement for the Member from the Provincial Government should be the same as from National Government (clause 9.11.3)</p> <p>(b)It is stated that four board members must be from provincial government, why is someone from national government not mandatory?</p> | See above See 9.11.3 |
| 56 | Clause 9.15.1 | Siddiq Adams KZN DAEA | This clause would hinder the transformation process. It is suggested that the Board be elected once every two years with the system as described, i.e. 7 of the 13 resigning. | Disagree – can serve a number of terms as long as you are elected |
| 57 | Clause 9.15.2 | Siddiq Adams KZN DAEA | The clause refers to the "drawing of lots" which reflects negatively on the maturity of the Board Members. It is suggested that the "weakest link" approach be followed but using a secret ballot. | Legal advice suggests this course of action to enable |

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| | | | | swift resolution on behalf of the membership |
| 58 | Clause 10.7 | Gerrie van Schalkwyk & Willie du Plessis Eskom | This ground of removal is vague and unjustified. Criteria for removal must be clear and just. | Seen as sufficient considering supporting clauses 10.7.2 and 10.7.3 |
| 59 | Clauses under 11 | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • The composition of the Registration and Disciplinary Committee is stated, this should be done for the Professional Development and Public Relations Committee as well so as to ensure consistency. • We propose that the Committees are also mandated in the committee composition to co-opt REAPs to assist in carrying out the duty. This also ensures that when individual's term of office ends, there is a pool of REAPs who can then be nominated to the Board. This ensures succession and continuity in terms of the decisions taken by the Board. • 11.9 Registrar – be included that the Registrar's role is also to be the keeper of all records which includes but is not limited to minutes of ALL meetings, registration documentation, correspondence etc. | <p>May be too prescriptive – also not that the only mandatory committee is the registration committee</p> <p>Agree, added</p> |
| 60 | Clause 11.2.1.5 | Gerrie van Schalkwyk & Willie du Plessis Eskom | Will experienced persons registered with other bodies, e.g. SACNASP be allowed to be referees? | Yes, as long as they are REAPs |
| 61 | Clauses 11.3.2 and 2 as well as 11.3.1.2 | Nicole Holland & Karen Shippey, NSI/Aurecon | <ul style="list-style-type: none"> • In terms of disciplinary hearings, there does not appear to be any determination of the validity of a compliant, before a disciplinary hearing is required. Interested and Affected Parties may use this as a mechanism to delay a decision on an EIA. We therefore recommend that a step be added in to determine the validity of a compliant, i.e. to ensure that the complaint is not vexatious. The boards need to ask more questions regarding the validity of a complaint before going the disciplinary route. Paragraph 11.3.1.2 should accordingly be amended to remove "conducting hearings" and therefore to state "investigate complaints based on the procedures outlined in the Rule Book". | EIAs must be concluded prior to hearing. Will check with legal advisor. Included the discretionary option of investigation. |
| 62 | Clause 11.3 | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <ul style="list-style-type: none"> • 11.3.3.2 on page 20 - how does this work if the mentor and mentee are not in the same organisation? How will conflicts of interest be addressed? | It is best for a mentor not to be a direct supervisor or superior. |

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| 63 | Clauses under 12 | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • We propose that the Board has a chairperson and that each committee has it's own chairperson. If the chairperson of the Board is to chair all committee meetings the load may be quite significant and at times logistically impractical. • We assume that the chairperson referred to in 12.1 is the chairperson of the committee. We propose that this be clarified in the text. • In 12.1 it should be clarified that the chairperson is to be a Member of the Board, and that if the chairperson of a specific committee cannot chair a meeting, then another Board Member must be elected by the committee to chair such a meeting. • In 12.6 we suggest that it is clearly stated where copies of all meeting minutes are to be archived, we propose that this be with the Registrar. | <p>Agreed, not intended</p> <p>Agreed</p> <p>Don't agree – too restrictive</p> <p>Yes, the registrar</p> |
| 64 | Clause 12.5 and 13.4.3 | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <ul style="list-style-type: none"> • Part 12.5 and 13.4.3 on page 22 - there is no information on how an equality of votes will be handled. | Board Committee numbers and quorum uneven |
| 65 | Clauses under 13 | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • On page 22 point 13.4.1 states "<i>At all meetings of the Board, any matter put to the vote will be decided by a simple majority of votes, except where this constitution requires a Two-thirds (2/3) majority.</i>" No. To ensure a balance of power in terms of the membership, any matter put to the vote must be decided by a two-thirds majority of the Board members attending any quorated meeting of the Board. | Legal advisors suggest that 2/3rds appropriate for constitutional changes |
| 66 | Clauses under 13 | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • We propose that this be inserted prior to Committees of the Board for logical sequencing purposes. • We propose that the business of the Board meeting be listed as was done for the GM in section 8.5. • We propose that the Registration Committee presents the list of proposed REAPs at this meeting and that final ratification of the individuals that are to be registered are formally endorsed at such a meeting. | Operational aspects dealt with in sequence Too specific No, as reg com makes decision. |
| 67 | Schedule 4 | Carmen du Toit & Rashieda Davids SABTACO | There should be a representivity and gender clause inserted. | Is in Schedule 4 |
| 68 | Schedule 4 | Anthony Barnes WC DEA&DP | <u>Schedule 4:</u> The list of initial Board members on page 31 must contain information on the members' qualifications and experience. | To be added once we know who they are and on submission of final application to |

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| | | | | Minister. |
| 69 | Schedule 4 | Nicole Holland & Karen Shippey, NSI/Aurecon | It is unclear as to whether only the initial board needs to meet the numbers for representivity. Clarification is also requested in terms of whether members are allowed to nominate someone who does not meet the criteria stipulated in paragraph 1.1.1 of Schedule 4. | Yes, required. These criteria apply to the overall composition. |
| 70 | Schedule 4 | Bernadette Vollmer SACLAP | <p><u>Schedule 4</u>: – Initial Members of the Board:</p> <ul style="list-style-type: none"> Propose that it is stated that all Board Members will be citizens of South Africa. The two members of the wider community should not be a REAP or a candidate EAP. These individuals should be members of the public that could still demonstrate the same characteristics. These individuals should be nominated by the public through an open and transparent process of public participation. The function of the “public members” is to ensure that the Board is following due diligence in the decisions that they take. This is also in line with the composition of the other Councils of the Built Environment. The List of Initial Board Members only allows for 12 and not 13 Members. | <p>Agree</p> <p>Agree</p> <p>There are 13</p> |
| 71 | | PM Mohali J Mutyorauta, NC DTEC | <ol style="list-style-type: none"> Applicants for membership on EAPs should be given a choice of several levels, or grades, or categories of membership. Such categories could include for example: Student membership, Professional Practitioners membership, Honorary membership; and Company or institutional membership Provision should be made to recognise the need to membership in different but dedicated disciplines or professions of Environmental Practitioners, e.g., Academics and researchers; Environmental legal practitioners; Air quality management; Environmental management inspectors (Green Scorpions); Waste management; Environmental Impact Assessment; Climate Change; Environmental Awareness educators. Guidelines should be given on how a member could loose their membership or be disqualified as a member | <p>Considered but rejected in draft 2</p> <p>Only for EAPs – only one category</p> <p>See Rule Book</p> |
| 72 | 11.3.4 | Justine Sweet ELA | <p><i>Committees of the Board:</i></p> <p><i>Public relations committee</i> - shouldn't they be responsible for marketing as well?</p> | Not necessary to be prescribe, but is not excluded? |
| 73 | 11.6 | Richard Fuggle SACNASP | This clause is ambiguous as to whether it is half of the entire Registration Committee that must be black and half female, or whether it is half of the Board members to the Committee (the subject of the clause) that must be black and half female. Revision advised. | Revise to two sentences. Of those four Board members. Half of the Board members |

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| | | | | on the Reg Com must be black and half must be female. |
| 74 | 11.7 | Richard Fuggle SACNASP | It should be made clear whether the "assisting experts" are full voting members of the Disciplinary Committee or whether they are only advisors to the committee without voting rights. Clarity advised. | No they are advisory, amended |
| 75 | 11.8 | Justine Sweet ELA | <i>Appeals:</i> I wonder whether we should not restrict appeals to persons affected by a decision? I also wonder whether we should not include provision for reasons for decisions in appeals - it is already implied there, but it may be worth including a specific process for requesting reasons? | PAJA applies regardless |
| 76 | 11.9 | Justine Sweet ELA | I suggest this be given its own heading if possible? "Administration" maybe? | Agreed – change headings after this |
| 77 | 11.9.3 | Justine Sweet ELA | Maintain the register under the direction of the Board and its sub-committees | Agreed |
| 78 | 11.10 | Justine Sweet ELA | Similarly, this should have its own heading - amendments to the Rule Book? | Agreed |
| 79 | 12.4 | Justine Sweet ELA | I think it should read <i>committee</i> member | Agreed |
| 80 | 12.6 | Justine Sweet ELA | <ul style="list-style-type: none"> • I wonder whether there should not be provision for access to information for non Board/committee members in certain circumstances? I suspect that the association would constitute a public body and therefore PAJA will apply? • We also need to consider whether the privacy of members' information is adequately catered for? | PAJA applies regardless of content of constitution |
| 81 | 14.1 | Richard Fuggle SACNASP | The provision for notification to be sent via pre-paid registered post seems silly: as this clause makes allowance for notifications to be sent via fax or email (which do not require formal acknowledgement of receipt) it is highly unlikely that the Association would ever resort to using the extremely costly expedient of sending notices by registered mail. | Agreed |
| 82 | 14.3 | Richard Fuggle SACNASP | The assumption of 5 days for mail delivery within South Africa is unrealistic. Practical experience indicates that mail takes longer than this to be delivered to the country's smaller towns. A modification to 10 days is advised. | Agreed |
| 83 | 17.1 | Justine Sweet ELA | <i>Indemnity:</i> <i>Office bearer</i> - this should be defined to include the registrar, committee members and their appointed experts | Are included as such |
| Part 3: Rule Book of the EAPASA General | | | | |

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| 84 | General | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> As a general comment, the division of the Rule Book into sections is in order, however the numbering and cross referencing becomes problematic as each section starts again with 1 and not for example 2.1. Alternatively, each time a cross reference is made, the section is to be quoted followed by the referenced paragraph e.g. Section (2) 3.4. Furthermore, when cross referencing it should be consistent e.g 2.5 'Section 3, guidelines for Continuing Professional Development' then in 3.3 'meets the criteria referred to in Section 2' | If it can be cross-referenced then is fine rather than include extended numbering |
| Rule Book - Section 1 Code of Ethical Conduct and Practice | | | | |
| 85 | General | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> The reference to "registered EAPs and Candidate EAPs" on page 34 should read "registered REAPs and registered Candidate EAPs" or "EAPs registered as either REAPs of Candidate EAPs". In this regard Section 2 on page 36 refers to "register as either a REAP or a Registered Candidate EAP". | REAPs and Candidate EAPs as per definitions |
| 86 | Clause 1 | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> The first point under code of conduct on page 34 states "Environmental assessment practitioners shall carry out their professional activities, as far as reasonable and practical, in accordance with principles of sustainable development, and in compliance with the letter and intent of relevant environmental legislation". What is meant by "as far as reasonable and practical"? While some room for interpretation might exist as far as the principles terms of compliance with the letter of the relevant legislation. Delete the reference to "as far as reasonable and practical" from this section. | Disagree |
| 87 | Section 1 | Justine Sweet ELA | <ul style="list-style-type: none"> Perhaps move 8 up to below 4 - they read better together? Similarly, perhaps move 16 up to below 7 and 8 - and therefore up to below 4? Hope this makes sense! I also wondered whether, for the sake of disciplinary proceedings, there shouldn't be a catch all phrase - for example, an EAP will behave in a manner reasonably expected of a professional EAP? | Agree Clause 19 |
| 88 | Clause 1 | Richard Fuggle SACNASP | The frequent changes to South African Environmental legislation and regulations make it probable that EAPs will inadvertently from time to time breach the "letter of the law" and thus fall foul of this clause. It is recommended that deleting the words "the letter and intent of" to soften the clause without detracting from its overall intent. | Agreed |
| 89 | Clause 3 | Richard Fuggle SACNASP | It is not practical for EAPs to "ensure" that environmental considerations are included in the early stages of project development as they may not have been involved. Either the rider "to the best of their ability" should be added (as is done for point 6) or "ensure" should be changed to "advise" or "promote". | Agreed, "advise" |
| 90 | Clause 4 | Anthony Barnes WC DEA&DP | On page 34 point 4 reads "Environmental assessment practitioners shall not conduct professional activities in a manner involving dishonesty, fraud, deceit, misrepresentation or bias." This point should be expanded to also include the fact that the EAP must be independent (as defined in the | NEMA covers this requirement and set out in 8 & 9 |

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| | | | NEMA EIA Regulations). | |
| 91 | Clause 5 | Anthony Barnes WC DEA&DP | On page 34 point 5 reads " <i>Environmental assessment practitioners will clearly differentiate between facts and opinions in their work.</i> " This point should be expanded to include the fact that EAPs must also provide "a description of any assumptions, uncertainties and gaps in knowledge" (as required in terms of the NEMA EIA Regulations and Section 24(4) of NEMA which requires that EAPs must report on " <i>on gaps in knowledge, the adequacy of predictive methods and underlying assumptions, and uncertainties encountered in compiling the required information</i> "). | Prefer not to repeat NEMA which must be assumed to apply. Covered in 9 |
| 92 | Clause 7 | Anthony Barnes WC DEA&DP | On page 34 point 7 reads " <i>Environmental assessment practitioners will inform a prospective client or employer of any professional or personal interests which may impair the objectivity of their work.</i> " This point should be expanded to include the fact that the EAP must also inform the competent authority, and must also include reference to any circumstance that may compromise the objectivity (see the definition of "independence" in the NEMA EIA Regulations) or impair the objectivity of an EAPs work. While point 16 on page 35 does partly touch on "independence" when it states " <i>Environmental assessment practitioners in either public or private employ shall not undertake, review or make decisions based on environmental assessment work where they have a vested or other financial interest in decisions or actions that may arise from the assessment</i> " it does not cover the entirety of "independence" as defined in the NEMA EIA Regulations. The Regulations defines "independent" as " <i>in relation to an EAP or a person compiling a specialist report or undertaking a specialised process or appointed as a member of an appeal panel, means – (a) that such EAP or person has no business, financial, personal or other interest in the activity, application or appeal in respect of which that EAP or person is appointed in terms of these Regulations other than fair remuneration for work performed in connection with that activity, application or appeal; or (b) that there are no circumstances that may compromise the objectivity of that EAP or person in performing such work</i> ". | This is covered by NEMA. |
| 93 | Clause 13 | Richard Fuggle SACNASP | The final phrase "that may discredit the profession" implies that members may promote themselves in a self-laudatory manner under some circumstances. If this is not intended the final phrase should be deleted. | Have amended for clarity |
| 94 | Clause 16 | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • Point 16 should be amended to read "<i>Environmental assessment practitioners in either public or private employ shall not undertake, review or make decisions based on environmental assessment work where they have a vested or other financial interest in decisions or actions that may arise from the assessment, unless their work are subjected to review by an independent environmental assessment practitioner</i>". • It must be noted that in terms of the NEMA EIA Regulations an EAP must be independent, with the authority having no discretion with regard to the duty on the authority in terms of Regulation 19 of GN No. R. 385 of 21 April 2006 to either "<i>refuse to accept any further reports or input from</i> | Disagree, dealt with in NEMA Included in 17 |

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| | | | <i>the EAP in respect of the application in question" or "request the applicant to commission, at own cost, an external review by an independent person of any reports prepared or processes conducted by the EAP in connection with the application".</i> | |
| 95 | Clause 16 | Nicole Holland & Karen Shippey, NSI/Aurecon | It is unclear as to what is construed as "vested or other financial interest in decisions or actions that may arise from the assessment". Clarification is requested in terms of whether this includes, for example, the EAP being appointed after the decision to compile the Environmental Management Plan. | As above |
| 96 | Clause 17 | Anthony Barnes WC DEA&DP | On page 35 point 17 states " <i>Where an environmental assessment practitioner is employed by an organization that is either the proponent of development or stands to benefit directly from development proposed by an outside party, and undertakes environmental assessment work for that organization (so-called 'in house' work), his/her environmental assessment work must be subject to review by an independent environmental assessment practitioner.</i> " There is a conflict between point 16 and 17. | Difference between the employer and the individual |
| 97 | Clause 17 | Nicole Holland & Karen Shippey, NSI/Aurecon | Clarification is required in terms of whether "in-house" refers to the industrial/commercial sector, for example Transnet/Eskom, or whether the intention is to include an engineering company with an 'in -house' environmental department. | Yes |
| 98 | Clause 19 | Anthony Barnes WC DEA&DP | On page 35 point 19 states " <i>An EAP must conduct her/his work at the highest possible level of work reasonable to expect from a person in that position.</i> " With the overriding purpose of the Association being the promotion of " <i>the public interest through the advancement of the quality of environmental assessment practice</i> ", it is vital that the code of conduct more explicitly refers to the requirement that EAPs at all times must perform work of the highest quality. The point should be amended to read " <i>An EAP must at all times perform work of the highest quality and conduct his/her work at the highest possible level of work reasonable to expect from a person in that position</i> ". | Superfluous – work includes all times conducting work |
| 99 | Clause 19 | Richard Fuggle SACNASP | This clause should be deleted. Apart from being clumsily worded, the clause is impossible to implement. How can anyone's "highest possible level of work" be judged? And the meaning of "in that position" is unclear also. | Disagree |
| Rule Book - Section 2: Criteria and procedure for registration | | | | |
| 100 | General | Gerrie van Schalkwyk & Willie du Plessis Eskom | Of the comments included in the attachment hereto, one area that of significant concern is the ability of non-consultant practitioners such as in-house practitioners to be registered as EAPs. Some of the conditions that could hamper the registration of non-consultants include: <ul style="list-style-type: none"> • The requirements for EAPs as currently stated, especially concerning the submission of three assessments, exclude practitioners from all other sectors except for consultants; • the re-registration provision, which subjects EAPs to another assessment similar to the one for | All EAPs must be accommodated. |

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| | | | <p>initial registration will exclude practitioners from other sectors except for consultants. Re-registration should only be confined to members who allow their membership to lapse or who were previously removed for whatever grounds.</p> <p>In-house practitioners add significant value to corporate decision-making and gain significant experience managing the EIA process for developers and reviewing EIA's undertaken by independent consultants. The qualification and prior experience that would enable a person to register as an EAP should take this into account and enable non-consultant practitioners to be registered.</p> | |
| 101 | General | Diane Erasmus IAIAsa | Many EAPs who have practiced successfully for many years may not be qualified in terms of the proposals in the draft document. They are however sufficiently qualified to render their work acceptable to the Environmental Authorities. | Recognition of Prior Learning system enables their assessment. |
| 102 | Section 2 | Diane Erasmus IAIAsa | <p>Concern was expressed that the current definition means that few of the present practicing EAPs will be qualified in terms of the Advanced Certificate: Environmental Assessment Practice. It was felt that a clear distinction of criteria for registration of existing practicing EAPs and those wishing to enter the business needs to be put in place. One suggestion is that existing practitioners should not be required to obtain any additional qualifications to qualify for registration, but be accepted as founder members if experience and competence can be demonstrate as follows:</p> <ul style="list-style-type: none"> – Undertaking EA related work in a responsible position for 3 years and/or have obtained 5 RODs or EAs (success should not be based upon authorisation of the project), and – Proof of attendance at Provincial or National authority workshops on NEMA procedures. The Provincial (or National where applicable) environmental authorities could be asked to confirm which practitioners' work is of an acceptable standard. | <p>Can only have one set of standards.</p> <p>If the practitioners meet the criteria, they can qualify. Founder members have not yet been assessed and as such are not yet on the register. Their membership lapses unless they are admitted to the register within a specific period.</p> |
| 103 | Section 2 | Diane Erasmus IAIAsa | Concern was also expressed regarding the proposal that "archived" application forms/reports be submitted for "review". It was felt that this requirement may be overtly onerous in terms of time and cost involved in the reproduction thereof, and will not necessarily prove competence beyond a subjective view of writing skills. | Body of evidence will need to be submitted. |
| 104 | Section 2 | Richard Fuggle SACNASP | <p><i>Registration:</i> Revised formatting (elimination of redundant bold font) is required in this section.</p> | Agreed, in relevant parts |

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| 105 | Section 2 | Diane Erasmus IAIAsa | How will Environmental Officers in Industry meet the requirements of "Reviews", as they do not undertake EIAs, but rather review work of the consultants before submission to the authority? | Will be accommodated in terms of experience on EIA processes. |
| 106 | Section 2 | Diane Erasmus IAIAsa | How will the scenario of a "registered" official leaving government service to undertake EIAs in private practice be accommodated? Will such individuals be automatically registered or will they have to apply for registration as EAP? | There are no separate categories so with the relevant experience; they could work within relevant areas. |
| 107 | Section 2 | Diane Erasmus IAIAsa | Will international EIA's be deemed acceptable in obtaining certification? | Depending on the specific circumstances, probably, so long as the candidate meets all of the criteria. |
| 108 | Section 2 | Diane Erasmus IAIAsa | Many EAPs are currently registered with other professional bodies, such as SACNASP where EAPs can register under the category of Environmental Science as this category specifically allows for Environmental Impact Assessments as per definition below as well as the registration requirements. Such an EAP would have already passed an evaluation of competence and experience and would subscribe to a certain code of conduct, which in most cases are very similar to what is suggested for the registration of EAPs. The registration with another professional body and their opinion of the candidate should count heavily in favour of the candidate. | The new Board will ultimately make a decision as to how to deal with EAPSA, SANCASP and SACLAP EA registered candidates |
| 109 | Section 2 | Diane Erasmus IAIAsa | If the registration criteria (as listed the SACNASP information brochure) have been met and the EAP has practiced successfully as a registered professional, surely this is an adequate criterion to be registered as an EAP? | As above. |
| 110 | Clauses under 1 | Bernadette Vollmer SACLAP | 1.1 We propose that this read 'Any person may not practice as an EAP unless s/he is registered as a Candidate EAP or REAP'. 1.2 We propose that this read 'A person who falls into the category of Candidate EAP, can only perform work on EA under supervision or mentorship of a REAP.' 1.3 We propose that this read 'REAPs will have to apply for re-registration every five years. | Agreed. Agreed. Agreed |
| 111 | Clauses under 2 | Bernadette Vollmer | 2.1 (b) Should read 're-registration of REAPs' 2.1 (a) states Registration of Environmental Assessment Practitioners and Candidate | Agreed. Not appropriate. |

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| | | SACLAP | Environmental Assessment Practitioners – this heading should be repeated in its entirety in section 2.2 and 2.3 so as to avoid confusion. | |
| 112 | Section 2 Clauses 1.4, 2.3, and 2.4 | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <ul style="list-style-type: none"> • Under summary of criteria for registration, it seems that only experience in undertaking EIAs is relevant. What about EMFs, SEAs, basic assessments, environmental auditing etc. (those are, however, mentioned earlier as recognised tools)? • There is no mention of the social element of assessments. International standards adopt environmental and social impact assessments (ESIAs). • Will public participation practitioners be able to apply as EAPs? • Will EIAs undertaken in terms of NEMA be the only EIAs considered? What about EIAs undertaken in other countries and/or those undertaken in terms of the MPRDA only? • 1.4.2 on page 36 - will other qualifications such as M.Phil(Env) not apply? • 2.3.1 on page 37—does it mean that relevant degrees are inadequate? • 2.3.2b on page 37 - "appropriate" of appropriate scale should be clearly defined. • Part 2.3.2b on page 37 — states "the required level of competence given the context of the EAs in each of the Exit Level Outcomes...": how will this be judged? • 2.3.2b on page 37 - how will ELO 1-6 be measured? • 2.4.2a-c and 2.4.3 on page 38 ~ We recognise that this system is based on continued professional development system of the engineering council, and while we respect the principle, we have concerns regarding the allocation of points. We feel that additional points should be allocated for short courses and attendance of conferences. • 2.4.2a-d and 2.4.3a-e on page 38 - are the listed "and's" or "or's"? • 2.4.3c page 38 - does the mentoring of candidate EAPs need to be formalised? • 2.4.2d on page 38 - how can evidence be provided of the informal learning activities? | <p>It is not limited to EIAs, s 24 of NEMA. The RA is not registering specialists, only EAPs. MPRDA, depending on cases Not necessarily Not necessarily Depends on case In terms of RPL system As above The Board may consider/adopt a weighting system</p> <p>Or ,but not exclusive Yes Plan and report templates</p> |
| 113 | Section 2 | Siddiq Adams KZN DAEA | <p>Recognition of Prior Learning: This is not properly discussed and details of how it will be assessed are not provided. The procedures need to be clearly outlines so that the following questions are addressed:</p> <ul style="list-style-type: none"> ii Who will conduct the assessment ii What format will the assessment take; and, iii How long will the candidate be subject to the assessment before being certified as competent? <p>Suggestions: It is advisable that the institutions of higher education that are authorised to provide EAP qualifications be responsible for assessments for the recognition of prior learning. These institutions are accredited and will be acceptable.</p> | <p>Agreed. Development of the RPL System Assessors on the Registration Committee To be defined These institutions will be partners</p> |

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| 114 | Section 2 Clause 2.3.1 | Diane Erasmus IAIAsa | Part 3 section 2.3.1 (b) states that the Advanced Certificate: Environmental Assessment Practice can be issued by a competent and accredited assessor. It is stated in the preamble of part 2 that adequately trained assessors to conduct assessments for recognition of prior learning must be in place, and paragraph 2.2 (c) states that the deadline for registration will depend on the time required to enable an adequate geographical spread of available competent assessors for 'recognition of prior learning'. However, nowhere in the rest of the document is any reference made to these 'assessors'. There is no section or provision dealing with the 'accreditation' of assessors, or the qualifications of assessors, apart from stating that they must be REAPs. This could create a problem, as those with the necessary experience to become assessors are those who have no formal qualification, and would need to be assessed by assessors! A perpetual loop is created.... | The Assessors are trained members of the Registration Committee Development of the RPL system The Registration Committee needs to meet the requirements set out in the Constitution. |
| 115 | Clause 2.3.1 | Gerrie van Schalkwyk & Willie du Plessis Eskom | <ul style="list-style-type: none"> • It appears that the Advanced Certificate: Environmental Assessment Practice, NQF level is the only qualification that will enable a person to register as an EAP. Taking into account the various qualifications that are available currently, why are other relevant qualifications that may have been obtained until the new course becomes available be recognised. Does this mean people without the Advanced Certificate will be barred from registering irrespective of any other qualification they may have obtained prior to the new course being offered? Is the Advanced Certificate the only formal qualification that a person must have to qualify for registration? • In-house Environmental Management Officers do not undertake EiAs due to legislative limitation of independence. They review work of the external consultants before submission to the authority. Will this type of review meet the requirements of "Reviews" and prior learning to entitle them to be awarded the Advanced Certificate? | People will be assessed in RPL system against the qualification. Being awarded the Certificate is part of meeting Registration Criteria; experience and Code of Ethics |
| 116 | Section 2 Clause 2.3 | Siddiq Adams KZN DAEA | <p>(a) The combination of candidates that are responsible for conducting EAs with those that review EAs is considered problematic. Differing skills must be recognised as such and adequate provision made to ensure a uniform level of competence.</p> <p>(b) To ensure that candidates that apply for registration as EAPS are competent at both conducting and reviewing EAs is suggested that, in addition to the professional experience stipulates in Annexure 2(A), they be required to provide details of professional experience of both. Where a candidate has been primarily responsible for either conducting or reviewing EAs, details of formal training including professional mentorship to address a lack of experience must be provided. It is suggested that such training be provided by a recognised institution and be</p> | Agreed. Provision made by Candidates needing to have work signed-off by REAP Candidates can be reviewers or assessors /consultants |

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| | | | completed prior to the registration of the candidate. | |
| 117 | Section2 Clause 2.3.1 | Siddiq Adams KZN DAEA | <p>(a) In order to accommodate the existing SEO specific to the Environmental Impact Assessment Components Nationally, and those currently practicing within the impact assessment components of DAEA and /DEAT, this clause can also include all SEO employed before 2009, as well as those employees that were selected to advance their skills and qualifications via the Department's in-house bursary programme through full-time and part-time university admission.</p> <p>(b) Furthermore, only South African Universities, Technikons, and SAQA accredited service providers, <u>must</u> form part of the basic requirement for registration. In <u>Recognition of Prior Learning (RPL)</u>, skills training and courses undertaken at these institutions must be undertaken <u>for a minimum of 6 months only</u>. These will include undergraduate qualifications, post-graduate study including skills training and courses must be specific to include:</p> <ul style="list-style-type: none"> • Environmental Impact Assessment • Environmental Law • Sustainable Development • Project Management • Geography and Sciences <p>To indicate competence, a pass mark must be obtained and accreditation must be provided by the institution. The Advanced Certificate of Environmental Assessment must have levels (entry to advances) of competency attached to them. And it should be required that those who do not have any background qualifications undertake the study. Those already practicing should use the Advanced Certificate of Environmental Assessment (year specific) as a tool for re-registration.</p> | Noted See published final qualification. |
| 118 | Clauses under 2 | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • On page 37 point 2.1 states "<i>Criteria will be developed and amended from time to time by the Board in consultation with members of the Association and other interested and affected parties, for registering and reregistering EAPs.</i>" The draft criteria and amendments to criteria must be approved by the Minister prior to adoption. • On page 37 point 2.2(d) must be amended to read "<i>the time required to consider the applications for registration by existing practitioners.</i>" • The criteria for registration, dealing with both qualification and experience, under point 2.3 are supported. Point 2.3.4 on page 38 which reads "<i>In addition, registered EAPs and Candidate EAPs would need to formally undertake to conduct themselves in a responsible and ethical manner in</i> | The Minister must be informed and decide whether the RA is still recognised No. Meaning specific No. Specific as is. |

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| | | | <p><i>accordance with the Code of Ethical Conduct and Practice</i>" should, however, be amended to read <i>"In addition, EAPs registered as REAPs and Candidate EAPs must conduct themselves in a responsible and ethical manner in accordance with the Code of Ethical Conduct and Practice"</i>.</p> <ul style="list-style-type: none"> On page 38 point 2.5 states <i>"The Board will determine the number of continuing professional development and skills transfer units that can be credited in terms of each of the above activities, and the total number of units that will be required during each five year period of registration."</i> <p>The number of continuing professional development and skills transfer units and the total number of units that will be required during each five year period should be approved by the Minister.</p> | As above |
| 119 | Clause 2.3.2 | Nicole Holland & Karen Shippey, NSI/Aurecon | The minimum of 3 EIA`s for registration as an EAP seems too low. | Appropriate together with 3 years |
| 120 | Clause 2.4 | Gerrie van Schalkwyk & Willie du Plessis Eskom | Re-registration should only be confined to members who allow their membership to lapse or who were previously removed for whatever grounds | Re-registration refers to meeting the CPD requirements on a 5-year cycle |
| 121 | Section 2.4 | Diane Erasmus IAIAsa | Part 3 Section 2.4 makes use of the term "re-registration". This appears inappropriate as the bullets underneath this item would suggest a review of registration after 5 years. This word should rather be confined to instances where an EAP has previously lost membership for whatever reason (e.g. allowed it to lapse, suspended etc). No good standing EAP meeting the CPD requirements should be asked to re-register, but rather to re-new. | As above |
| 122 | Section 2.4 | Diane Erasmus IAIAsa | It appears that the criteria currently proposed for registration excludes all other environmental practitioners (Academia, Industry, NGO's. etc), except for consultants and government officials. Was this the aim? | It specifically refers to EAPs, as individuals define themselves in terms of the criteria and in NEMA |
| 123 | Section 2 2.4.3 | Diane Erasmus IAIAsa | Concern was expressed regarding skills transfer (Part 3, Section 2.4.3). This may be difficult for practitioners operating on their own to achieve. The giving of talks, lectures, and training sessions was not felt to be necessary for qualification as an EAP and small consultancies do not always have scope to mentor candidate EAPs. How would such mentorship be monitored? | Mentorship is to be planned, structured, and reported. System to be established. |
| 124 | Clause 2.6 | Nicole Holland & | Reference to annual payment of fees has been removed. Clarification is requested in terms of | Annual membership |

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| | | Karen Shippey, NSI/Aurecon | whether annual fees will need to be paid or whether registration/ re-registration fees will only need to be paid every five years. | fees will be required and registration fees on a five-yearly basis to cover admin costs. |
| 125 | Clauses under 3 | Bernadette Vollmer SACLAP | 3.1 & 3.2 – propose that it states that all applications are to be addressed to the Registrar so that the port of entry is the same for all applications for tracking purposes. | Agreed. |
| 126 | Clauses under 4 | Bernadette Vollmer SACLAP | 4 – Cancellation of Registration – propose that it be included that if a REAP's or Candidate EAP's registration is cancelled that the registration certificate be returned to the Registrar. | Agreed |
| 127 | Clauses under 5 | Bernadette Vollmer SACLAP | 5 – Registration Process: <ul style="list-style-type: none"> • we propose that the actual date on which the legislation is passed is included in this paragraph for ease of future reference. • 5.6 We propose that only the names of the REAPs and Candidate EAPs with the registration number appears on the website and that all other contact details be made available on written request to the Registrar. | Not possible as application needs to be submitted to Minister by Board Members privacy needs to be protected |
| 128 | Clauses under 6 | Bernadette Vollmer SACLAP | 6 – Referees: Registration Board should be replaced with Registration Committee | Agreed |
| 129 | Clause 6.1 | Richard Fuggle SACNASP | Delete "and" between anonymous and independent. Only two referees are required that are both anonymous and independent. As written, four referees, two anonymous and two independent, are required. | Agreed. |
| 130 | Section 2 Clause 6.1 | Siddiq Adams KZN DAEA | <u>Referees</u> : This clause should read" Each individual applying for registration will be assigned two anonymous and independent referees, <u>who would be REAPs</u> , by the Registration Board". If this amendment is accepted then in clause 6.2 "Referees should be REAPs who are respected by their peers for their expertise and ethical conduct and should be individuals who clearly satisfy all the registration requirements" should be deleted. | Agreed. |
| 131 | Clause 6.1 | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | 6.1 on page 40 — why is there no opportunity to nominate a sponsor known to the applicant who can assist in motivating candidate application? Other professional bodies ask you to nominate referees who have worked with you as review of your practice should be more than just a review of report completed. | Working Group believes that anonymity enables independence |

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| 132 | Section 2 Clause 6.1 | Diane Erasmus IAIAsa | Concern was expressed that the proposal to sponsor practitioners is not fair or practical for EAPs who consult as individuals. Certain practitioners may be in a position where their work is not known to other practitioners and only the Provincial (or National) authorities can make comment on the quality of their work. | Referees are assigned. |
| 133 | Section 2 Annexure 2A | Siddiq Adams KZN DAEA | Summary of criteria for registration: For a government employee to be registered as a Candidate EAP, it is suggested that it should be sufficient to be employed as an assessing officer, as well as to be mentored for two years by a REAP. | Disagree, must be appropriately qualified and signed up for three years. Same for all EAPs |
| 134 | Annexure 2A) | Anthony Barnes WC DEA&DP | <u>Annexure 2A) Summary of Criteria for Registration:</u> Under professional experience on page 41 it is stated that the Candidate EAP must be " <i>Signed up for up to 3 years relevant professional experience under professional mentorship of a registered EAP and including a practical programme arranged to enable demonstration of competence in practice based on the exit level outcomes and criteria specified in the Advance Certificate as well as undertaking by supervisor to provide referees report</i> ". If the person already has a number of years of experience to begin with, then less than 3 years of relevant professional experience under professional mentorship of a registered EAP might be required. | Agreed, there can be case specific issues relevant for an application. Will ensure that this is clear. |
| 135 | Annexure 2B) | Bernadette Vollmer SACLAP | Summary of the Three Step Registration Process. Step 1: <ul style="list-style-type: none"> • Application form to be completed to register as a REAP • surely only a REAP will be able to re-register • Include the person that that the application is to be addressed to e.g. Registrar, Secretary, Chairperson of the Registration Committee. | Agreed, should be REAP Agreed. |
| 136 | Annexure 2B) | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <ul style="list-style-type: none"> • Step 1 on page 42 - in the table it states "Copies of 3 Assessments or Reviews in which you held primary responsibility". These documents can be lengthy and we suggest that electronic copies be allowed for submission. • Step 1 on page 42 - in the table it states "evidence on contribution to skills transfer, capability building and awareness raising". This is subjective and difficult to measure. | Agreed. Specific, reported evidence. |
| Rule Book – Section 3: Continuing Professional Development | | | | |
| 137 | General | Anthony Barnes WC DEA&DP | <ul style="list-style-type: none"> • The guidelines for Continuing Professional Development in Section 3 are supported. The allocation of points as well as the minimum number of required points, however, requires careful consideration. | Weighting can be reconsidered by Board. |
| 138 | General | Carmen du Toit & Rashieda Davids | ...must include the transformation of skills and the development of young Black environmental professionals, in particular, from registered members. | Included. |

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| | | SABTACO | | |
| 139 | General | Nicole Holland & Karen Shippey, NSI/Aurecon | The CPD system is incredibly onerous, with a large amount of administration required to support the system. Whilst our organization supports the notion of CPD, we do not believe it should be forced upon EAPs immediately. We believe it should be a gradual process whereby EAPs are encouraged initially. The system should be developed over a period of time and brought in at a later stage. | It will take some time to phase in, however, as soon as EAPs are registered, they should be planning and keeping records of CPD activities |
| 140 | General | Bernadette Vollmer SACLAP | <ul style="list-style-type: none"> • The title should be amended to Guidelines for Professional Development and Continuing Professional Development. • CPD is only required from REAPs, all references to EAPs should therefore be amended. • The CDP document clearly sets out the criteria but the evaluation thereof and why whom is not included. This is briefly alluded to in Section 11.2.1 and 11.3.3 of the Constitution. We feel it may be worthwhile to elaborate on who evaluates the Professional Development and who evaluates the CPD in this section as well. • We propose that as for the application forms, an address and contact person should be included for the Professional Development and CPD forms that are to be returned to the Registration Authority. | <p>Agreed.</p> <p>Registration Committee</p> <p>Agreed, this is the basis for re-registration</p> |
| 141 | Section 3 Clause 4 | Siddiq Adams KZN DAEA | The sentence must read "...and will thus strive to meet..." | Agreed. |
| 142 | Annexure 3B) | Tim Hart, Andy Smithen, Briony Liber, Nadia Mol SRK | <p>Page 49:</p> <ul style="list-style-type: none"> • Area 1, key CPD activity 4 - daily records and personal declaration are open to abuse. • Area 2, key CPD activity 1 and 2 - if judged as points per hours, points per hour should be increased in some instances (see point 24) and preparation time must be included. • Area 2, key CPD activity 2 - this is not rational as there are too many EAPs. • Area 2, key CPD activity 2 - states "Points per hour of actual face to face presentation and allow for time of preparation of the lecture material". This is a confusing statement. • Area 2, key CPD activity 5 - this requires permission from the client. • Area 2, key CPD activity 7 - why is pro bono work given so much importance? | Point system can be reviewed. |
| Rule Book - Section 4: Disciplinary committee procedures | | | | |
| 143 | General | Nicole Holland & Karen Shippey, NSI/Aurecon | It is recommended that there should be opportunity for anonymous tip offs to report EAPs who contravene the Constitution and the Rule Book. Clarity is required in terms of whether anonymous complaints can be made. | There is nothing preventing anonymous tip-offs. |

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| 144 | Section 4 Clause 1 | Richard Fuggle SACNASP | <ul style="list-style-type: none"> • In the case of disciplinary procedures it would be advisable for the written notice to be delivered by registered mail to ensure that the notice is received and that there is a written record of its receipt. An emailed, faxed or mailed notification provides no evidence that the notice has indeed been received— something that is important in disciplinary cases. | Agreed. |
| 145 | Clause 3 | Nicole Holland & Karen Shippey, NSI/Aurecon | The paragraph states that a “member is entitled to be represented at the disciplinary enquiry by a fellow member... The member is not entitled to any other representation”. It is considered unconstitutional to not be able to take a lawyer to the disciplinary enquiry. In order to ensure equality and fairness, the disciplinary committee should then also not be allowed to have a lawyer present. | The Committee can allow legal representation to enable procedural fairness |
| 146 | Section 4 | Justine Sweet ELA | <ul style="list-style-type: none"> • 2 - fair warning? Perhaps we should insert time frames so that there is no debate about it? • 3 - I wondered whether we should not delete the description of what type of representations might be acceptable and thereby not curb discretion unnecessarily? • 4 - for more serious offences, should the prosecutor be entitled to legal representation/assistance on a similar basis to 3? • I think item 10.2 is superfluous. • 10.4 - change Association to the Registrar? Insert a definition for the Registrar in the Constitution? • 10.6 - where there's a failure to attend, perhaps we should allow for representations to be made for a re-hearing? or should they then just be entitled to appeal? • General: should there be a requirement that proceedings remain confidential until a decision is made? Once a decision is made, should it not be communicated by the Registrar to DEAT? | <p>Agreed. Agreed.</p> <p>Agreed.</p> <p>Agreed. Agreed. “May”allows for appropriate discretion/appeal</p> <p>Agreed, the register is updated to inform relevant authorities</p> |
| 147 | Section 4 Clause 10.3 | Anthony Barnes WC DEA&DP | The reason for a fine as provided for under point 10.3 on page 52 is not clear. With suspension implying removal from the Register and not being able to practice (in terms of taking on new work or continuing with existing work), this should be enough of a sanction. | Fines are discretionary |
| 148 | Section 4 Clause 10.3 | Richard Fuggle SACNASP | It is recommended that the final section of this clause, following the numbered sections, be carefully reconsidered and possibly deleted. (The section in question makes provision for fines to be levied, in addition to other sanctions). This raises several issues: To whom will the fines accrue and for what purpose? Why are fines necessary if the sanction of stopping a Member’s income, either temporarily through suspension, or permanently through expulsion, is in place? The range of income received by EAPs ranges so greatly that it will be very difficult, if not impossible, for the Board to stipulate fines that are fair and reasonable to all members. | Fines are discretionary and may be necessary in the case of suspension of registration |

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| Rule Book - Section 5: Appeal procedure | | | | |
| 149 | Section 5 | Justine Sweet ELA | <ul style="list-style-type: none"> • 1. I think it should read within 30 days of the decision and/or reasons (see previous comments about including a provision which allows for reasons to be requested) - same argument re. • 11 - I am not sure it is appropriate for decisions to be final and binding - in my view, the Association could well be considered a public body and therefore a review would lie against a decision of the Appeal Board? • General: insert a reference at the start of the rule book which says that definitions in the rule book are the same as in the constitution? | <p>Agreed.</p> <p>Agreed - PAJA applies</p> <p>Agreed.</p> |
| 150 | Clause 3 | Anthony Barnes WC DEA&DP | Point 3 on page 53 should also provide for "within 30 days of receiving" the answer. | Agreed |
| Part 4- Proposed structure | | | | |
| Part 5- Business plan and budget | | | | |
| 151 | General | Diane Erasmus | Furthermore, the business plan does not make provision for appointing or accrediting these assessors, or the cost associated with utilising their services to assess potential REAPs. It is suggested that some provisions be included to cater for the accreditation of assessors, specifically potential assessors who themselves do not have the Advanced Certificate | The revised Business Plan will include training for assessors |

2. INDIVIDUAL COMMENTS:

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| 152 | General Fees & CPD | Patrick Sithole | <ul style="list-style-type: none"> • Thumbs Up!!! Well done! • The final report has generally covered my previous areas of concern as well. However I have one point that I felt may need commenting on; • EAP Fee Structure: I strongly feel that without this we will never get the respect that we deserve in this field. Professional Engineers have a fee structure based on the value of the work and so should we. • On a separate note as a Professional Scientist with SACNASP, I have already been approached by a number of people who want me to mentor them in preparation of the EAP registrations. My question is, will the new Board/Authority consider this during registration? | <p>This issue was considered by the WG which feels that it makes EIA's unaffordable.</p> <p>Yes</p> |
| 153 | | Individual comment: John Matthews | <p>Amongst other things, I am an Environmental Health practitioner registered as such at the Health Professions Council of South Africa.</p> <p>The Professional Board for Environmental Health Practitioners (EHP) has existed for many years and represents the profession.</p> <p>Environmental health practitioners have managed and continue to manage the environment. The</p> | |

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| | | | <p>profession has been in existence since the early 1900's and have been responsible for the protection of our environment from inception. Environmental assessments only became "popular" in the last few years. The EHP has been doing this work for many years, but it has not been called EIAs. Thirty years ago I was doing "EIA" but it was not called this then. As with all things EIAs have developed as our knowledge expanded. The reports were less volumous back then. Many years ago the Professional Board decided not to enforce strict control over others doing the work of EHPs. This was a mistake. We allowed others to poach our work without applying sanction. Turf wars started as others tried to limit the scope of work carried out by the EHP. This lead to the lack of co operation in those days between the Departments of Health and Environment.</p> <p>The proposed course of action your group envisages is limiting to the EHP who are registered and who have been doing this work for longer than any of the members you wish to register. The proposal in fact could impact on their ability to practice in the field they established many years ago.</p> <p>The published proposal is flawed, as the EHPs are not represented and they are a major stakeholder in the environmental protection field. EHPs are registered by a statutory body and they are highly qualified in the field. Most EHPs have at least four years of academic training in aspects of environmental control.</p> <p>I would suggest that before you proceed you contact the Professional Board for Environmental Practitioners with a view to starting a dialog with them on this matter. I would further suggest that you consider using this body to register Environmental Assessment Practitioners.</p> | <p>EHPC has been approached and included on Qualification Team.</p> <p>NEMA has different requirements.</p> |
| 154 | | Individual comment Paul Hardcastle | <p>Preamble:</p> <ul style="list-style-type: none"> • 1st bullet under par. 5. Not appropriate that the 1st bullet refers to inequalities. Although addressing inequalities is important, the main focus has always been Quality (i.e. 2nd and 3rd bullets to be mentions first) <p>Definitions:</p> <ul style="list-style-type: none"> • There are discrepancies between the definitions of EAP, Candidate EAP and Registered EAP: • The definition for Candidate EAP refers to experience (or lack thereof) but the REAP not. • The definition of EAP is much wider that the other. Why and what is the implications thereof? • Definition of a REAP only refers to "undertake environmental assessments". What about review of EAs. I recommend that the REAP be deleted. • It is recommended that the documents only refer to an EAP of Candidate EAP. In other words, a person can only operate as an EAP once he/she is registered, but do not refer to a Registered EAP, or REAP. | <p>Will consider</p> <p>REAPs must accommodate all – consultants, officials, etc.</p> |

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| | | | <ul style="list-style-type: none"> • Senior departmental officials who often are the delegated authority for final decision making may not have the necessary qualification (or even experience) to be a registered EAP. The EIA report will therefore be reviewed by REAPs, but the final decision will not be taken by an REAP. • The same situation may occur during appeal processes. This concern must be addressed. Paragraph 3.4.1. only refers to the registering of REAPs. What about registering persons as Candidate EAPs? <p>Paragraph 3.4.2. only refers to a register for REAPs. What about keeping a register for Candidate EAPs?</p> <p>Part 3: Rule Book Section 1: Code of practice:</p> <ul style="list-style-type: none"> • Par 10: Rephrase to also cater for review: "Environmental assessment practitioners must take responsibility for the findings of the environmental assessment or review for which they are responsible. (It is noted that the environmental assessment practitioner cannot be held responsible for decisions made by other parties, purportedly based on the findings of the environmental assessment or review.)" • Par 12, 16 and 17 must be amended in the same manner to also cater for review functions. • The requirement for independence must be added to the Code of Practice. The requirement for independence is also a legal requirement, making it even more relevant for inclusion. <p>How will complaints regarding the misconduct by EAPs be dealt with. To whom must such complaints be addressed to and when. I am concerned that any party that is unhappy with an EIA process could submit complaints during the EIA process (demanding that the investigation be done before the EIA process continues). I would suggest that investigations of complaints regarding unethical behavior or misconduct should not be linked to any statutory EIA process, thereby ensuring that such complaints are not misused as a form of objection in the EIA process against any specific application.</p> | <p>Case officers and practicing EAPs will need to be registered. Agreed</p> <p>Agreed.</p> <p>Agreed.</p> <p>Agreed Covered more specifically and in NEMA</p> <p>See sections 4 & 5 of Rule Book. RA can only hear case after NEMA process completed.</p> |
| 155 | General, Registration criteria, Board function and funding | Nigel Coni | <p>1. General</p> <p>1.1 I think the document is an excellent piece of work ! Thorough, comprehensive, complete. My compliments to the authors.</p> <p>1.2 However I do have some concerns, which relate to the workability of the proposal in the SA context.</p> <p>1.3 I am responsible for this very same process for the registration of chemical engineers in the Engineering Council of South Africa, so I feel I have some experience to offer. While on the ECSA experience – ECSA lays great store on the point that engineers are accepted for</p> | <p>Noted</p> <p>Ultimately the Minister Recognises the RA through</p> |

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| | | | <p>registration <u>by their peers</u>, and not by bureaucrats. This is implicit in your document, but it may be worth stating somewhere as a principle. ECSA has just gone through a challenge to its autonomy by the Minister of Public Works, who wanted the minister to decide what the requirements for registration are.</p> <p>2. The requirements for a REAP seem very high</p> <p>2.1 I have not studied the qualification standard, but the ELO's given in Rule Book Section 2 Criteria for Registration seem to be quite advanced (higher than Level 7, which is diploma, I understand). I suspect that few current EAP's meet that standard. The outcomes are all perfectly valid and desirable, but if only a handful of people meet the standard, then the whole thing will not get off the ground. It may be that the ELO's are just couched in 'SAQA speak' ("demonstrate the ability to think holistically, systemically, systematically, spatially in an integrative manner ..." – while walking on water, no doubt), and that the real outcomes will be more modest.</p> <p>2.2 In engineering it is more of a 'minimum requirements' thing for registration, rather than having to be 'at the top of your game'.</p> <p>2.3 How many REAP's does SA need ? My guess is that there are about 400 practicing now. We all agree SA does too many EIA's, so the number should come down. Say 300 (I use this number in 4.3 below).</p> <p>3. Board function</p> <p>3.1 Board and committee members need to be absolute paragons of EIA practice (Constitution 9.11)</p> <ul style="list-style-type: none"> • conceptual and practical understanding of SD • in-depth knowledge and experience of competencies for EA in SA • knowledge of law, policy and regulations • respected contribution to development of EA practice <p>3.2 I count the people I know who meet that standard on the fingers of one hand, may be two. I certainly do not qualify. My concern is that I think it will be difficult to get these 'shining lights' to volunteer for Board service.</p> <p>3.3 At the same time there is a requirement that HDI's are in the majority. It will be even more difficult to find the above qualities in that group.</p> <p>3.4 Serving on these committees takes lots of time, not just attending the meetings, but doing the work of the committee. I know because I serve on 3 such committees for ECSA. As a result it takes years to get anything done. In the end most of the work seems to get done by a few retired or dedicated individuals who make it their life's work.</p> | <p>accepting its system in terms of NEMA S24H</p> <p>Honours level (3/4 years of Study)</p> <p>Set as minimum requirement and seen as less onerous than EAPSA criteria</p> <p>Under-estimate – excluding government and parastatals?</p> <p>Different view on the sector</p> <p>Many in government practice and private practice. Agreed, work needs to be compensated.</p> |

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| | | | <p>4. Funding</p> <p>4.1 Is it the intention that EAPASA will be self funding i.e. no government subsidy ?</p> <p>4.2 A budget has been prepared giving running costs of R 3m per year.</p> <p>4.3 Then to support the running costs of R 3m with 300 REAP's (see 2.3 above) the annual fees will have to be R10, 000 per year. C.f. Pr. Eng. R 2000</p> | <p>Self-funding with initial support from government/funders Agreed.</p> <p>It is assumed fees could be in the region of R1000 – R2000 per annum</p> |