

Environmental Law

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In this issue

SOUTH AFRICA

Revised guideline on climate change implications in environmental permit applications released for comment



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Revised guideline on climate change implications in environmental permit applications released for comment

On 24 October 2025, the Minister of Forestry, Fisheries and the Environment published the revised draft National Guideline for the Consideration of Climate Change Implications in Applications for Environmental Authorisations, Atmospheric Emission Licenses and Waste Management Licenses (2025 Draft Guideline) for comment.

The first version of the guideline was published in June 2021 (2021 Draft Guideline) for stakeholder input, with the revised version now reflecting the amendments made based on comments received, with some of the key changes addressed below.

Alignment with the Climate Change Act and updated legal context

The 2025 Draft Guideline makes explicit reference to and incorporates relevant provisions of the Climate Change Act 22 of 2024 (Climate Act), which was still a draft bill when the 2021 Draft Guideline was published. As such, once the applicable sections of the Climate Act commence, any climate change impact assessment (CCIA) or decision on an environmental authorisation, waste management licence or air emission licence application needs to account for and cannot conflict with an assigned carbon budget and greenhouse gas (GHG) mitigation plan. This ensures that decisions on these permit applications are aligned with the national emission reduction targets.

Purpose of a CCIA

The 2025 Draft Guideline expands but at the same time refines the purpose for which a CCIA must be undertaken, requiring that it determines or considers (i) potential alternatives that are more resilient to climate change impacts, and, at the same time, have a reduced impact on climate change; (ii) climate risks to infrastructure; (iii) measures to improve water resources and sanitation management; (iv) the need for the development in light of long-term decarbonisation goals; and (v) implications for South Africa's international obligations.

Express confirmation against retrospectivity

Unlike the earlier version, the 2025 Draft Guideline more clearly confirms that it only applies to new, greenfield developments, and does not impact environmental impact assessments (EIAs) done for existing developments that have already been approved, save in the case of extensions that trigger the need for new or amended environmental permits.

Deviations to be motivated

While both versions of the Draft Guideline confirm that it should not be viewed as prescriptive or inflexible, the 2025 version requires that deviations only be permissible "if reasonable and for good and scientifically sound cause". For purposes of transparency, deviations must be highlighted during consultation processes and in reports for stakeholders to be aware.



ENVIRONMENTAL LAW
ALERT

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CONTINUED



CCIA triggers

The three instances where climate change will be a relevant consideration under the EIA process as set out in the 2021 Draft Guideline are retained, with some additional detail included. The 2025 Draft Guideline includes, as a fourth ground, instances where *"the development is necessary in order to enable the future avoidance and reduction of GHG emissions from other sources"*, recognising the relevance of projects that will assist in achieving decarbonisation goals. Examples provided under each trigger ground have been expanded, and go as far as consideration of the impact of carbon border taxes that may detrimentally affect a project's viability.

Social implications

The 2025 Draft Guideline is generally more informed in terms of its recognition of the social dimensions that are integral to climate change, including food security, water security, disease, health, etc. Engagement with affected communities with localised knowledge of the land in question is also expressly recognised as an additional area for specialist consideration. The CCIA impacts or findings should expressly set out inter alia (i) a description of the surrounding social environment including formal and informal communities and settlements; and (ii) an assessment of the socio-economic and health impacts *"taking into account that climate change impacts are often most intensely experienced by certain groups and communities, including economically marginalised persons, women and participants in traditional and information economies"*.

Specialist screening process

The prescribed five-step screening process prescribed for the environmental assessment practitioner to assess the need for specialist input is retained; however, the 2025 Draft Guideline sets out an expansive list of specific tools and sources to consulted to make such assessment.

Scope of the impact of climate change

It is evident that, since the publication of the first Draft Guideline, there is now a better understanding of the potential of developments to contribute to climate change, and the ability of climate change to impact projects, with express recognition even given to the implications of carbon border taxes that may render a development unviable.

Mitigation measure categories

The 2025 Draft Guideline proposes an amended mitigation hierarchy, moving from the 2021 five step sequence of avoidance, minimisation, rectification, reduction and compensation to a four tier structure of avoidance, minimisation, rehabilitation and, as a last resort, offsetting, aligned with South Africa's evolving offsetting policy.



**ENVIRONMENTAL LAW
ALERT**

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CONTINUED

Climate change significance rating framework

A framework is provided in the 2025 Draft Guideline for purposes of assessing impact across three domains: the effects of climate change manifestations on a project; the project's impact on climate change adaptation or resilience; and the project's impact on GHG emissions. This allows for a standardised climate change significance evaluation across different projects, especially by providing quantitative anchors for GHG impact categories.

Conclusion

While the 2025 Draft Guideline must still be finalised, the obligation to consider climate change in the EIA process – and to undertake the CCIA where relevant – does not depend on the guideline being gazetted. Rather it derives from existing law and jurisprudence – since the High Court's Earthlife Africa (Thabametsi) judgment in 2017 (see [here](#)), conducting a CCIA, where appropriate, has become accepted industry practice and an expectation of competent authorities and stakeholders. Proceeding without an adequate CCIA risks a fatally flawed EIA open to challenge and review. Developers and practitioners are therefore well advised not to await the finalisation of the guideline, which will also only serve as a reference framework, for purposes of conducting CCIAs where applicable.

Comments on the 2025 Draft Guideline are due by 24 November 2025.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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