

EIA decision-making and administrative justice: The substance of just decisions

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ABSTRACT

In this paper we aim at determining the link between EIA report substance and administratively just EIA decisions. In so doing, previous research based on 42 case studies from South Africa, which analysed whether they comprised administratively just decisions (i.e., that were lawful, procedurally fair and reasonable) were reviewed for the substance of the EIA reports on which the decisions were based. The research found that administratively just decisions can be achieved even with weak EIA report substance in areas such as: need and desirability, identifying alternatives, dealing with significance, and addressing mitigation measures. We thereby conclude that administrative justice may be a false safety net in ensuring more environmentally sustainable EIA outcomes if not supported and informed by good EIA report substance. We conclude by making recommendations to improve substance and thereby strengthening administrative justice in EIA.

Is EIA just admin?

Environmental impact assessment (EIA) is increasingly understood internationally as a policy instrument that should deliver more sustainable outcomes (Pope *et al.*, 2004; Cilliers *et al.*, 2020; Roos *et al.*, 2020). However, the original intent of EIA as envisaged by Caldwell (1988) was to protect the public and the environment from the consequences of reckless or inadequately informed policies or decisions (Caldwell, 1988, Alberts *et al.*, 2021b). The desire to reinforce administrative accountability was specifically stated by Caldwell (1988) to be one of the key factors that shaped the development of EIA, and it is this desire that created the nexus between EIA and the field of administrative justice.

Given that EIA is implemented in most countries globally as an administrative procedure subject to an administrative justice perspective, it is surprising that the EIA effectiveness literature, for the most part, has not explicitly considered EIA within the context of administrative justice with the notable exceptions of Retief *et al.*, (2019) and Alberts *et al.*,

(2021b). Alberts *et al.* (2021b), specifically, showed that EIA does as a whole – for 42 cases evaluated against specifically designed key performance indicators (KPIs) in the South African context – deliver on the internationally accepted principles of administrative justice, namely: lawfulness, reasonableness and procedural fairness. The research concluded that “*EIA decisions made for the sample of cases evaluated can, on the whole, be considered administratively just*” (Alberts *et al.*, 2021b: p.15). This is considered an encouraging result, especially from a regulator’s perspective as it suggests that government is arriving at decisions in an administratively just manner.

An important uncertainty that remains, however, and which is the aim of this article, is to explore the link between EIA report substance and administratively just EIA decisions. For purposes of this research, the term EIA report substance is synonymous with EIA report quality. However, we use the term substance here as it aligns better with the administrative justice literature, as it forms the basis on which administrative decisions are made (Retief *et al.*, 2020, Alberts *et al.*, 2021b). The quality or substance of EIA reports has been a particular focus of international and South African EIA research (Sandham *et al.*, 2008a; Jalava *et al.*, 2010; Bond *et al.*, 2018). Literature suggests that substantive weakness is an ongoing challenge for EIA practice both internationally and within the South African context (Wood, 2003, Sandham *et al.*, 2010, Sandham *et al.*, 2013, Sandham *et al.*, 2020, Alberts *et al.*, 2021a, Fischer and Retief, 2021) and much has been written on how to improve substance, including factors such as:

- Improving regulator capacity to improve their role as quality gatekeepers by not accepting weak report substance and not bow to political interference (Taylor, 1984);
- Improving consultant capacity to ensure good report substance, especially in the face of emerging disruptive technologies and new industries (Fischer and Retief, 2021);
- Empowering communities to ensure that their inputs and role as EIA watchdogs improves EIA report substance (Ross, 2004; Wessels *et al.*, 2015; Gachechiladze-Bozhesku, 2012);
- Strengthening legislative mandates in support of good EIA report substance (Cilliers *et al.*, 2020, Roos *et al.*, 2020; Alberts *et al.*, 2021a)
- Providing guidelines and standards for decision-making against which EIA report substance can be measured (Sandham *et al.*, 2020, Alberts *et al.*, 2021a);
- Introducing registration bodies/authorities aimed at setting and upholding standards of professional practice (Bond *et al.*, 2017; Alberts *et al.*, 2021a); and

- Strengthening EIA follow-up to improve feedback loops so that we avoid the redesign of the wheel and the we learn form best practice (see for an overview Morrison-Saunders & Arts, 2004).

The contribution to knowledge of this article is that EIA report substance has to date not been evaluated within the context of administrative justice. It must be noted that the authors do not seek to engage with EIA outcomes beyond the actual final decision. Further follow-up research on post-decision outcomes is considered an area of future research for the dataset underlying this paper.

Method

To address the aim of this article 42 EIA cases that were previously reviewed for conformance to administrative justice principles (Alberts *et al.*, 2021b) were now also reviewed against specially designed key performance indicators (KPIs) relating to EIA report substance, that is to say the substantive quality of the information provided in the EIA reports – see Tables 1 and 2. Alberts et al (2021b) found that in terms of conformance to administrative justice principles of lawfulness, reasonableness and procedural fairness

- EIA decisions were generally *lawful* with reports meeting the legal requirements in terms of content and completeness;
- EIA decisions can be considered *procedurally fair* and therefore, procedural requirements (timeframes) as prescribed in law are well complied with;
- EIA decisions can be considered to be mostly *reasonable*, even though performance was somewhat weaker than that of the principles of lawfulness and procedural fairness.

A distinction can however be made between “administratively correct” EIA decisions and “good” EIA decisions (Alberts et al, 2021). The administrative correctness of EIA decisions is solely based on adherence and compliance to just administrative principles. Asking whether a good EIA decision was made relies on good substance and reliable facts informing that decision. Therefore, it is conceivable that you could have a just (correct) but poor decision. An important question arising is to what extent poor substance is being incorporated into just or administratively correct EIA decisions? In the light of this question the authors reviewed the same 42 sample cases as reviewed and found administratively just by Alberts et al 2021 against specifically developed KPIs for EIA report substance quality.

KPIs were chosen that are empirically measurable and for which data could be obtained from EIA case files. The KPIs addressed South African minimum legal requirements and international best practice for EIA report substance, based on an adapted and contextualised

Lee and Colley method (Adapted from Sandham *et al.*, 2008a; Sandham *et al.*, 2020; Alberts *et al.*, 2020; 2021a) – see Table 2.

In line with previous research on EIA report substance evaluation (Lawrence, 1997; Retief, 2007a; 2007b), we have applied the following three KPI design criteria, namely:

- KPIs should be objectively and empirically measurable (albeit on a subjective evaluation scale);
- Data for evaluation against the KPIs should be readily available;
- The KPI should be explicitly linked to a particular area of legal requirement or best practice.

These KPIs relate to specific key performance areas (KPAs) – table 2 – which are indicative of the typical EIA report content/sections as stipulated by the South African minimum legal requirements

The EIA cases selected in the original research (Alberts *et al.*, 2021b), which also formed the sample for this research comprised of EIA case files from seven sectors to ensure a broad sample of development types as set out in Table 1.

Table 1: Selected EIA cases for review

Number of cases	Sector	Description of cases
6	Mining	Open cast and underground mining with related infrastructure.
6	Agriculture	Feedlots, broilers, abattoirs.
6	Energy	Coal fired power stations, transmission infrastructure, renewable energy projects.
6	Tourism	Access and accommodation infrastructure in national parks and nature reserves.
6	Housing	High-cost country, golf and lifestyle estates; low-cost housing developments; mixed land use developments.
6	Bulk services and transport	Linear developments such as roads, bridges, agricultural infrastructure, and bulk water pipelines.
6	Waste infrastructure	Waste storage, waste processing and recycling infrastructure.
Total: 42		

The complete EIA files (comprising of reports, regulator, applicant, consultant and specialist correspondence, application forms and decisions letters) for these cases were obtained from the ten competent authorities within the South African EIA system who evaluate and make

EIA decisions. These include the nine provinces and the national Department of Environment, Forestry and Fisheries (DEFF). The sampling was purposive, based on the following selection criteria:

- EIAs for which authorisations had already been issued;
- EIAs where the proposed developments had been implemented;
- EIAs where there is full access to the complete case files and documentation; and
- EIAs that together provide a range of scales and complexities (i.e. big and small projects, diverse projects within a particular sector).

In total, the environmental authorities provided access to 105 EIA case files, of which 73 cases complied with the above case selection criteria. The research also aimed, as far as possible, to select cases equally from different sectors to ensure a diverse and well-represented profile. A second round of selection was done from the 73 cases to include six cases for each of the seven sectors, bringing the final total to 42 cases as shown in Table 1.

These original 42 cases from the Alberts *et al.* (2021) research were evaluated by six qualified and experienced EIA-case evaluators. The use of multiple evaluators aimed to mitigate the issue of researcher bias and subjectivity. Evaluators were selected based on their knowledge and experience of the South-African EIA system and international best practice, as well as their knowledge of EIA within the context of the specific sectors chosen for the evaluation. The evaluators all held as a minimum, a relevant Master's degree in the field of Environmental Management, with two holding relevant PhDs. The minimum years of experience was 10 years and the maximum 30 years. Two of the reviewers were published academics in the field of EIA and environmental and administrative law, whilst the remaining reviewers were experienced consultants working in the field of EIA both, nationally and internationally.

The KPI performance measurement was based on informed qualitative judgement, and did not set out specified thresholds or specific quantifiable parameters. EIA report substance was ranked as:

- **A = Average to good:** Conformance, to the KPI. i.e conformance
- **B = Average:** Partial conformance to the KPI, or an even spread in performance. i.e partial conformance
- **C = Poor to Average:** Failure to conform, and/or partial conformance, to the KPI. i.e non-conformance
- **NA = Not applicable:** Where a certain KPI is not applicable to a particular case.

The phases and time frames for the evaluation were as follows:

Phase 1: Preparation for evaluation (1 month):

- The 42 case files as used by Alberts et al (2021b) were sourced and made available to the researchers and reviewers. All documentation / project files were kept in one location. The case files comprised of all relevant documentation pertaining to the EIA, including pre-application consultation meeting minutes, application forms, draft and final scoping reports, public participation meeting minutes, all relevant information documents and advertisements, draft and final EIA reports, final regulator/competent authority decisions, and appeal documentation if relevant.

Phase 2: Conducting the evaluation (2 months):

- The evaluation of documentation formed the first step of the overall evaluation process.
- The evaluation team convened at a single location for a consolidated period of time to conduct the evaluations. This ensured a focussed approach and facilitate good communication and interaction within the evaluation team.
- Evaluation results from the individual reviewers were circulated and evaluated by the review team, and then finally consolidated and synthesised by the researchers, in order to triangulate the individual evaluation scores with a view to reach well justified consensus scores for each KPI.
- All documents were evaluated within a consolidated time span. This ensured a consistent approach to the evaluations.

The results of the individual case study evaluations provided both a holistic view of evaluation performance together with rich, detailed descriptions in relation to the specific indicators as the literature clearly warns against:

“... just adding up separate variables, as in a quantitative survey approach will destroy the local web of causality, and result only in a smoothed down set of generalizations that may not apply to any specific case in the set, let alone others” (Miles and Huberman, 1994: 172)

Thus, the analysis did not rely on a mere aggregation of the results with the expectation to conclude with an overall evaluation ‘score’. The underlying assumption was that conformance to more indicators implied better performance. This assumption however, remains qualitative and subjective in nature and was thus not considered absolute, especially since the relative weight of the different indicators had not yet been established (at that stage).

Essentially the indicators and evaluation results were used to present a qualitative description and to tell a story, not to provide a result based on a quantitative ‘calculation’. The results from the consolidated evaluation are subsequently discussed.

Results and discussion

The results for EIA report substance are varied with meaningful areas of good and weak performance across the 10 key performance areas (KPAs) and 16 key performance indicators (KPIs), producing 343 As, 118 Bs, 183 Cs and 28 NAs scores.

The detailed report substance results from this research are set out in Table 2, which indicates the differing scores for each of the 16 KPIs related to EIA report substance across the 42 cases. Figure 1 illustrates the results per KPI and indicates that the majority of the weaker KPI scores are centred around the significance and mitigation key performance areas. This is in line with wider international findings, both with regards to EIA (see e.g.: Wood, 2003; Phylip-Jones and Fischer, 2013) and also strategic environmental assessment (SEA; Fischer, 2012). These weaknesses are persistent and not much change has been observed over several decades (see e.g.: Jha-Thakur and Fischer, 2016; Ortolano and Shephard, 1995).

Table 2: Performance scores for EIA report substance KPIs

Key performance area (KPA)	Key performance indicators (KPIs) for EIA report substance	A	B	C	N/A
Activity description	S1: Was the description of the activity provided sufficient to inform the identification of listed activities?	22	17	3	0
Scoping	S2: Was the information provided in the EIA case file and relevant scoping, public participation and EIA reports sufficient to justify the identification of key issues (scoping)?	23	9	10	0
Need and desirability	S3: Was the timing of the development sufficiently justified in relation to need and desirability?	24	5	13	0
	S4: Was the location of the development sufficiently justified in relation to need and desirability?	23	6	13	0
Key issues	S5: Did the plan of study sufficiently incorporate the key issues as identified during scoping?	13	3	7	19
Alternatives	S6: Were proposed alternatives sufficiently presented and addressed?	20	10	12	0
Significance	S7: Was significance of the identified impacts sufficiently determined according to a justified methodology, which includes the method and its application?	27	5	10	0
	S8: Was the determination of significance consistently applied across specialist disciplines?	3	8	27	4
Mitigation	S9: Was sufficient justification provided for different proposed mitigation measures against the mitigation hierarchy?	12	3	27	0
	S10: Has the significance rating after mitigation been sufficiently justified?	10	7	25	0
	S11: Were the proposed mitigation measures as described in the impact assessment incorporated into the management plan?	19	15	8	0
Environmental Management Programme (EMPr)	S12: Were roles and responsibilities assigned meaningfully in relation to management actions in the management?	26	8	8	0
Public participation	S13: Was all the information as provided by the proponents, consultants, specialists and I&APs which informed the final EIA decision in the public domain?	35	1	3	3
	S14: Were all comments from interested and affected parties (I&APs) adequately responded to in the impact assessment process and reports (not relegated to comments and response reports)?	26	9	5	2
	S15: Were all key I&APs consulted in the impact assessment process?	37	3	2	0
Recommendations	S16: Were the key recommendations from the impact assessment sufficiently justified and clearly summarised in a non-technical fashion?	23	9	10	0

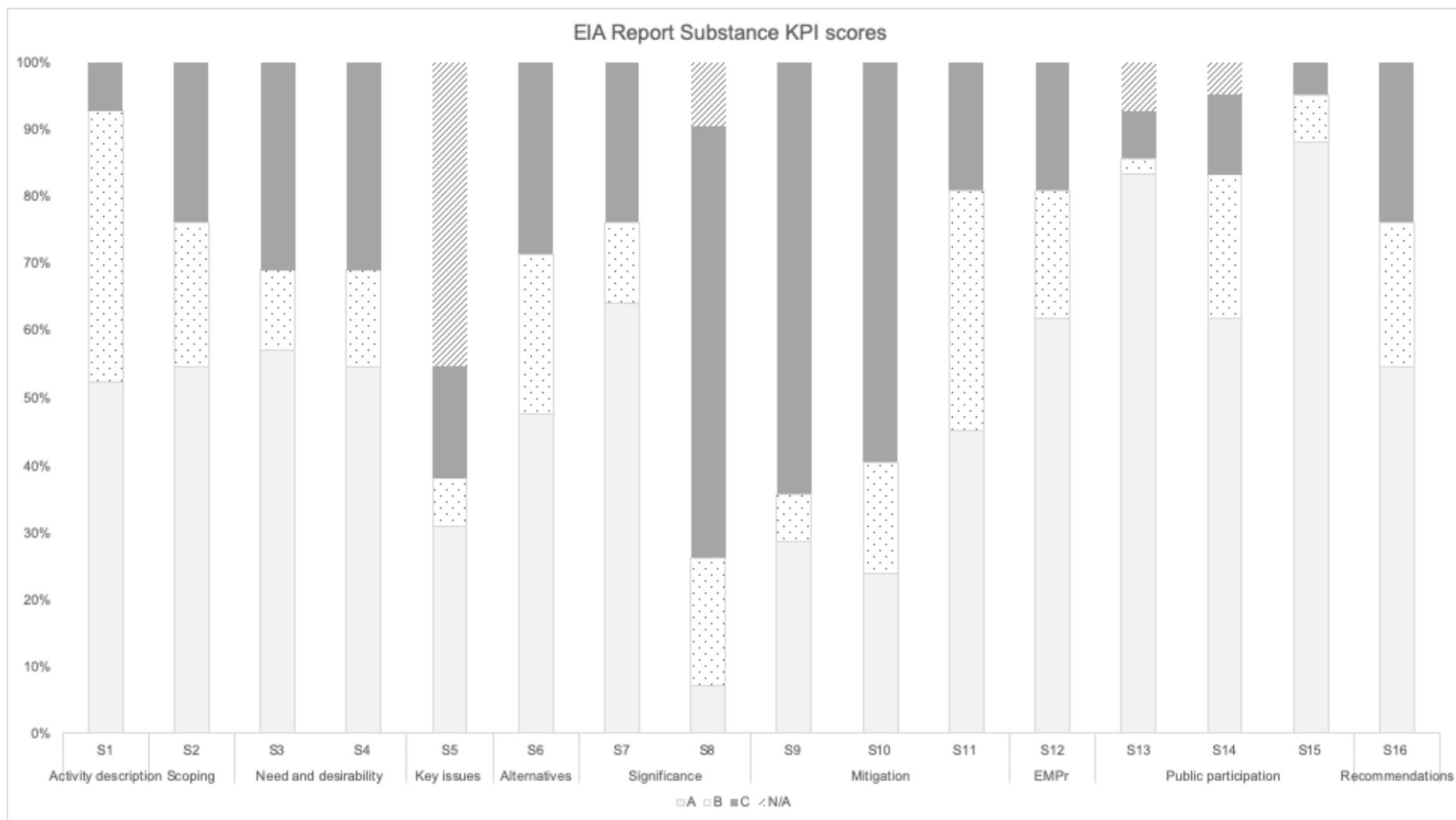


Figure 1: EIA report substance KPI scores

Hereafter, the results are discussed according to key performance areas (KPAs) as set out in Table 2 and Figure 1.

Activity description: In the majority of cases, the description of the activity (S1) was sufficient to determine and justify the need for the EIA (see S1 with only 17 Bs and 3 Cs). However, examples were also found, where at the time of application, it was too early in the project design phase to provide a detailed project description, and/or the project design seemed to change during the EIA process. Both these scenarios have potential negative implications for identifying detailed impacts and mitigation measures, thereby introducing high levels of uncertainty. The early involvement of the EIA process with project design is a generally recognised best practice requirement. Examples include mining cases where the project was only described as open cast mining or a project was only described as being the construction of surface infrastructure for underground mining. Past research supports these results and associated publications have shown that project descriptions are weaker for more complex and large-scale developments such as those related to mining (Sandham *et al.*, 2008a), explosives manufacturing (Sandham *et al.*, 2013b), and large developments impacting on wetlands (Sandham *et al.*, 2008b). On the other hand, it is important to be aware of observations from elsewhere that EIA can start too late when a particular activity has been decided upon, giving EIA very little space to influence that activity (and even strategic environmental assessment (SEA) faces similar challenges; see e.g. Fischer, 2022). Whilst in this case the activity can be described in detail, EIA effectiveness is reduced due to an inability to influence decisions (Jha-Thakur and Fischer, 2016; Khosravi *et al.*, 2019; Nadeem and Fischer, 2011). As a consequence, careful timing of starting EIA in relation to project development is vital.

Scoping and identification of key issues: The project description is critical in justifying the identification of key issues as a basis for the assessment, generally understood as the scoping phase. Scoping is based on the premise that the assessment needs to focus only on the most important issues to optimise resources and avoid obfuscation. In this, S2 did not perform well overall, with almost half the scores being either Bs or Cs (i.e., 23 As, 9 Bs and 10 Cs). The weakness in identifying key issues not only refers to instances where key issues were missed, but also instances where unnecessary issues were included and specialists involved, e.g. comprehensive heritage and archaeological assessments in questionable areas of heritage or archaeological significance as indicated by relevant documents within the EIA case files. The lack of a formal scoping phase requirement in certain cases, combined with a prescribed report template to be followed, does not seem to assist with the identification of key issues and does not contribute to focusing the assessment in these cases. Again, this observation is in line

with wider international experiences. In this context, over recent years, increasingly there has been talk about the need of 'proportionate' EIA (Fischer et al, 2016) – i.e., EIA that only takes into account those issues where significant effects can be expected.

Need and desirability: Determining need and desirability are based on the (sustainability) principles set out in South African legislation (RSA, 1998). These require the timing and location of the particular activity to be justified, presenting a number of questions that require an engagement with sustainability principles. This is in line with wider international discussions, in particular with regards to the need of suitable guidance (Montaño and Fischer, 2019). This KPA, especially considering the importance thereof, was often poorly addressed, with almost half of the scores for S3 and S4 being either B or C. The lack of up-to-date policy guidance in some sectors exacerbates the difficulty in contextualising the appropriateness of development proposals (i.e. understanding the timing and need for development and to scope the key issues). Location, as one of the need and desirability considerations, are slightly better considered in instances where strategic plans and documents such as spatial development frameworks (SDFs), strategic environmental assessments (SEAs), and environmental management frameworks (EMFs) which serve to provide a spatial context, were available (again, a similar observation has been found for practices elsewhere; see Fischer et al., 2021). The renewable energy sector in South Africa, which has developed a strong strategic and policy context, is an example where need and desirability have been well addressed. For some other sectors, the policy context did exist, however, it was not always well considered, for example, climate change and energy policy were not consistently considered in coal mining applications (see also Jiricka et al., 2018). This suggests that short term socio-economic factors are prominent with the assumption that development (even coal mining) in general is desirable.

Alternatives: Results related to KPI S6 shows that dealing with alternatives is a particular area of weakness, with more than half of the scores being Bs or Cs. This is in line with wider international observations made by e.g. Ortolano and Shepherd (1995), Wood (2003) and Fischer et al. (2016). Apart from the waste sector, all other sectors seemed to have struggled with considering alternatives be they project design, technology or process alternatives. There were instances where no alternatives were considered. Broadly speaking the lack of alternatives reflects a lack of mitigation thinking and failure to realize the value adding potential of alternative considerations. For example, the failure by applicants to adequately consider technology and location alternatives, or statements around mining applications that there are no alternatives available. Admittedly, the timing of EIA also influences the feasibility of certain alternatives and within some cases much of the alternatives thinking happened during the

feasibility stage preceding the EIA (see also Fischer and Gonzalez, 2021). In one instance, alternatives thinking was found to have a substantial influence on the project, which ultimately resulted in an open cast mine being converted to an underground mine with great cost implications so as to minimise environmental impacts. It is recommended that alternatives also be considered explicitly in relation to the impact mitigation hierarchy – especially the first step in aiming to avoid impacts.

Significance: Dealing with significance (S7 and S8) is a particular weakness of the EIA reports evaluated, with 30 A, 13 B and 36 C scores. The weaknesses are caused by inconsistencies in how significance is defined and measured, with specialists, for example, using widely different significance methods (see also Rossouw, 2003). The common use of quantitative scoring for subjective value judgements is potentially methodologically flawed and we do acknowledge that this is widespread practice, though, not just in EIA, but also in other technical assessments, including e.g. cost-benefit analysis (CBA) and multi-criteria analysis (MCA; see e.g. Fischer et al, 2010). An example being, differing specialists on a single project rating impacts on a sensitive wetland differently. Moreover, this result was underscored by the fact that in the 42 cases reviewed, not a single high significance rating was achieved after mitigation. In some instances, the significance findings of the specialists never made it into the EIA report and therefore inconsistencies exist. For example, statements by a specialist that the significant impact on a wetland is unavoidable, despite mitigation, not being included in the EIA report. Clearly, guidance is needed on how to deal with significance in EIA. Cumulative effects are poorly dealt with as also reflected in the lack of cumulative considerations and thinking in significance ratings (see also authors such as: Kennedy, 2002; Canter and Ross, 2010). Only some of the cases reviewed provided clear statements on the cumulative impacts associated with the particular project. The above aligns with previous research in the international and South African context, that found dealing with significance remains a key challenge (Arts et al., 2012; Ehrlich and Ross, 2015; Retief, *et al.*, 2016; Sandham *et al.*, 2020, Alberts *et al.*, 2021a)

Mitigation and Environmental Management Programme (EMPr): Dealing with mitigation is closely linked to significance. KPIs S9, S10 and S11 related to mitigation performed particularly poorly, with 41As, 25Bs and 58Cs. The main weaknesses related to the following: lack of application of the mitigation hierarchy; jumping between significance before and after mitigation; and, inconsistency between the mitigation measures recommended by specialist studies and the content of the main EIA report and environmental management programmes (EMPrs). Finally, the outcome that all impacts for the 42 cases could be mitigated to a point of medium to low significance is questioned. It is however recognised that dealing with

mitigation has been and remains a key challenge for EIA both internationally and in the South African context (Marshall, 2001; Morrison-Saunders et al, 2004; Kidd *et al.*, 2018). The quality of EMPs (KPI S12) scored, comparatively speaking, well with 26As, 8Bs and 6Cs. However, the generic nature of the content of the EMPs presents some cause for concern.

Public participation: Public participation aspects (KPIs S13, S14 and S15) were particularly well addressed with 98 As, 13 Bs and 10 Cs. Research has shown that this is not typical for South African EIA report quality since public participation proves to be not always well conducted in this country (Kidd *et al.*, 2018). The adequacy of responses to issues raised was difficult to verify, though, without also engaging with the public, which was not possible as part of this evaluation. However, based on the content of the project files and reports, we consider public comments to be well captured and addressed. The use of comments and response tables seemed to work particularly well in summarising and communicating outcomes. Much could still be said about the adequacy of the responses contained in these tables, and whether they qualify as being sufficient. For example, in numerous cases reviewed, consultants would make statements to the effect that interested and affected party (I&AP) concerns around certain impacts were noted and would be addressed through the implementation of the mitigation hierarchy as contained in the EMP. This appears to be a concern not only in the South African context, but for EIA in general (Marshall, 2004). As stated above, the EMPs were, however, often generic and lacking sufficient details as to exactly how mitigation will be affected.

Recommendations: The key recommendations from the impact assessment were generally sufficiently justified and clearly summarised in a non-technical fashion, with S16 scoring mostly As, and only 9 Bs and 10 Cs. Although the overall performance seems relatively good there is still important room for improvement with regard to the non-technical nature in which information is communicated. The requirements for improved non-technical summaries is not unique to the South African context and has received attention in the international literature (see for example Glasson and Therivel, 2019)

Conclusions

The research underlying this article evaluated EIA report substance of 42 EIA cases which were found to be administratively just – in terms of the principles of administrative justice by Alberts et al (2021). In so doing it addresses the question as to whether EIA decisions, which are administratively just in terms of the administrative justice principles, could have weak EIA report substance. To this end, the 42 cases as evaluated by Alberts et al (2021) were evaluated against specially developed KPIs.

The results and discussion provided indicate that the substance on which the decisions are based remains questionable in certain key areas, namely significance and mitigation, whilst performing reasonably well in others. (see Tables 2 and Figure 1). Therefore, it seems that we may be achieving administratively just decisions based on poor substance in relation to aspects dealing with significance and mitigation, confirming that performance in terms of administrative justice principles does thus not necessarily reflect good EIA report substance or quality (Bond *et al.*, 2014). In this regard Runhaar *et al.* (2013) argue that the administrative functioning of EIA systems tends to be good (i.e. procedures implemented, openness to public), however, the outcomes seem to be weak in terms of EIA not being able to considerably inform more environmentally sustainable decisions. This is in line with research conducted internationally over several decades (see e.g. Nicolaisen and Fischer, 2016; Byron *et al.*, 2020; Dipper, 1998).

Although the importance of EIA conforming to the principles of administrative justice should not be underplayed, administrative justice may be a false safety net. Any appeal or judicial review against the EIA decision, only grounded on substance, faces difficulty, as administrative law is primarily concerned with questions of law (Sive, 1970). It is, thus, likely that appeals and reviews will shy away from the question of fact or substance as courts are reluctant to interpret such, but tend to rather focus on process and procedure (Peraudeau, 2019). It is, therefore, imperative that good substance is ensured in any EIA system and that over reliance on administrative justice to deliver good substance and ultimately better EIA outcomes be avoided.

The authors argue accordingly that in order to improve EIA practice, we cannot only focus on the administrative nature of EIA and administrative justice. Neither can we solely focus on improving substance. Both EIA report substance and administrative justice must be considered in tandem to ensure the effective and successful functioning of any EIA system. Compliance with the administrative justice principles ensure lawfulness, reasonableness and procedural fairness of the EIA process, whilst strong substance may ensure better, more environmentally sustainable EIA outcomes and better-informed decisions.

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