



# Session 2: Legal Requirements, Biodiversity and Business

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# The Importance of Law



- Environmental Conservation Law 2012
- Environmental Protection Rules 2014
- SEZ Laws and Rules 2014
- Environmental Impact Assessment Procedure December 2015
- Environmental Quality Standards December 2015
- Investment Law and Rules 2017

“EIA means the process of systematic study which is required as part of the decision making process on the proposed project, business, service or activity to determine whether there may be impacts on the physical environment, human and living things, or socio-economic conditions because of the project.” **Environmental Conservation Rules, Section 2(d)**

# What is sustainable development?

Developing in such a way so that we can meet the needs of the present **without compromising the ability of future generations to meet their own needs**, by ensuring the promotion of an economically, socially and environmentally sustainable future and a fair and equitable society.

Sustainable Development Plan 2018 – 2030 (MSDP).





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# Myanmar Constitution 2008

- Article 45: The state shall protect natural environment of the country
- Article 390: It shall be the duty of every citizen of Myanmar to protect the natural environment

# Policy Framework

*National Environmental Policy  
2019*

Vision and Mission - mainstreaming  
environment into decision-making  
23 principles

*National Sustainable  
Development Plan 2018 -2030*

3 Pillars – 5 Goals  
Implement SDG  
Sustainability in all its forms

*National Biodiversity Strategy  
and Action Plan 2015-2020*

Priorities, Strategies and  
Mechanisms

# Investment Framework

*Investment Law and Rules*

Sets out the procedures for investment permits for national and foreign investment.

*SEZ Law and Rules*

Established SEZ and Management Structure and benefits of investment in SEZ

*Environment Conservation Law and Rules*

Establishes EIA system in Myanmar and assessment, review and approval for projects and activities



# EIA Legal Framework

*Environmental Conservation Law  
2012*

Empowers the Ministry to establish and implement EIA system

*Environmental Conservation  
Rules 2014*

- Broad framework: IEE and EIA
- Delegates responsibility to ECD
- EIA Report Review Body

*Environmental Impact  
Assessment Procedure 2015*

- Provides detailed process
- Public participation requirements
- Screening Schedule

# Biodiversity Legal Framework

*Framework Convention on  
Biodiversity 1992*

National Biodiversity Strategy and  
Action Plan 2015-2020  
Obligations to protect biodiversity

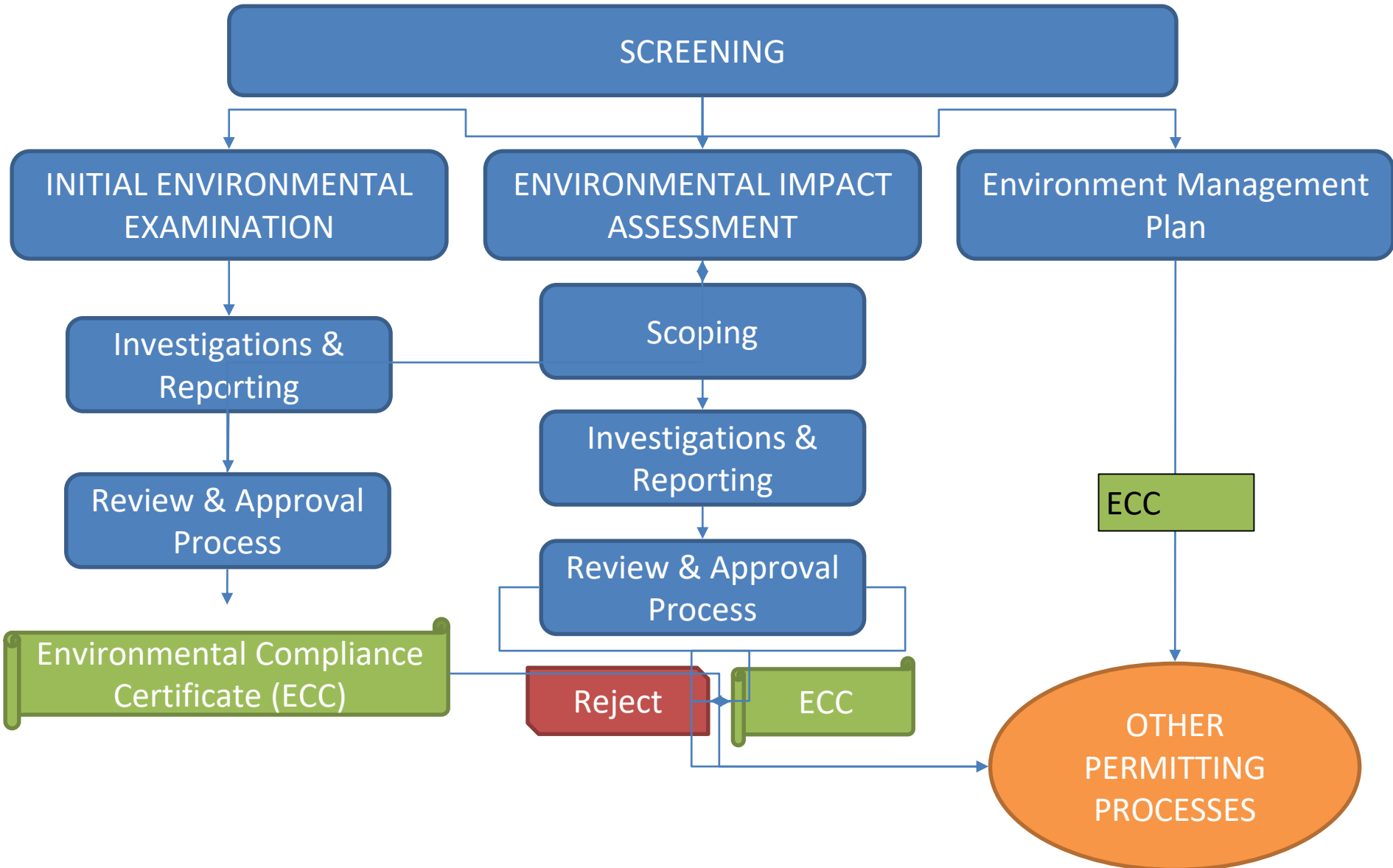
*Protection of Biodiversity and  
Conservation Areas Law 2018*

- Broad framework
- Establishes network of CA

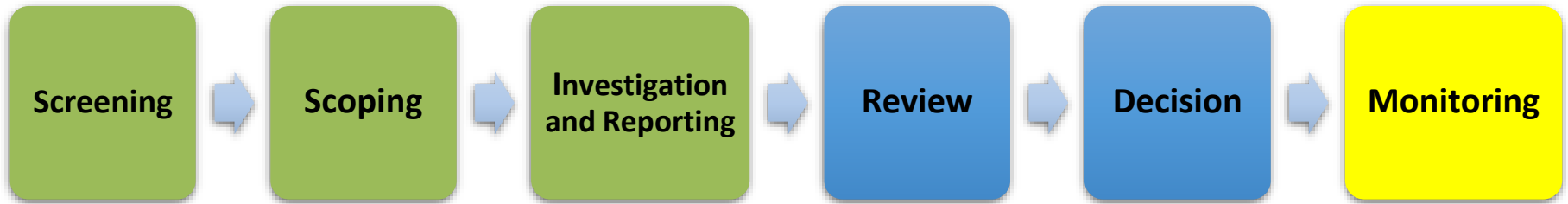
*Protection of Biodiversity and  
Conservation Areas Rules 2019*

- Provides detailed process

# EIA process

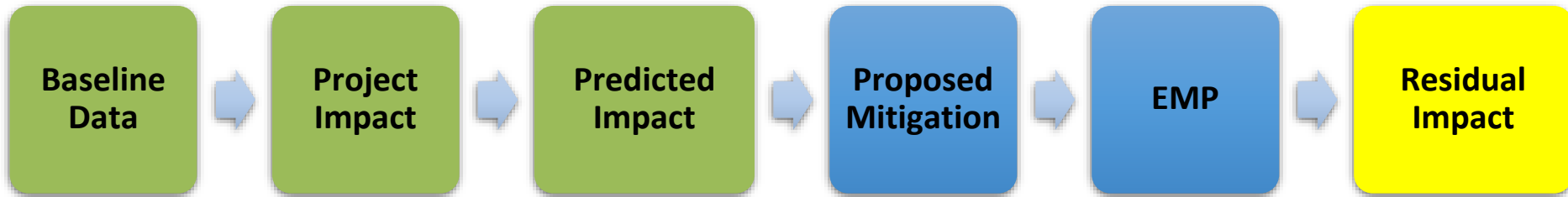


# Key steps in the EIA system



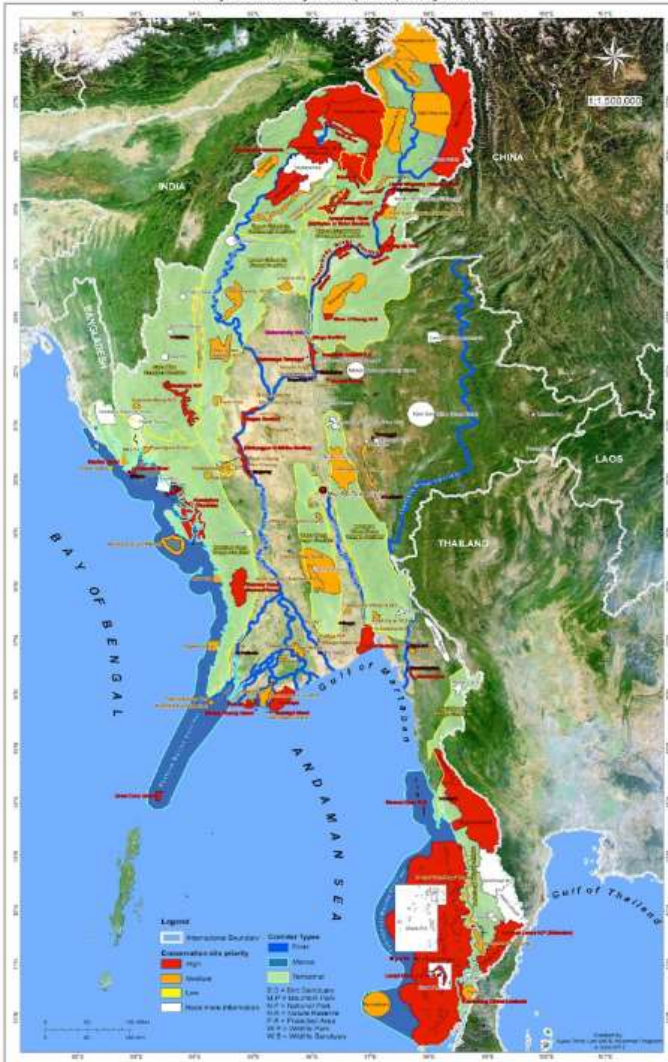
1. Screening
2. Scoping
3. EIA Investigation and Preparation of an EIA Report
4. Review of EIA Report and EMMP
5. Decision-making on EIA Report
6. Monitoring, Compliance and Enforcement

# How impacts need to be addressed

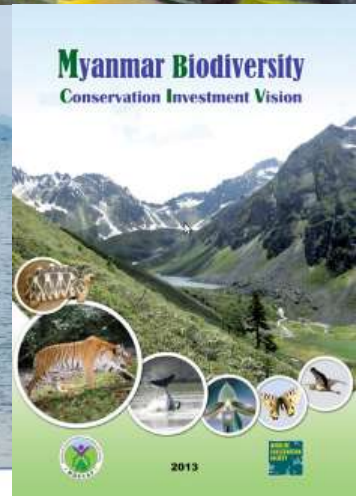
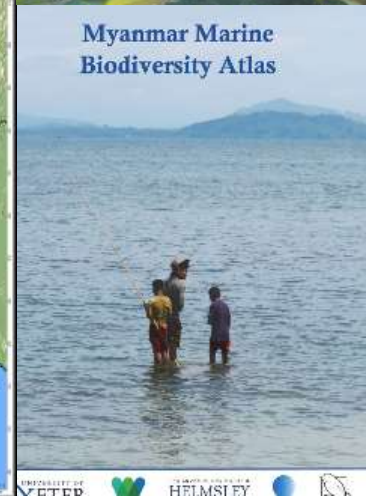
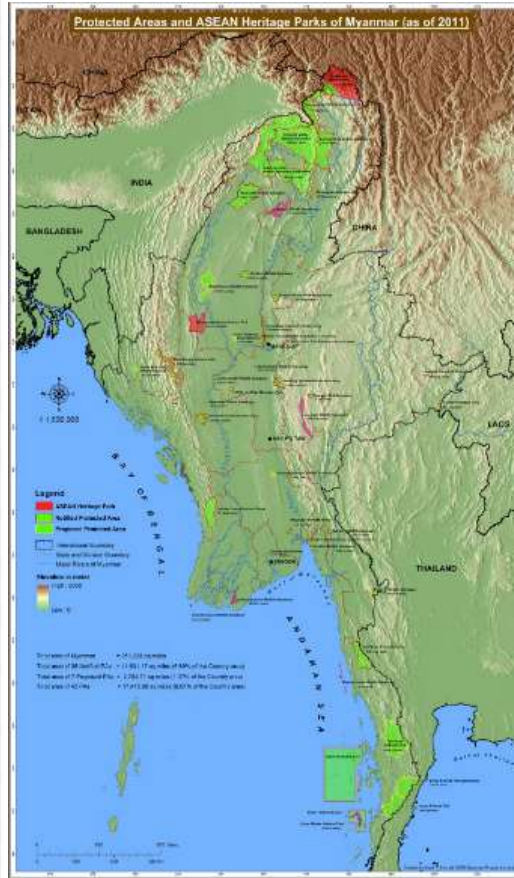


1. Baseline data
2. Project/impact description
3. Assessment of potential/predicted impact
4. Proposed mitigation – using the mitigation hierarchy
5. Ongoing mitigation and management must be described in the EMP
6. Residual impacts must be identified

Key Biodiversity Areas (KBAs) of Myanmar



# myanmarbiodiversity.org



# Biodiversity Impact Assessment

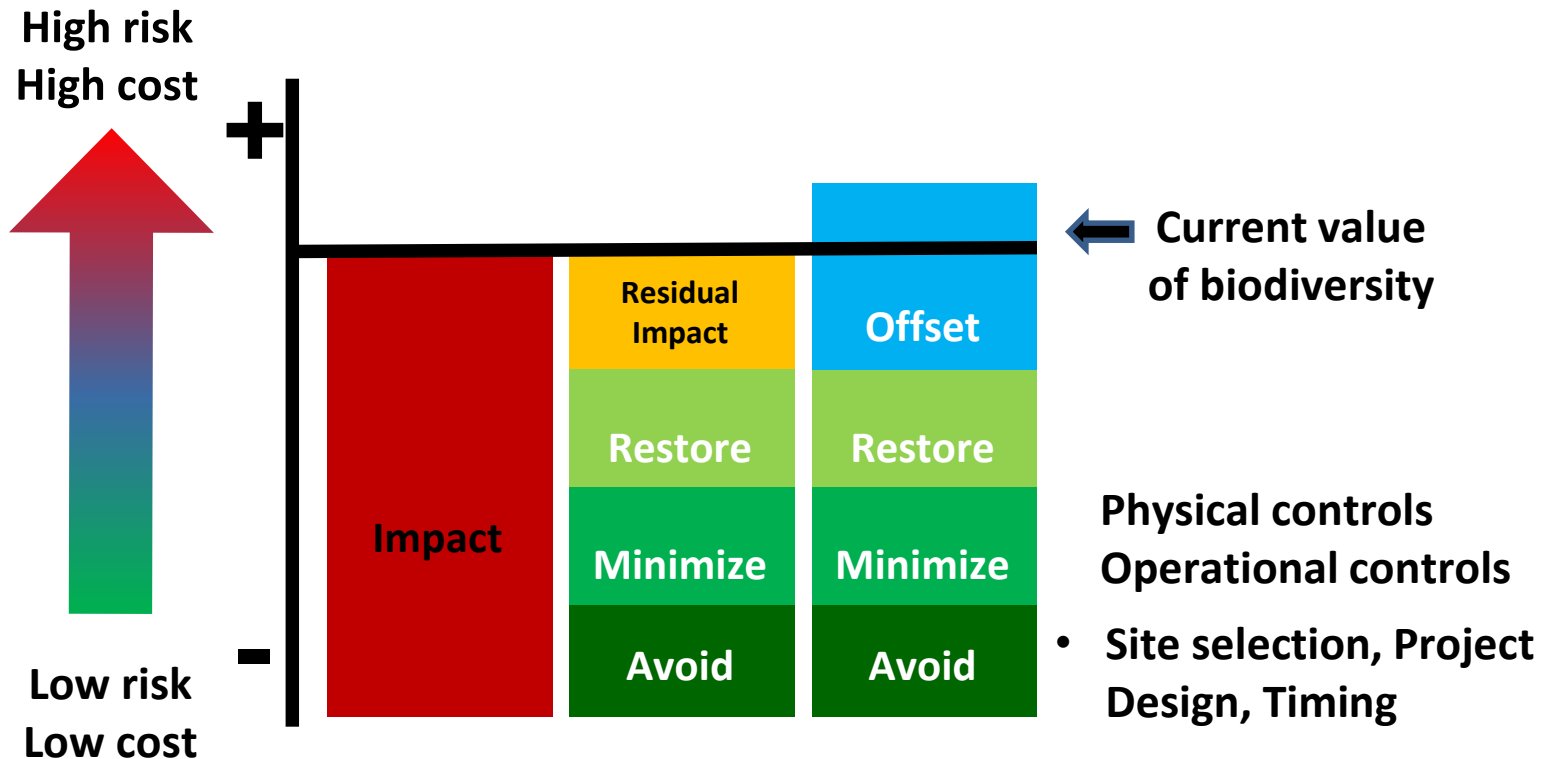


1. Baselines Studies
2. Key Biodiversity Constraints
3. Recommendations to respond to these key biodiversity constraints
4. Mitigation and management measures linking to EMP
5. Monitoring, reporting and compliance issues linking to the EMP

See NSW Framework for Biodiversity Assessments

[www.environment.nsw.gov.au/resources/biodiversity/140675fba.pdf](http://www.environment.nsw.gov.au/resources/biodiversity/140675fba.pdf)

# Mitigation hierarchy





# Myanmar Investment Law

The Myanmar Investment Commission (MIC) has the obligation to issue investment permits for prescribed projects. Any project prescribed under the Investment Rules 2017 would require an MIC permit. One of the objectives of the Investment Law is;

3(a) to develop responsible investments which do not cause harm to the natural environment and the social environment for the interest of the Union and its citizens

71. In conducting their investment activities, the investor shall carry out health assessments, cultural heritage impact assessments, environmental impact assessments and social impact assessments according to the type of investment activities in accordance with the relevant laws, rules, regulations and procedures.

# Myanmar Investment Law

Section 25 gives the MIC the legal authority to issue notifications on projects that are restricted or prohibited. The MIC can also stipulate projects that may have a large impact on the environment.

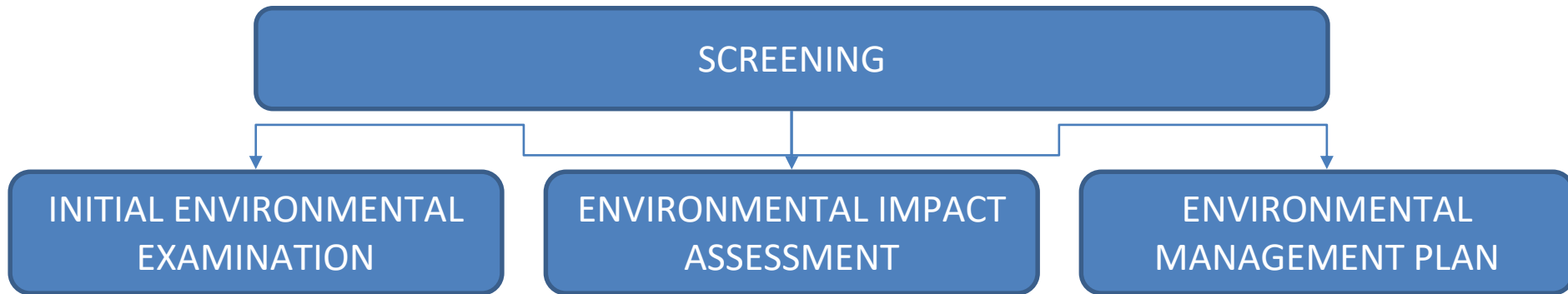
The projects that have a large impact on the environment are those projects that would also require an Environmental Impact Assessment (EIA) under the EIA Procedure.

The Investment Law 2017 also requires that certain investment activities shall be prohibited activities:

41. The following investments activities shall be stipulated as the **prohibited** investments:

(e) investment activities which may cause an enormous harmful impact to the natural environment and ecosystem

# Screening



- IEE, EIA or EMP?
  - ECD determination within 15 days
- EIA Procedure –Chapter III
  - Annexure A
  - Section 25 – specific biodiversity areas
  - Section 26 – Ministry may require EIA or IEE if “special circumstances” require it.

Risk assessment is process by which investment activities can be screen to exclude those projects with extreme impacts on environment or society.

For other projects, following screening the EIA will address the environmental and social issues. The decision-maker can then apply the principles such as the precautionary principle, intergenerational equity and the polluter pays principle to ensure that the project meets Government sustainable development policies and goals, including the Sustainable Development Goals.

			Severity of Consequence				
			1	2	3	4	5
			Catastrophic	Major	Moderate	Minor	Insignificant
Likelihood of Consequence	A	Almost Certain	Extreme	Extreme	Extreme	High	High
	B	Likely	Extreme	Extreme	High	High	Moderate
	C	Possible	Extreme	Extreme	High	Moderate	Low
	D	Unlikely	Extreme	High	Moderate	Low	Low
	E	Rare	High	High	Moderate	Low	Low