

**1/2013**

**ENVIRONMENTAL IMPACT ASSESSMENT**

**PLAN**

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## REVISIONS TABLE

	Date	Changes
<b>First Published</b>	<b>August 30, 2013</b>	<b>First published</b>
<b>Revision 1.0</b>	<b>May 2017</b>	<b>As per changes 1.1 – 1.12 below</b>

### Revision 1 Changes

Change 1.1	The text throughout the PAN has been amended to reflect new terminology within the 2017 Regulations, Environmental Statement (ES) has been replaced by Environmental Impact Assessment (EIA) Report.
Change 1.2	Text altered to reflect the new EIA Regulations
Change 1.3	Paragraph 4.1, Figure 1 - text in the box 'Review and Evaluation' amended to reflect the new requirements in the EIA Regulations for planning authorities to reach a view on likely effects.
Change 1.4	Paragraph 4.3 – Second last sentence, added text to highlight that there is new procedural requirements when granting a multi-stage consent.
Change 1.5	Paragraph 4.7 – Reworded text to reflect the consideration of reasonable alternatives by a developer within the 2017 Regulations
Change 1.6	Paragraph 4.9 – Step 2 – added text in final paragraph to reflect the onus is now on the developer to provide the relevant environmental information.
Change 1.7	Paragraph 4.10 – removed bullet points at end of the paragraph and added text to add clarity about sources of relevant environmental information.
Change 1.8	Paragraph 4.23 – last sentence altered to emphasise the requirement for a planning authority to reach a conclusion on the likely magnitude of the environmental effects prior to determination.
Change 1.9	4.27 – minor text alteration to reflect terminology within the 2017 Regulations regarding planning authorities judgement

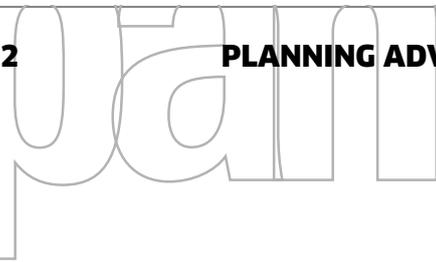
	on likely environmental effects.
Change 1.10	Paragraph 4.31A – Added paragraph to reflect the new monitoring requirements around mitigation.
Change 1.11	Paragraph 6.1 – Added text to outline the need to ensure that, where relevant, EIA and HRA requirements are coordinated.
Change 1.12	Paragraph 7.1 – contact details amended

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## 1. INTRODUCTION

- 1.1 Environmental Impact Assessment (EIA) is a process which identifies the environmental effects (both negative and positive) of development proposals. It aims to avoid, reduce, and offset any adverse impacts.
- 1.2 This PAN explains the role of individual planning authorities and that of the Consultation Bodies in EIA, as well as providing guidance on the ways in which EIA can be integrated into the overall development management process. It is also intended as a point of reference for developers and their consultants – who prepare the EIA Report on behalf of their client – on the role they too have to play in working toward the Scottish Government’s aim of more efficient and effective EIA. This PAN does not however provide any detailed technical guidance on how to undertake an environmental assessment, other than to set out what planning authorities and the Consultation Bodies will expect to see in an EIA Report which is both proportionate and ‘fit for purpose’.
- 1.3 This PAN concerns EIAs undertaken within the Planning EIA regime, as required by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017<sup>1</sup> (‘the EIA Regulations’). Separate guidance is available in connection with other Scottish EIA regimes, for example in relation to Marine Licensing Procedures, or Energy Consents.

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1 SSI 2017 No. 139.

## **2. AIMS OF ENVIRONMENTAL IMPACT ASSESSMENT**

- 2.1 EIA aims to ensure that the likely environmental effects of a development proposal are properly understood before any development consent is granted. EIA therefore provides a means of assessing the likely significant environmental effects of a proposal, and the potential for avoiding, reducing or offsetting any adverse impacts, in a manner which is both systematic and transparent.

### **Environmental information and the planning process**

- 2.2 For the majority of applications the usual planning process provides a means of assessing the environmental effects of a proposal, and the absence of a formal EIA does not mean that environmental issues are not being considered. Planning authorities have at their disposal wide ranging duties and powers to collect and evaluate information from consultees and the applicant before determining any planning application. However, in cases where a proposal is likely to have a significant environmental effect by virtue of factors such as its nature, scale or location, these powers are further supplemented by the procedures set out in the EIA Regulations.

### 3. KEY PRINCIPLES

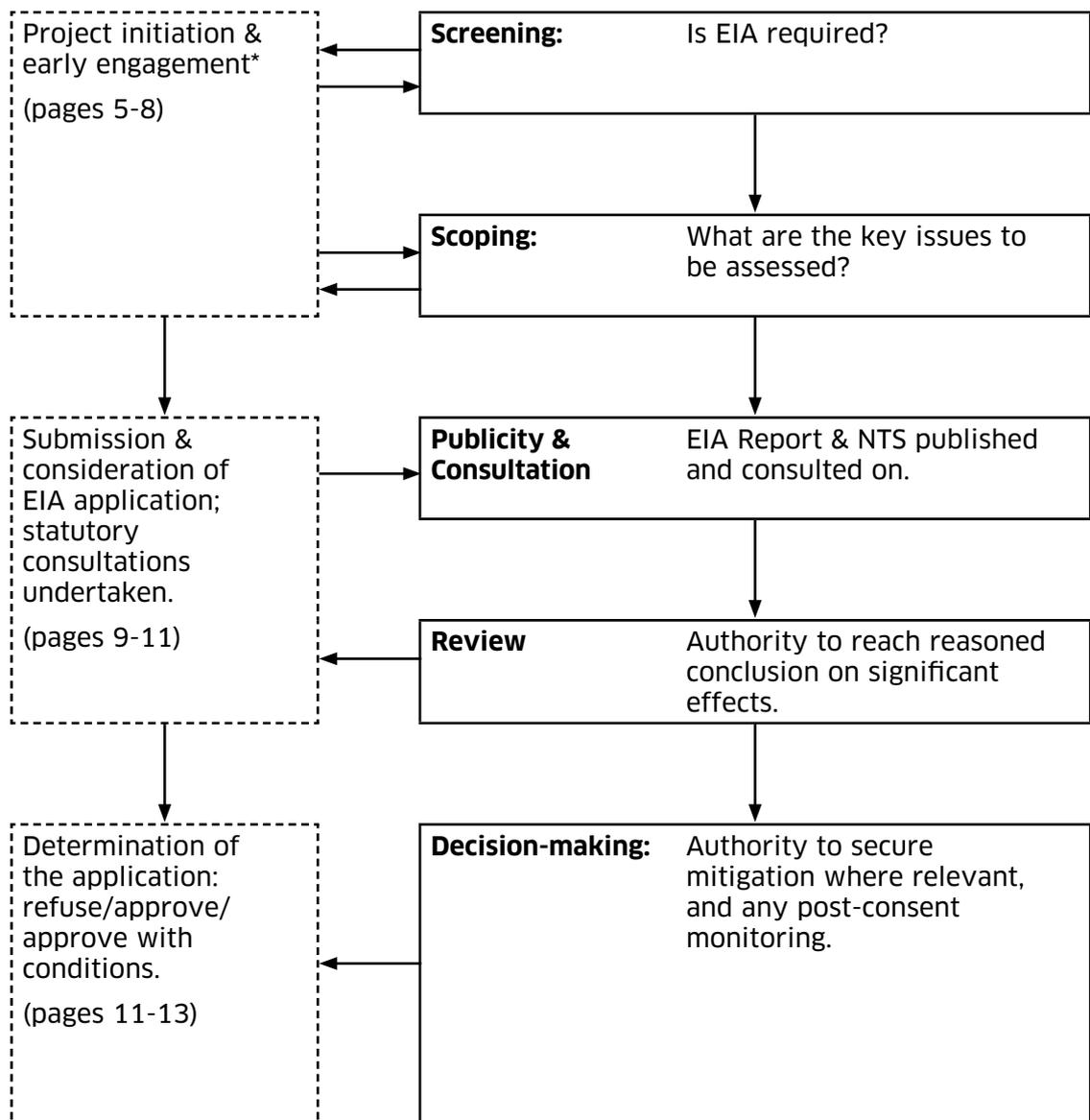
- 3.1 The following key principles should underpin the EIA of individual development proposals, and are further considered within this Planning Advice Note:
- **Integration (section 4);** Meeting the requirements of the EIA Regulations should form the starting point for any EIA, and timing and delivery of EIA outputs at appropriate stages in the wider development management process are key to achieving this. At the same time, Planning Authorities, the Consultation Bodies, and developers alike will wish to ensure the full benefits of EIA are realised through the early consideration of environmental issues before any planning application is submitted. EIA is an iterative process which aims to ensure early consideration of environmental issues at all stages of project development. In this way, EIA can lead to improvements in design, including the integration of mitigation measures, which can lead to cost and other resource savings. EIA can also generate added value by delivering net environmental gain, as well as providing a framework for engaging with the public.
  - **Proportionality (section 5);** EIAs should be fit for purpose. Excessively long, repetitive and poorly co-ordinated EIA Reports can prove a barrier to informed decision-making. EIA Reports are by their very nature technical documents, equally however they must be written in a manner that is accessible to the planning authority as the decision-maker; to the Consultation Bodies, and also to the public. Proportionality can best be achieved by seeking information from the planning authority and the Consultation Bodies on the scope of the assessment, paying attention to their views from the outset, and by focusing on the significant environmental effects of the proposed development. Developers and their agents, planning authorities and the EIA consultation bodies all have responsibilities in this respect.
  - **Efficiency (section 6);** Through its early consideration of the likely environmental effects of development plan allocations, SEA provides new opportunities to strengthen and streamline project level EIA, particularly at screening and scoping stages and by highlighting any strategic mitigation measures which may be relevant at project design stage. Early identification of other project-level assessment or information requirements, including any surveys required to be undertaken, can also help to identify opportunities for greater co-ordination, and help to minimise subsequent delays.

## 4. INTEGRATION WITH PLANNING PROCEDURE

### Main steps of the EIA process

4.1 EIA is an iterative process. Whilst the overall process may be subdivided into a number of steps, in practice the process rarely proceeds in a simple linear fashion. For example, early assessment may identify a significant adverse impact which can only be overcome by altering the project design, so the process reverts back to the first step but statutory procedures such as screening and scoping do not necessarily have to be repeated. Figure 1 illustrates how the key stages of a simplified EIA process might align with typical development management procedures.

Figure 1: Key stages in a simplified EIA process



\*Including any pre-application discussions with the authority and consultees; any pre-application consultations with communities, and any processing agreement. See 'further reading'.

### Multi-stage consents

- 4.2 The EIA Directive requires an assessment of the effects of certain projects on the environment before a 'development consent' is granted, and the European Court of Justice<sup>2</sup> has defined 'development consent' as the consent(s) which allow the development to proceed. Consequently, where a grant of either **planning permission in principle** or **planning permission in full** is made subject to planning conditions which require the grant of further approvals or consents, the subsequent approvals or consents can be regarded as part of a 'multi-stage development consent'. An example might be a waste water treatment works granted planning permission in principle, with details such as the building height, building materials etc. requiring subsequent, more detailed approvals, from the planning authority.
- 4.3 In practice, screening and – where required, EIA – should continue to be undertaken at the earliest possible stage, before the principal decision is made (i.e. before the decision on whether to grant either planning permission in full or in principle). However, if the likely significant environmental effects of a project are not fully identified at the time of the principal decision, EIA must be undertaken (either for the first time or through the submission of an updated EIA Report before the further approval or consent is granted. Regardless of whether a new or updated EIA Report is required, some additional procedural requirements apply when granting a multi-stage consent. Detailed procedural advice on multi-stage consents is provided – see 'further reading' for details.

**Key message:** Authorities should take steps to minimise the risk that an EIA is required after a grant of planning permission has been made (in principle or in full).

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<sup>2</sup> European Court of Justice cases C-201/02 and C-508/03 refer.

### Applications for planning permission in principle: Dealing with uncertainty

- 4.4 Where an application for planning permission in principle is used to establish the acceptability of a proposal without having first developed detailed proposals, the requirements of the EIA regulations must still be met in full. Generally speaking, the more detailed an application is, the easier it will be to ensure compliance with the EIA Regulations. However, by applying the principles of an approach commonly known as the 'Rochdale Envelope' it is possible to undertake an environmental assessment which takes account of the need for flexibility in the future evolution of the detailed project proposal, within clearly defined parameters. In such cases, the level of detail of the proposals must be sufficient to enable a proper assessment of the likely environmental effects, and any resultant mitigation measures – if necessary considering a range of possibilities. Assumptions should also be clearly stated. For links to sources of information on the 'Rochdale Envelope' approach see 'further reading'.
- 4.5 In practice, applicants are strongly encouraged to discuss with the planning authority and the Consultation Bodies the likely scope and content of any EIA Report required in connection with an application for planning permission in principle, before the application is submitted.

### **Project initiation**

- 4.6 By identifying the need for EIA at the earliest possible opportunity, before any planning application is submitted, planning authorities and developers alike can help to ensure the full benefits of EIA are realised to all concerned. Environmental issues should be considered at the earliest stages of a project, and it will be important to assemble a project team which includes the appropriate skill set to ensure that design work can proceed in the knowledge of any environmental constraints and issues. Early engagement with the consultation bodies and with the planning authority can be beneficial in this context, for example through pre-application discussions with the authority and consultees, and any pre-application consultations with communities, where applicable. The use of project management tools such as Planning Processing Agreements will develop a shared understanding and expectation of the processes involved, and can help to identify what information is required, and from whom, and in the setting of agreed timescales for the various stages of the process. Finally, early engagement can help to prevent costly mistakes and delays later in the planning process, as well as in the identification of opportunities to build mitigation measures into the design stages, which can lead to efficiency savings. See 'further reading' for more information on Planning Processing Agreements.

### Consideration of alternatives

- 4.7 The Regulations require the applicant to include in the EIA report a description of the reasonable alternatives (development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
- 4.8 The nature of certain developments and their location may make the consideration of alternative sites a material consideration. In such cases, the EIA Report should record this consideration. Whilst option evaluation is traditionally undertaken in terms of economic and engineering feasibility, at this stage it is worthwhile taking the environmental implications of options into account (particularly as the mitigation measures associated with these may have differing cost and programme implications).

### Screening

- 4.9 In practice there are often 2 steps in the EIA screening process:

**Step 1** – is the proposal either ‘schedule 1’ or ‘schedule 2 development’? Experience has shown that some types of schedule 2 development can be easier to identify than others. It is important to remember that the UK Courts will interpret the EIA regulations in the context of the European Directive – i.e. as having a “wide scope and broad purpose”. Detailed guidance on interpreting the schedules is available – see ‘further reading’.

**Step 2** (for schedule 2 developments) – is the proposal likely to have a significant effect on the environment?

The planning authority is responsible for deciding whether an EIA is required for schedule 2 development (an EIA is always required for schedule 1 development). This decision must be made on a case by case basis based on information to be supplied by the developer.

### Determining 'significance'

- 4.10 For schedule 2 development, the key question to consider is whether the particular project, by virtue of factors such as its “nature, size or location” is likely to have significant effects on the environment. Where this is the case, EIA must always be carried out and there is no discretion not to require EIA simply because information about the project is available from other sources. In most instances, authorities will need to consider the characteristics of the development in combination with its proposed location, to identify the potential for interactions between the development and its environment, and whether these are likely to be significant. In all cases, planning authorities must take into account the information supplied by the developer; the available results of any other relevant assessments (such as for example any related SEA); and the selection criteria in schedule 3 of the EIA Regulations. If a planning authority consider that they have not been provided with sufficient information to adopt a screening opinion, they must notify the developer in writing of the points on which they require further information.
- 4.11 Authorities will not usually consult the Consultation Bodies at screening stage. However, if – having undertaken their initial assessment – an authority remains in doubt about the significance of the effect of a proposed development on a particular aspect of the environment, they may wish to seek advice from the appropriate Consultation Body. If requesting advice, Planning authorities should make clear the issue in question.

### Screening tools

- 4.12 The decision on whether or not EIA is required for schedule 2 development requires the exercise of professional judgement, taking into account the factors outlined above. In many cases this judgement will be straightforward and a screening opinion can be issued very quickly. For borderline cases the decision may take slightly longer. It will however be important to ensure in all cases that there is a clear audit trail recording the reasons why a particular decision has been reached.

4.13 There is a range of widely available screening tools such as checklists which can aid in the screening process, whether used individually or in combination. There is no requirement to use such checklists, however they can aid in transparency.

**Key message:** Keeping a clear record of your decisions and the reasons for them ensures transparency and can help to demonstrate that a robust decision has been made. It can also help to reduce the risk of successful legal challenge.

#### Mitigation in screening

4.14 The extent to which mitigation or other measures may be taken into account in screening depends on the facts of each case. In reaching a screening opinion, authorities will wish to have regard to the amount of information available, the precautionary principle and the degree of uncertainty in relation to the likely environmental impact. In some cases, such measures may form part of the proposal, or be so plainly and easily achievable so that it may well be possible to reach a conclusion that there is no likelihood of significant environmental effects. Equally, there may be cases where the uncertainties are such that EIA must be required.

### **SCOPING**

4.15 Scoping is the process of determining the content and extent of matters to be covered by the EIA and the resulting EIA Report. The purpose of scoping is to:

- identify the key issues to be considered
- identify those matters which can either be scoped out or which need not be addressed in detail
- discuss and agree appropriate methods of impact assessment, including survey methodology where relevant.

The scoping process should also be used to identify any other project level assessment or survey obligations which may apply.

- 4.16 There is no statutory requirement for a developer to consult either the planning authority or the Consultation Bodies before determining the content of the EIA Report, however there are clear advantages in doing so. Where a developer chooses to request a formal 'scoping opinion' from the planning authority, the planning authority is required to consult the Consultation Bodies before issuing their opinion.
- 4.17 Whether or not a formal scoping opinion is requested, case officers should encourage developers to engage with the planning authority and the Consultation Bodies during the early stages of a project. Non-statutory pre-application discussions between the developer, the planning authority and the key agencies present a key opportunity to discuss the scope and content of the EIA Report. Such discussions can help to identify the main issues quickly and effectively, and can assist in scoping out issues unlikely to have significant effects (see section 5 on 'proportionality' in EIA). In addition to any non-statutory engagement, where an application is for 'national' or 'major' development (including all 'schedule 1 development'), pre-application consultation with the Community must take place, offering further opportunity to help inform the content of the EIA.
- 4.18 Where a formal scoping opinion is requested, effective communication between the different parties can help to identify and manage any conflicting views from the outset, should these arise. When considering and interpreting responses from the Consultation Bodies, planning authorities will in any case wish to be alert to any inconsistencies, whether in relation to the proposed content of the assessment or with regard to the methods of study to be employed. Both the planning authority and Consultation Bodies will wish to ensure that any survey requirements are reasonable.
- 4.19 Although a planning authority may have adopted an earlier scoping opinion additional information may be requested in connection with an EIA Report submitted as part of an application for planning permission. Planning authorities may wish to consider requesting a 'schedule of mitigation' which can aid the subsequent drafting of any conditions at the consenting stage. See paragraphs 4.30 to 4.31 on 'securing mitigation'.

### Scoping tools

4.20 There are a range of widely available scoping checklists and other tools which authorities may choose to use if they wish. See 'further reading' for examples.

**Key message:** Comprehensive and informed scoping of EIA forms the foundation of a focused assessment. There are real benefits to be gained from effective scoping which can help to:

- Identify the main issues quickly - this will help shorten and focus the EIA Report making it more accessible and proportionate.
- Avoid delay later in the application process, for example by demonstrating why those matters which have been scoped out need not be assessed, or need not be assessed in detail.
- Improve the planning of the EIA process.
- Facilitate wide ranging consultation, where appropriate.

Scoping also provides an opportunity to:

- Identify potential overlaps between EIA and any other assessment requirements (see section 6 for further information on efficient resourcing).
- Give an early indication of where mitigation measures may be necessary.

### **Publicity and consultation**

4.21 The EIA process is expressly intended to ensure that the Consultation Bodies and the public have opportunity to express their opinion on both the development proposal and the EIA Report. The planning authority must take into account all the environmental information, including the results of the consultation process, before any decision is made. The EIA regulations therefore set out a publicity and consultation procedure which must be followed when an EIA Report is submitted to accompany a planning application. Wherever possible, for reasons of efficiency, these publicity and consultation requirements should be combined with the relevant publicity and consultation procedures required under the Development Management Procedures Regulations 2013<sup>3</sup>.

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<sup>3</sup> The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. SSI 2013/155.

**Table 1 - EIA Statutory Consultation Requirements**

EIA Stage	Consult with public	Consult with Consultation Bodies	Comment
Screening	✘	✘	Exceptionally, planning authorities may wish to seek specialist advice from the Consultation Bodies regarding the significance of any likely environmental effects. Any such requests should be targeted and specific. A copy of the final screening opinion must be made available to the public.
Scoping	✘	✔	As a matter of good practice, and depending on the circumstances of the application concerned, developers may choose to consult more widely at scoping stage, for example with the public or relevant Non-Governmental Organisations. See paragraphs 4.15 to 4.20 for further information on scoping.
Submission of EIA Report	✔	✔	Where 'additional information' is subsequently provided, this may also need to be published. See paragraphs 4.27 to 4.28 below.

**The Non-Technical Summary**

4.22 The purpose of a Non-Technical Summary (NTS) is to ensure that the key points of the EIA Report can be more readily understood by non-experts, and the public. It may also help direct decision-makers to the main findings of, and the mitigation measures proposed within, the EIA Report. The NTS should therefore provide an objective summary of the findings of the EIA and should avoid being promotional in nature; it should set out the main findings of the EIA Report in accessible, plain English.

**Reviewing & evaluating the EIA Report**

4.23 The EIA Report is the most visible part of the EIA process, and ought to be the main source of environmental information available to the planning authority. However, in addition to reviewing and analysing the content of the EIA Report, the planning authority will also wish to add to this information where necessary: The case officer will wish to consider

representations from the Consultation Bodies and the public; they will also wish to take into account information provided by the council's own specialists, in light of the expertise of planning officers themselves. In this way, the review and evaluation process involves a re-interpretation and reconsideration of the EIA Report in light of the representations, to the point where the planning authority has sufficient confidence in the nature of the likely impacts to reach a reasoned conclusion on the significant effects of the development on the environment. Only then may the authority determine the application.

**Key message:** The purpose of the EIA Report review is to:

- Reach a reasoned conclusion on the significant effects of the development on the environment.
- Identify if additional information or evidence should be requested from the applicant.
- Establish an initial view on the key environmental issues prior to the receipt of views from consultees.
- Identify specific issues on which the views of consultees should be sought.
- Begin consideration of any planning conditions or Section 75 planning obligations which may be needed to secure mitigation and any monitoring measures.

- 4.24 The review and evaluation process should begin as soon as the application is registered. On receipt of the EIA Report, the case officer may wish to read the NTS to become familiar with the general nature of the project and the main issues. There may also be merit in checking the EIA Report against the list of required contents set out in the EIA Regulations to gain an initial overview. Most EIA Reports do not however deal with the issues in the same order as the Regulations. Authorities should bear in mind that there is no single 'correct' way of preparing an EIA Report, as the nature of projects, sites, receiving environments and assessment methodologies vary.
- 4.25 During the review the case officer will identify those issues on which advice from specialists within the council (e.g. archaeology, ecology, conservation, landscape, design, environmental health) may need to be sought. The review may also identify issues on which the specific views of the Consultation Bodies will be required, in which case the Consultation Bodies should be advised accordingly from the outset. The advice from all these sources will almost always be sufficient but – in some particularly challenging or technically complex cases – planning authorities may consider it appropriate to enlist the help of a consultant or other body to review the EIA Report.

Evaluation checklists

4.26 A variety of published checklists are available to assist in managing the review and evaluation process. Authorities are not required to utilise such tools, but they may provide a convenient way of recording and summarising the views of consultees as well as those of the case officer. See ‘further reading’ for more details.

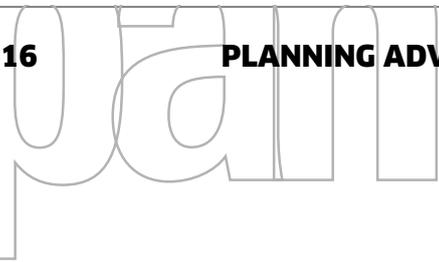
Requesting additional information

4.27 If early and effective engagement has been undertaken, and if the EIA has been of a high quality and is well reported in the EIA Report, the work of the planning authority and the consultees will mainly amount to validating its methods and findings. If however the EIA Report has significant defects, the review will expose these and the applicant can be asked to provide further information. Within the review process, it is important to distinguish between information that is required to reach a reasoned conclusion on the significant effects of the development on the environment, and additional information which constitutes good practice but is not necessarily required. An emphasis on proportionality does not preclude the latter but emphasises the importance of the targeted use of resources, where further inputs are likely to be most meaningful.

**Key message:** The planning authority should consider it has sufficient environmental information when:

- The scale and importance of each impact (e.g. emissions to air) is known or any remaining uncertainties are unlikely to be resolved through further information/assessment.
- The effects of each impact on specific aspects of the environment (e.g. landscape) are known or any remaining uncertainties are unlikely to be resolved through further information/assessment.

4.28 A thorough scoping exercise and a good EIA Report will minimise the likelihood that additional information is required. Where, exceptionally, the full evaluation of a particular issue requires a second cycle of consideration through a revised or updated EIA Report, additional publicity and consultation procedures will apply. Publicity may also be required in the event the applicant chooses to voluntarily submit additional information of a substantive nature. Detailed procedural guidance is available (see ‘further reading’).



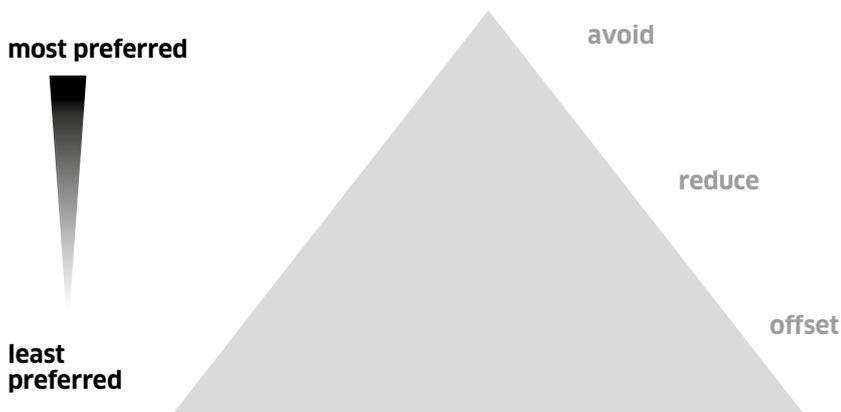
### **EIA and decision-making**

4.29 Before determining an EIA application, the planning authority must take into account all the environmental information, including the content of the EIA Report, the views of consultees (including the public) and any additional information from the applicant. Following that consideration, the application should be determined in accordance with the development plan unless material considerations indicate otherwise. Environmental information from the EIA process may be a material consideration.

### **Securing mitigation**

4.30 The aim of EIA is to avoid, reduce and offset any significant adverse environmental effects arising from a proposed development. The most effective mitigation measures are those which avoid or prevent the creation of adverse effects at source and ideally such measures should be identified during the project design stage. See paragraph 6.5 on 'costs and benefits of EIA'. The aim should be to prevent or avoid the effects if possible, and only then consider other measures.

Figure 2 - The mitigation hierarchy



4.31 Where specific mitigation measures are required, these must be explicitly secured as part of the planning permission. For some measures it will be appropriate to do this by specifying them in writing as part of the planning application. For others, it will be necessary for the planning authority to attach them as conditions, or exceptionally to include them in a planning obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended. A general condition which says that the matters referred to in the EIA Report should be implemented should not be used and is unlikely to be valid unless the EIA Report was exceptional in the precision with which it specified the mitigation measures to be undertaken. Planning authorities may wish to request a schedule of mitigation, to aid the drafting process. (A schedule of mitigation is also a helpful means of ensuring that the mitigation measures are compatible and will work together to achieve the desired aims.) Further guidance on securing mitigation is available, see 'further reading'.

**Key message:** The most effective mitigation measures are those which avoid or prevent the creation of adverse effects at source. Where specific mitigation measures are required, these must be explicitly secured as part of the planning permission.

### Monitoring

4.31A The regulations require authorities to consider whether monitoring measures to gauge the effectiveness of any mitigation measures identified through the EIA process are required, and where these are required, to consider whether provision should also be made for appropriate remedial action. The type of parameters to be monitored and the duration of the monitoring should always be proportionate to the nature, location and size of the project, and the significance of its effects. Monitoring arrangements under other regulatory regimes may be used if appropriate, with a view to avoiding duplication.

### **Cumulative effects**

4.32 When considering the potential impact of a particular proposal on the environment, planning authorities will wish to take account of:

- **Impact Interactions:** The reactions between impacts whether between the impacts of just one project or between the impacts of other projects in the area.
- **Additive Impacts:** Impacts that result from incremental changes caused by other past, present or reasonably foreseeable actions together with the project.

4.33 Cumulative effects arising from different elements of a project on environmental receptors (intra-project effects) and from projects combined with other activities (inter-project) impacts are commonly identified. There is no definitive view on the scope of activities to be included within inter-project assessments to ensure that 'reasonably foreseeable actions' are properly considered. It will be a matter of professional judgement to ensure the relevant projects and activities – and their environmental effects – are identified, taking into account the circumstances of the individual proposal and its location.

4.34 Assessment methods for cumulative impacts and interactions vary. Note that the Habitats Regulations refer to "in-combination" effects, i.e. the effects of the proposed project in combination with those of other projects in the area. These in-combination effects are included in the definition of cumulative effects above.

**Key message:** The assessment of cumulative impacts provides an important opportunity to consider and address the impacts of development as a whole, and is likely to be facilitated by effective co-ordination of specialist inputs.

## 5. PROPORTIONALITY

### Identifying significant environmental effects

5.1 Identifying significant environmental effects is crucial, both in determining whether EIA is required, and when determining the **scope** and content of any EIA Report.

- Whether or not an environmental effect is significant depends on a number of factors. It is a judgment to be made in each individual case.

**Key message:** Significance is generally determined on the basis of expert judgement, and it is possible that different experts may not always agree. To minimise the risk of challenge it is important to ensure that the manner in which significance has been attributed is transparent and repeatable.

### Early and robust screening

5.2 EIA is most effective when used to inform the early design phase of a project. Early and robust screening decisions can help to:

- ensure environmental considerations are taken into account from the outset
- provide certainty to the developer
- avoid EIA being undertaken unnecessarily.

### Smarter scoping

5.3 Scoping has an important role to play in achieving the Scottish Government's aim of proportionate and effective EIA. In order to gain the full benefits of EIA, case officers will wish to encourage developers to engage with the planning authority and with the Consultation Bodies during the early planning and design stages of a project. In this way EIA can help to facilitate the early avoidance of adverse effects through changes to design strategies. Smarter scoping will also help to facilitate proportionate and efficient EIA, by focusing resources on the significant issues. See paragraph 4.6 on the role of pre-application discussions, pre-application consultation, and on the use of Planning Processing Agreements during the early project initiation stage.

### **Preparation and content of the EIA Report**

5.4 The EIA Report is the applicant's statement on the project, its likely significant environmental effects, and the measures proposed to mitigate adverse effects. The EIA Report is the main output of the EIA procedure and it follows that an EIA Report which is poorly written, and excessively long, can reduce the overall value of EIA to decision-makers<sup>4</sup>. In addition to ensuring compliance with schedule 4 of the EIA Regulations – and to improve transparency – developers and their agents have a responsibility to produce EIA Reports which are;

- **Clear & concise** – the EIA Report should contain a clear analysis of the significant areas of impact. It should highlight key issues relevant to the decision and present them in a non-promotional way which can be understood by all. Technical appendices should be cross-referenced where relevant and proposed mitigation measures should be clearly sign-posted.
- **Consistent** – the EIA Report should be internally consistent and technical terms (e.g. degrees of significance) should be clearly defined.
- **Proportionate** – the EIA Report should not be overly long and should make use of annexes for technical data and information where appropriate.

5.5 The Non-Technical Summary (see paragraph 4.22 above) should also reflect – in an accurate and balanced way – the key information contained in the EIA Report. It should be written in language which is understandable to the general public.

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<sup>4</sup> See for example the Institute of Environmental Management and Assessment's 2011 Special Report: [The State of Environmental Impact Assessment \(EIA\) Practice in the UK](#). The 2008 [Killian Pretty Review – England](#) published by the UK Government's Department for Communities and Local Government is also relevant in this respect.

## 6. MORE EFFICIENT RESOURCING

### EIA and Habitats Regulations Appraisal

- 6.1 To reduce costs and avoid delay, any overlaps between EIA and other project level assessment or survey requirements should be identified at the earliest opportunity, and certainly at scoping stage. This could apply, for example, in cases affecting a European Site where a Habitat Regulations Appraisal is required under the Habitats Regulations<sup>5</sup>. In such cases the regulations specifically require the planning authority (or Scottish Ministers as the case may be) must where appropriate ensure the Habitats Regulation Appraisal and the EIA are coordinated. The EIA can help to avoid duplication by identifying early on whether there are any likely significant effects on a European site and – where this is the case – ensuring the EIA Report provides the information necessary to help the planning authority to make its assessment of whether a proposal is likely to have a detrimental effect on the conservation interest, and therefore whether they may grant planning permission for the proposal.<sup>6</sup> See ‘further reading’ for more information on Habitats Regulations Appraisal (HRA).

### SEA and EIA

- 6.2 Strategic Environmental Assessment (SEA) of development plans offers an opportunity to strengthen and streamline subsequent EIAs undertaken at project level. By identifying environmental issues at strategic level, they may help to inform the screening and scoping stages of EIA, as well as providing an early indication of any additional survey work which may be required.
- 6.3 There is considerable potential for strengthening the links between SEA and EIA, to facilitate more proportionate approaches to project level planning and assessment. In particular, it may be useful to use the significant effects identified in a preceding SEA as a starting point for EIA screening and scoping at the project level. Strategic mitigation measures identified through the SEA can also help inform project-level design, where relevant. SEA also provides an ideal opportunity to explore potential for cumulative effects at an early stage in the process of developing multiple projects within a given area.

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5 The Conservation (Natural Habitats, &c.) Regulations 1994, as amended.

6 Note that the Appropriate Assessment uses different tests from those used in EIA. Developers will wish to consider supplying the information to support the Appropriate Assessment in an annex, clearly setting out the potential effects of the project on the European site’s integrity and conservation objectives.

**Key message:** Environmental effects identified in a plan-level SEA can help to inform EIA screening and scoping at the project level.

### **Multi-regime consents**

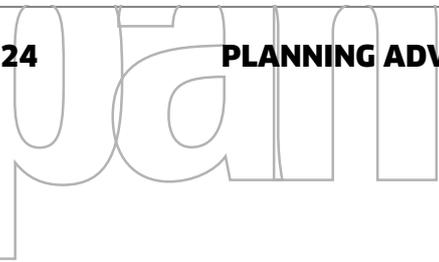
6.4 A small number of projects may require more than one consent which must be subject to EIA (a 'multi-regime consent'), for example an off-shore marine project with associated on-shore infrastructure. Where this is the case, early and effective engagement with all the relevant consenting authorities and Consultation Bodies will be particularly important. This will provide an opportunity to discuss which consents will be required; the applicant's proposed consenting strategy; and, the scope for coordinating the different consenting processes and their EIA requirements. In this way, all parties can seek to minimise duplication whilst ensuring the requirements of the individual EIA regulatory regimes are met in full. See 'further reading' for more information on good practice in multi-regime consents.

### **Costs and benefits of EIA**

6.5 The requirement to undertake EIA can add to the overall cost of a project, as well as introducing additional procedures associated with the determination of the planning application. Equally however, EIA can add value by ensuring that consideration of environmental matters begins at the earliest opportunity, and ideally at project inception when EIA becomes a tool for sustainable design. Early action to embed mitigation measures fully into the project at design stage can help to generate cost savings. There are no statutory procedures associated with this preparatory stage, but it is undoubtedly one of the most important in ensuring the full value of EIA is realised to all concerned. Taking account of environmental considerations at this stage will ensure a better proposal and, where those considerations are clearly and concisely documented, should lead to a speedier determination of the application.

## 7. FURTHER INFORMATION

- 7.1 This Planning Advice Note and further information about the planning system can be found on the Scottish Government website at: <https://beta.gov.scot/policies/planning-architecture>. For more information on this PAN please contact William Carlin on 0131 244 5094 or email. [william.carlin@gov.scot](mailto:william.carlin@gov.scot)

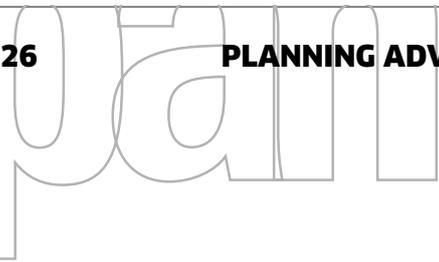


## GLOSSARY

The following are explanations of terms used in the PAN, not definitions.

<b>Additional information</b>	Supplementary information which the planning authority may require the applicant to submit in connection with a previously submitted EIA Report; any other information of a substantive nature relating to the EIA Report, which the applicant has submitted voluntarily.
<b>Appropriate Assessment</b>	A planning authority’s assessment of the implications of a proposed project for any European Site. Where required, the appropriate assessment will be undertaken as part of a ‘Habitats Regulations Appraisal’.
<b>Consultation Bodies</b>	<p>The consultation bodies are:</p> <ul style="list-style-type: none"> <li>- any adjoining planning authority, where the development is likely to affect land in their area;</li> <li>• Scottish Natural Heritage</li> <li>• Scottish Water</li> <li>• The Scottish Environment Protection Agency</li> <li>• The Scottish Ministers (including Historic Scotland)</li> <li>• Other bodies designated by statutory provision as having specific environmental responsibilities and which the planning authority or Scottish Ministers consider are likely to have an interest in the application.</li> </ul>
<b>EIA Report</b>	A document or documents which sets out the developer’s assessment of the likely effects of the project on the environment, including mitigation measures, and which is submitted in conjunction with an application for planning permission.
<b>Environmental Impact Assessment</b>	A process which identifies the environmental effects (both negative and positive) of development proposals.

<p><b>Habitats Regulations Appraisal</b></p>	<p>A term used to describe certain appraisal procedures required under The Conservation (Natural Habitats, &amp;c.) Regulations 1994, as amended. The term is often used to encompass the decision on whether a proposed project should be subject to appraisal; the 'screening' process for determining whether an appropriate assessment is required, and any 'appropriate assessment' subsequently undertaken.</p>
<p><b>Multi-regime Consents</b></p>	<p>Certain projects may require more than one consent which must be subject to EIA ('multi-regime consents'). For example, offshore projects with associated on-shore infrastructure may require both planning permission and a marine license.</p>
<p><b>Negative Screening Opinion</b></p>	<p>A screening opinion issued to the effect that EIA is not required.</p>
<p><b>Non-Technical Summary</b></p>	<p>A short, summary document setting out the main findings of the EIA Report in accessible, plain English.</p>
<p><b>Rochdale Envelope</b></p>	<p>An approach to environmental assessment which aims to take account of the need for flexibility in the future evolution of the detailed project proposal. The approach is named after two court rulings concerning outline planning applications for a proposed business park in Rochdale.</p>
<p><b>Schedule 1 Development</b></p>	<p>Development of a description mentioned in Schedule 1 of the EIA Regulations which always requires EIA.</p>
<p><b>Schedule 2 Development</b></p>	<p>Development of a type listed in schedule 2 to the EIA Regulations which;</p> <ul style="list-style-type: none"> <li>a) meets any relevant criteria and exceeds any relevant thresholds in the second column of schedule 2; or</li> <li>b) is located wholly or in part in a 'sensitive area' as defined by the EIA regulations.</li> </ul> <p>Schedule 2 development requires case by case screening to determine whether an EIA is required.</p>



<b>Screening Opinion</b>	The planning authority's formal determination of whether or not EIA is required for a 'schedule 2 development'.
<b>Scoping Opinion</b>	The planning authority's formal opinion on the information to be supplied in the EIA Report.
<b>Strategic Environmental Assessment</b>	An iterative process, which offers greater protection to the environment by identifying the likely significant environmental effects (both negative and positive) of public plans, programmes, and strategies, during their preparation.



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