

Major Projects' Instructions	
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Document Name: Environmental Impact Assessment: Implementing the Requirements of 2011/92/EU as amended by 2014/52/EU (EIA Directive)	Reviewer: Stuart Wilson
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To: All Assistant Project Managers, Project Managers, Programme Managers, Programme Directors, Divisional Directors and suppliers in MP	
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Environmental Impact Assessment: Implementing the Requirements of 2011/92/EU as amended by 2014/52/EU (EIA Directive)

1. Purpose

The purpose of this instruction is to outline how projects must implement the requirements of 2011/92/EU as amended by 2014/52/EU (hereafter referred to as the EIA Directive).

2. Who will use it

All projects required to undertake environmental assessment (statutory Environmental Impact Assessment - EIA and non-statutory assessment) shall comply with the guidance contained herein.

3. Background

The requirements of the EIA Directive must be transposed into UK law via the relevant UK EIA Regulations by 16th May 2017. The EIA Directive contains a number of new requirements (outlined in Section 4 below), which must be implemented by projects in order to demonstrate procedural and legal compliance, minimising the risk of legal challenge to projects.

4. Procedure & Guidance

Note: this instruction outlines the changes & key new requirements of the EIA Directive and how projects shall implement them moving forward. Existing, unchanged requirements of the EIA Directive are not highlighted (unless stated) and should be implemented as per current practice.

4.1 The EIA Directive & consenting routes for Highways & Trunk Road Projects

For Highways England projects, there are three consenting routes through which a project and its associated EIA can be delivered:

1. Planning Act 2008 (as amended): for delivery of Nationally Significant Infrastructure Projects (NSIP's);

2. Highways Act 1980 (as amended): for delivery of projects that do not qualify as a NSIP; and
3. Town & Country Planning Act 1990 (as amended): a lesser used consenting route for Highways and trunk road projects, typically for delivery of projects in partnership with third parties, such as Local Authorities or private developers.

The relevant '2017 EIA Regulations' (transposing the requirements of the EIA Directive) have been implemented for 1 & 3 above.

At the time of writing the Regulations for 2 have yet to be transposed, however a consultation draft has been published. Until these regulations are enacted then the requirements of the EIA Directive shall apply to projects undertaking environmental assessment, under the Highways Act.

4.2. Screening

Article 4(4) requires projects requesting a screening opinion to provide information set out in Annex II.A (Information to be provided by the developer on the projects listed in Annex II):

1. *A description of the project, including in particular: (a) description of the physical characteristics of the whole project and, where relevant, of demolition works; (b) a description of the location of the project, with particular regard to the environmental sensitivity of geographical areas likely to be affected.*
2. *A description of the aspects of the environment likely to be significantly affected by the project.*
3. *A description of any likely significant effects, to the extent of the information available on such effects, of the project on the environment resulting from: (a) the expected residues and emissions and the production of waste, where relevant; (b) the use of natural resources, in particular soil, land, water and biodiversity.*

The criteria of Annex III shall be taken into account, where relevant, when compiling the information in accordance with points 1 to 3.'

Projects shall apply the principles of proportionate assessment when completing screening requests in line with Annex II.A. While the requirements of Annex IIA need to be met, it is likely that detailed environmental assessment will not be in place to support the screening decision. The screening request should only undertake a level of work sufficient to reasonably support the screening conclusions.

The EIA Directive now requires the consideration of the whole project lifecycle including "demolition phase" where relevant. This is considered relevant to construction, where this entails demolition of existing assets eg structures or roads. Projects should provide evidence of consideration of this requirement. It is unlikely in most cases that end of life assessment of the demolition phase would prove relevant for highways projects due to the length of the operational phase. Where projects consider demolition to be relevant, they should seek advice from the Overseeing Organisation.

Consenting authorities have 90 days from receipt of a screening request to provide a screening opinion. Projects should factor this into their delivery programmes.

4.3. Scoping

Obtaining a scoping opinion from the competent authority remains optional under the EIA Directive. Where projects choose to submit a scoping request and obtain a scoping opinion, the Environmental Statement (ES) must be based on that opinion.

4.4. Project Description

Project descriptions must consider how the baseline scenario would evolve without the project, i.e. 'future baseline scenario'. Specifically a project must provide:

- *A description of the relevant aspects of the current state of the environment (baseline scenario), and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.*

Until such time as there is an established methodology or practice for the prediction of future baseline scenario, projects should take account of readily available information such as the Local Development Framework and climate change scenario data, to provide a description of the natural changes in the local environment over an appropriate timescale that the datasets support.

4.5. Assessment

Article 3(1) of the EIA Directive introduces the following changes to those factors (hereafter referred to as topics) to be included in environmental impact assessments:

- *Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC (previously flora and fauna);*
- *Population and human health (previously population); and*
- *Land (not previously included).*

The introduction of Article 3(2) requires:

- *The effects referred to in paragraph 3(1) on the factors set out therein shall include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned.*

Essentially, projects must assess the potential effects of major accidents and/or disasters on the project, and any consequential changes in the predicted effects of that project on the environment (the topics).

For clarification, advice has also been included on the consideration of the following:

- *Climate; and*
- *Heat and radiation.*

Appendix 1 outlines the Alignment of EIA Directive 2014 topics and assessment guidance.

4.6. Biodiversity

The scope of this topic is considered to be covered by established methodology and practice, including the following existing guidance:

- DMRB Volume 11 Section 3, Part 4;
- IAN 130/10; and
- CIEEM 2016 'Guidelines for Ecological Impact Assessment'.

Reporting should be in line with established practice. The “Ecology and Nature Conservation” topic heading should be entitled ‘Biodiversity’ moving forward.

4.7. Population & Human Health

There is no consolidated methodology or practice for this topic, however, the scope of the assessment is considered to be covered by existing guidance. Specifically the following topics will address population and human health by utilising the following guidance.

Population:

- Equestrians, Cyclists and Community Effects: DMRB Volume 11 Section 3 Part 8.

Health:

- Air Quality: HA 207/07, IAN 185/15, IAN 175/13, IAN 174/13, IAN 170/12;
- Noise & Vibration: HD 213/11, IAN 185/15;
- Road Drainage & The Water Environment HD 45/09; and
- Equestrians, Cyclists, and Community Effects: DMRB Volume 11 Section 3 Part 8.

Reporting of population effects should be provided in ‘People and Communities’. Reporting of human health effects should be reported within the relevant topics. Where human health effects from more than one topic occur, a qualitative description of the overall population/community and human health effects should be provided within ‘Cumulative Assessment’.

The scope of assessment outlined above does not advocate completion of a Health Impact Assessment (HIA) as a requirement of EIA. Instead the outlined approach provides sufficient consideration of ‘population and health’ for the purpose of EIA. Where stakeholders request the completion of HIA, projects should seek advice from the Overseeing Organisation.

4.8. Land

Whilst there is no consolidated methodology or practice for this topic, the existing guidance outlined below should be referred to. It is appropriate for project teams to use professional judgement to adapt the illustrative magnitude and significance criteria within HA 205/08 and present project specific thresholds. Consideration should be given to:

- Land Use: DMRB Volume 11 Section 3 Part 6;
- Cyclists, Equestrians and Community Effects: DMRB Volume 11 Section 3 Part 8; and
- Assessment and Management of Environmental Effects: HA 205/08.

Reporting of Land effects should be provided in ‘People and Communities’.

4.9. Climate

Until such time as there is a consolidated methodology or practice for this topic, the scope of the assessment is considered to be cover:

- Effects on climate (for example greenhouse gas emissions); and
- Vulnerability of the project to climate change (and impacts relevant to adaptation).

In considering these elements of climate, projects teams should use professional judgement to provide a qualitative description of the nature of impacts. It is appropriate for project teams to describe the predicted change that the project will introduce in comparison to the baseline. Consideration should be given to advice within:

Effects on climate:

- TAG Unit A3 Environmental Impact Appraisal (DfT, 2015). Chapter 4 Greenhouse Gases; and
- PAS 2080:2016 Carbon management in infrastructure.

Projects should identify and assess greenhouse gases, or other significant carbon emissions, which will occur throughout the lifecycle of a project, their relative scale (in relation to the baseline and in comparison to UK emissions predictions) and the opportunities for mitigation.

Vulnerability of the project to climate change:

- Climate Adaptation Risk Assessment Progress Update (Highways England, 2016); and
- National Networks. National Policy Statement.

Projects should identify and assess the rate of climate change, potential extent of disruption and severity of disruption, which will occur throughout the lifecycle of a project, their relative scale and the level of uncertainty associated with the assessment. The opportunities for mitigation should then be identified and assessed.

In assessing climate change adaptation, projects should:

- Establish the climate baseline: Identifying recent weather patterns and extreme events provides an indication of how projects need to account for climate change in the immediate future (i.e. during construction). Projects shall gain an appreciation of the climate currently impacting a study area by using published historical regional weather data. Based on the results of the desk study, the historic climate and how it has previously affected receptors in the study area shall be highlighted;
- Establish the future climate baseline: climate change projections and scenarios shall be defined for use in the assessment. The UK Climate Projections eg UKCP09 Met Office data, should be used to establish the future climate baseline (regional projections of climate). The assessment should acknowledge the uncertainty in any datasets and how this is considered in the assessment;
- Identify relevant receptors and assess the project vulnerability for each of the project lifecycle stages; and
- Develop prioritised adaptation responses and methods in which to increase resilience through design, construction, operation and maintenance.

Projects shall report climate as a separate topic. Consistent data sources should be utilised for the assessment of climate and other environmental topics, where relevant.

4.10. Major Accidents & Disasters (referred to as events)

Until such time as there is a consolidated methodology or practice for major accidents & disasters, the scope of the assessment is considered to be cover:

- vulnerability of the project to risks of major accidents and/or disasters; and
- any consequential changes in the predicted effects of that project on environmental topics.

In considering these elements of vulnerability, projects should:

- apply professional judgement in consultation with the Overseeing Organisation to develop project specific definitions of major events. Projects should note that there is no definition of 'major' in this context;
- identify any 'major' events that are relevant to and can affect a project. Major events shall include both man-made and naturally occurring events. Not all events warrant assessment and evidence should be provided to support the view that they should be classified as major events;
- where Major events are identified, describe the potential for any change in the assessed significance of the project on relevant environmental topics in qualitative terms. Report the conclusions of this assessment within the individual environmental topics; and
- clearly describe any assumed mitigation measures, to provide an evidence base to support the conclusions and demonstrate that likely effects have been mitigated/managed to an acceptable level.

Projects shall report Major events within the relevant environmental topics.

4.11. Heat and Radiation

The consideration of heat and radiation should be addressed through scoping. It is anticipated that this is unlikely to be relevant to the scope of most highways projects. A statement of consideration should still be provided. Where, by exception, this consideration is scoped in projects should seek advice from the Overseeing Organisation.

Exceptionally, where heat and radiation are scoped in, the conclusions of any assessment would be reported as a separate environmental topic.

4.12. Monitoring

Projects shall ensure that mitigation measures envisaged to avoid, prevent or reduce and, if possible, offset significant adverse effects on the environment are implemented during construction and where relevant operation of the project.

Projects shall determine and implement the procedures for monitoring of significant adverse (residual) effects on the environment. The parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment. The Overseeing Organisation shall be consulted when developing the parameters and programme of monitoring.

Monitoring parameters and programme shall initially be established in PCF Stage 3 through completion of the ES and Outline Environmental Management Plan (EMP). Monitoring parameters and programme shall be refined / developed over later project stages and recorded via subsequent iterations of the EMP. Projects should remember

that monitoring parameters and programme can change as a project progresses through statutory processes, detailed design and construction. A review of the monitoring parameters and programme shall be undertaken during each project stage.

Existing monitoring arrangements resulting from other legislation, (i.e. The Conservation of Habitats and Species Regulations 2010) may be used if appropriate, with a view to avoiding duplication of monitoring.

4.13. Expertise for EIA

To ensure the completeness and quality of ESs, projects should ensure that they are prepared by a competent expert(s). Projects should note that there is no comprehensive definition of 'expert' or 'competent expert' within the Directive, however it does indicate that individuals exercising this role must be:

- Qualified; and
- Competent.

Until such time as there is an established or generally held industry standard, projects should ensure that experts involved in the preparation of ESs (eg environmental coordinators and environmental topic leads), demonstrate:

- that they have relevant qualifications eg degree qualified (or above) in a related environmental subject (or equivalent);
- that they have demonstrate their competence eg relevant professional memberships; and
- have sufficient knowledge and experience to be able to make robust representations at public inquiry or examination.

Evidence of the competence of those experts involved in the preparation of ESs shall be provided within the ES.

5. Review Frequency/When it can be destroyed

This instruction will be superseded and withdrawn when updated DMRB Volume 11 Section 1 & 2 guidance is published.

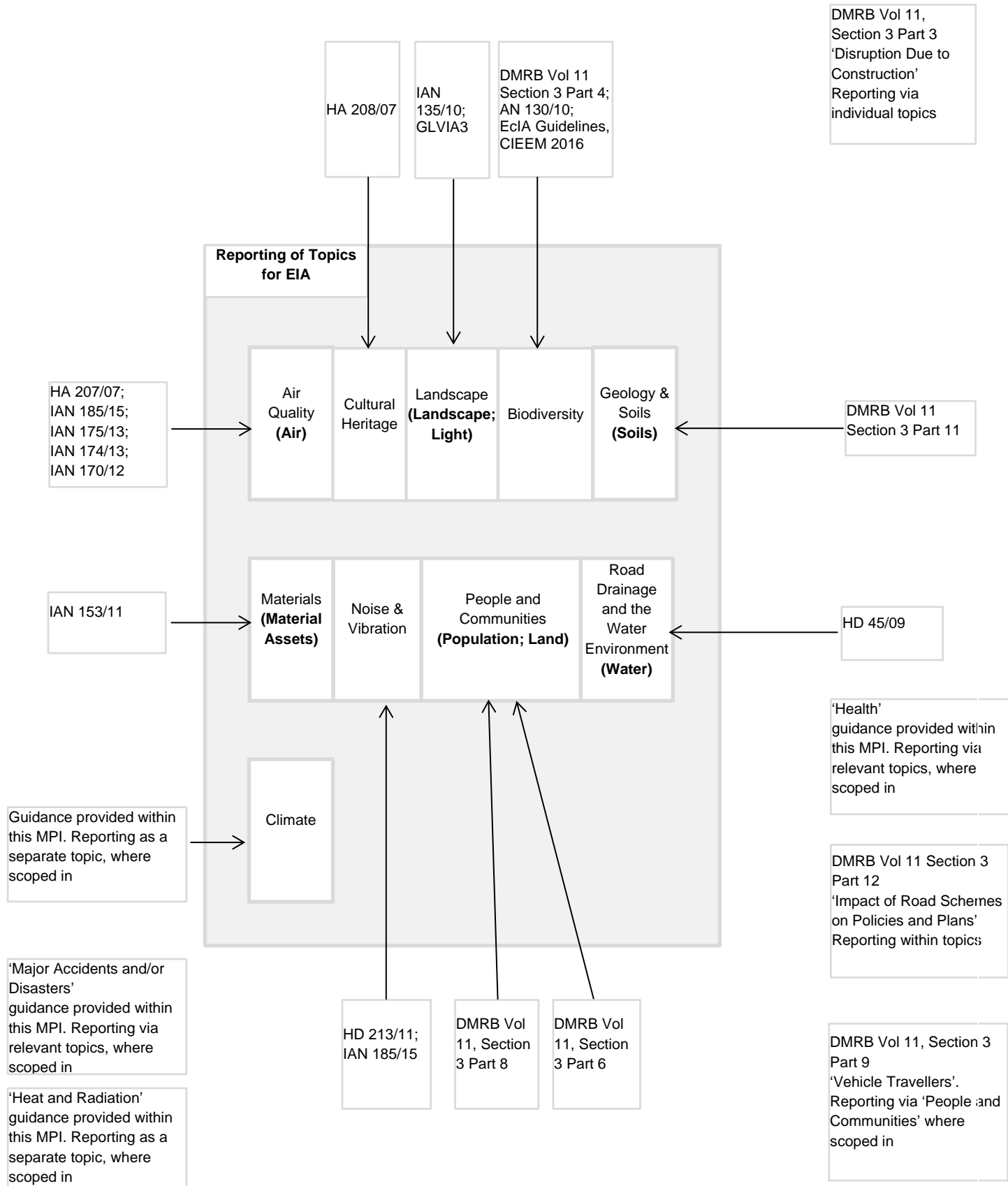
6. Approved by MP Exec or other authorised governance Board/Group (where relevant)

N/A.

7. Linked to PCF Product or WwW (where relevant)

The provisions of the Directive will be incorporated through appropriate updates of the Environment PCF products in June 2017.

APPENDIX 1: Alignment of EIA Directive 2014 topics and assessment guidance



NOTE: Text in **bold brackets** – denotes topics listed within the EIA Directive, where there is a variation between accepted topic titles and the EIA Directive factor (topic).