



# EIA Notification and Consultation

## Advice Note three: EIA Notification and Consultation

### Status of this Advice Note

This Advice Note has no statutory status and forms part of a suite of advice provided by the Planning Inspectorate.

This version of this Advice Note supersedes all previous versions. It will be kept under review and updated when necessary.

This advice note makes reference to other advice notes, these can all be found at: <http://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

### Summary of this Advice Note

The purpose of this advice note is to explain the approach taken to identifying consultation bodies to be notified by the Secretary of State under Regulation 9 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) ('the EIA Regulations') and where relevant, consulted on the scope of the Environmental Statement (ES) under Regulation 8 of the EIA Regulations. This advice note has been revised in response to emerging best practice.

### Introduction

The applicant of a proposed Nationally Significant Infrastructure Project (NSIP), when meeting their statutory pre-application consultation obligations under s.42 of the Planning Act 2008 (as amended) ('the 2008 Act') must, where relevant, make diligent inquiries carrying out their own investigations and taking their own legal advice, as appropriate. It is the responsibility of the applicant to ensure that their pre-application consultation fully accords with the requirements of the 2008 Act, including associated regulations, and that they have regard to relevant guidance. Applicants may nonetheless find it helpful to understand the approach taken by the Secretary of State when meeting the relevant statutory obligations under the EIA Regulations which impose procedural requirements in relation to notifying and consulting prescribed consultation bodies.

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## Background

### 1. Consultation bodies

1.1 A consultation body ('consultation body') is defined under the EIA Regulations<sup>1</sup> as:

- a body prescribed under s.42(a) and listed in column 1 of the table set out in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 ('the APFP Regulations') as amended, where the circumstances set out in column 2 are satisfied in respect of that body
- each authority that is within s.43 ('local authorities'); and
- if the land to which the application, or proposed application, relates or any part of that land is in Greater London, the Greater London Authority.

### 2. Regulation 9(1)(c) persons

2.1 Persons identified under Regulation 9(1)(c) of the EIA Regulations, are persons whom the Secretary of State considers to be, or likely to be affected by, or may have an interest in, a proposed NSIP and who are unlikely to become aware of the proposed NSIP through the pre-application consultation and publicity process set out in the 2008 Act.

2.2 Where any regulation 9(1)(c) persons are identified by the Secretary of State, applicants will be notified of them in writing when they are provided with the list of the notified consultation bodies under regulation 9(1)b of the EIA Regulations.

2.3 The duty imposed on consultation bodies under regulation 9(3), if so requested by the applicant, to make available information in their possession which is considered relevant to the preparation of the ES, does not apply to regulation 9(1)(c) persons.

2.4 Applicants will need to have regard to the requirements imposed under the EIA Regulations with regard to notifying and consulting regulation 9(1)(c) persons<sup>2</sup>.

### 3. Non-prescribed consultation bodies

3.1 As described later in this advice note, the Secretary of State may decide on a discretionary basis to consult with some bodies with relevant functions and responsibilities, as non-prescribed consultation bodies. Where the Secretary of State decides on a discretionary basis to consult the non-prescribed consultation bodies before the Secretary of State adopts a scoping opinion for a proposed NSIP, any views received from these bodies by the specified deadline will be taken into consideration before the Secretary of State adopts a scoping opinion.

3.2 These bodies are not prescribed under s.42(a) of the 2008 Act and therefore the applicant is not required to consult with them in order to meet their statutory pre-application consultation obligations. However, the Planning Inspectorate encourages applicants to consult with as wide a range of bodies as they deem appropriate during the pre-application stage, including whilst preparing the ES.

3.3 If an application for development consent is accepted by the Secretary of State the applicant is required to notify the category of persons specified in s.56(2) which reflects the consultees identified under s.42 of the 2008 Act. Unlike the consultation bodies and any regulation 9(1)(c) persons, there is no statutory requirement for the applicant to notify the non-prescribed consultation bodies that the application for development consent has been accepted, even if the applicant has consulted them during the pre-application stage. However, the Planning Inspectorate would encourage applicants to do so.

1. Regulation 2(1) of the EIA Regulations

2. EIA Regulations 11, 13, 16, 17, 18 and 19 also refer to notification requirements with regard to regulation 9(1)(c)



## 4. Regulation 6 notification

4.1 The applicant for a proposed NSIP is required under regulation 6 of the EIA Regulations to submit either a screening request to the Secretary of State, or notify the Secretary of State in writing that they propose to provide an ES in respect of the NSIP development (a 'regulation 6 notification'), before carrying out pre-application consultation, under s.42 of the 2008 Act<sup>3</sup>.

4.2 Further information on making a screening or a regulation 6 notification request is provided in the Planning Inspectorate's **Advice Note 7: Environmental Impact Assessment**.

## 5. Regulation 8 request

5.1 Regulation 8 of the EIA Regulations enables a person to seek an opinion from the Secretary of State on the information to be included in an ES (a 'scoping opinion'). Before adopting a scoping opinion the Secretary of State must consult the prescribed consultation bodies<sup>4</sup>.

5.2 Further information on making a scoping request is provided in the Planning Inspectorate's **Advice Note 7: Environmental Impact Assessment: Preliminary Environmental Information, Screening and Scoping**.

## 6. Regulation 9 notification

6.1 Following the applicant notifying the Secretary of State in writing that they propose to provide an ES, or the Secretary of State adopting a screening opinion to the effect that the proposed development is EIA development, the Secretary of State is required to notify the consultation bodies that the applicant intends to provide an ES for the proposed NSIP. The Secretary of State is also required to notify the consultation bodies of the duty imposed on them under regulation 9(3) of the EIA Regulations to make available information in their possession, if so requested by the applicant, which is considered relevant to the preparation of the ES.

6.2 The Secretary of State is required to provide the applicant with a list of the notified consultation bodies and any regulation 9(1)(c) persons. Details of any non-prescribed consultation bodies will also be provided, if appropriate. The list will have been compiled in relation to the Secretary of State's duty to notify the consultation bodies in accordance with regulation 9(1)(a) of the EIA Regulations. Applicants may use this list to inform their pre-application consultation, but should not rely on this when carrying out their own s.42 consultation exercise.

6.3 Before accepting an application for development consent the Secretary of State must, amongst other matters, conclude that the applicant has complied with chapter 2 of part 5 of the 2008 Act (pre-application procedure). If applicants identify and consult fewer consultees (as part of their s.42 obligations) than the Secretary of State notifies under regulation 9 of the EIA Regulations and consults in relation to the scoping opinion request, a clear explanation should be provided within the applicant's consultation report<sup>5</sup>. This will assist the Secretary of State in reaching a conclusion about whether or not the applicant has complied with chapter 2 of part 5 of the 2008 Act.

6.4 Applicants should also have regard to the relevant **CLG guidance on pre-application consultation** and the Planning Inspectorate's **Advice Note 14: Compiling the Consultation Report** and **Advice Note 16: The Developer's Pre-application Consultation, Publicity and Notification Duties**.

3. Regulation 6(1) of the EIA Regulations

4. Regulation 8(6) of the EIA Regulations

5. An application for development consent must be accompanied by a consultation report s.37(3)(c) of the 2008 Act



## Notification and consultation by the Secretary of State

In accordance with the approach explained below in this advice note, the Secretary of State will:

- A. notify and consult Prescribed Consultees;
- B. notify and consult s.43 Local Authorities;
- C. consult Non-Prescribed Consultees; and
- D. notify and consult other European Economic Area (EEA) States.

### A) Prescribed Consultees

The prescribed consultation bodies, which the Secretary of State is required to notify and consult, include those bodies identified in Schedule 1 of the APFP Regulations (as amended).

#### 1. Schedule 1 of the APFP Regulations

1.1 The prescribed consultees in the APFP Regulations are either:

- identified by name (for example the Joint Nature Conservation Committee); or
- are identified by category (for example the relevant highways authorities and statutory undertakers).

1.2 When identifying whether a prescribed consultee should be notified and consulted, the Secretary of State either has:

- no discretion and must notify or consult in all cases<sup>A1</sup>; or
- has discretion in deciding which bodies should be notified or consulted by adopting a 'relevance test' and/or by deciding whether certain circumstances apply (the 'circumstances test')<sup>A2</sup>, the application of this discretion is described below.

1.3 **Table 1** in the **Annex to this Advice Note** sets out the prescribed consultees listed in Schedule 1 of the APFP Regulations and distinguishes the consultees the Secretary of State will notify and consult depending on the date the applicant has provided either a regulation 6 notification, or made a scoping request to the Secretary of State:

- where this is **before 6 April 2013**, the transitional arrangements under The Infrastructure Planning (Prescribed Consultees and Interested Parties etc.) (Amendment) Regulations 2013 (SI 2013/522) ('the Amendment Regulations') apply<sup>A3</sup> and the Secretary of State will notify and consult the prescribed consultees in Schedule 1 of the APFP Regulations in accordance with the **list identified in Table 1 of the Annex under the 'before 6 April 2013' heading**, alternatively
- where this is **on or after 6 April 2013** the transitional arrangements under the Amendment Regulations do NOT apply and the Secretary of State will notify and consult the prescribed consultees in Schedule 1 of the APFP Regulations in accordance with the **list identified in Table 1 of the Annex under the 'on or after 6 April 2013' heading**.

#### 2. Applying the 'relevance test' of the APFP Regulations

2.1 When applying the 'relevance tests' the Secretary of State will in all cases carefully consider the facts available in

A1. For example, the Secretary of State must consult the Health and Safety Executive, as the table in Schedule 1 of the APFP Regulations states that the Health and Safety Executive must be consulted in 'all cases'

A2. The circumstances when a person must be consulted about a proposed application are set out in column 2 of the table in Schedule 1 APFP Regulations

A3. Regulation 7(2) of the Amendment Regulations which came into force on 6 April 2013



relation to the proposals and will, where necessary, request additional information from the applicant. For example, to clarify the extent of the site required for the proposed NSIP and any associated development in accordance with regulations 6(3) or 8(3) of the EIA Regulations.

**Definition where either a regulation 6 notification or a scoping request is made to the Secretary of State before 6 April 2013**

2.2 Where the applicant has provided either regulation 6 notification or made a scoping request to the Secretary of State, before 6 April 2013, the relevance test in Schedule 1 of the APFP Regulation states that:

*“relevant’, in relation to a body, shall mean the body which has responsibility for the location where the proposals may or will be sited or has responsibility for an area which neighbours that location”<sup>A4</sup>.*

2.3 The Secretary of State’s understanding of the terms used in this definition of ‘relevant’ is explained below:

- *‘the location’* means the location encompassing the land required for the NSIP and any associated development<sup>A5</sup>;
- *‘the proposals’* means the NSIP and any associated development for which development consent is sought<sup>A6</sup>;
- *‘the body which has responsibility for the location’* is the body who has responsibility for where the proposed NSIP and any associated development is located<sup>A5</sup>; and
- The body which has *‘responsibility for an area which neighbours that location’* is considered to be the body which has responsibility for an area which is in reasonable proximity to the proposed location of the NSIP and any associated development<sup>A5</sup>. As a rule of thumb, the Secretary of State considers a body is ‘neighbouring’ if the proposals are within 1 km of any part of the body’s boundary.

2.4 The Secretary of State will also exercise discretion and consult neighbouring parish/community councils in all cases as explained further below (see **section A4** of this advice note – identifying the relevant Parish/Community Councils).

**Definition where either a regulation 6 notification or a scoping request is made to the Secretary of State on or after 6 April 2013**

2.5 Where the applicant has provided either regulation 6 notification or made a scoping request to the Secretary of State, on or after 6 April 2013:

**For projects located in England:**

2.6 The relevance test in Schedule 1 of the APFP Regulation has been amended and now states that:

*“relevant’ in relation to a body, shall mean the body which has responsibility for the location where the proposals may or will be sited”<sup>A7</sup>.*

2.7 The Secretary of State’s understanding of the terms used in this definition of ‘relevant’ is explained below:

- *‘the location’* means the location encompassing the land required for the NSIP and any associated development;

A4. As defined in the ‘Note to Table’ in Schedule 1 of the APFP Regulations. It is acknowledged that this definition may be ambiguous. On the basis of Department of Communities and Local Government advice, the second ‘or’ in this definition will not be treated as meaning ‘in the alternative’

A5. For NSIPs in Wales, the Secretary of State cannot grant development consent for associated development except in limited circumstances. Therefore, “location” in Wales means the location of the NSIP

A6. For NSIPs in Wales, the Secretary of State cannot grant development consent for associated development except in limited circumstances. Therefore, “proposals” in Wales means the NSIP

A7. As defined in the ‘Notes to Table’ in Schedule 1 of the APFP Regulations as amended by Regulation 3(3)(g)(i) and (iii) of the Amendment Regulations



- ‘the proposals’ means the NSIP and any associated development for which development consent is sought; and
- ‘the body which has responsibility for the location’ is the body who has responsibility for where the proposed NSIP and any associated development is located.

### For projects located in Wales:

2.8 The definition of ‘relevant’ before 6 April 2013 remains in force, as the amended definition of ‘relevant’ only applies to projects in England. Therefore, ‘relevant’ is defined as:

*“‘relevant’, in relation to a body, shall mean the body which has responsibility for the location where the proposals may or will be sited or has responsibility for an area which neighbours that location”<sup>A4</sup>.*

2.9 The Secretary of State’s understanding of the terms used in this definition of ‘relevant’ is explained above.

## 3. Applying the ‘circumstances test’ of the APFP Regulations

3.1 The Secretary of State applies the ‘circumstances test’, as set out in column 2<sup>A8</sup> of the table in Schedule 1 of the APFP Regulations, before deciding whether to notify or consult bodies identified as ‘relevant’, or certain bodies prescribed by name in the APFP Regulations. Whether or not the ‘circumstances’ apply will be a matter of judgement, which will need to be exercised by the Secretary of State on a case-by-case basis.

3.2 The Secretary of State will apply a precautionary approach, such that where the circumstances test is ‘likely to affect’, it will be taken as meaning that there is a probability or risk that the development will have an effect, and not that a development will definitely have an effect.

3.3 In view of the probability or risk that every NSIP will have an effect of some kind (whatever the magnitude) on the environment, be it land, air or water, the Secretary of State considers it reasonable to notify and consult all the prescribed consultation bodies where the ‘circumstances test’ in column 2 of Schedule 1 is **‘all proposed applications likely to affect land in’** England or Wales.

3.4 In all other cases, a decision on consultation will be reached based on the nature and location of the development, the likely geographical extent of the impacts (where known) and the statutory responsibilities and functions of the consultation bodies.

3.5 **Table 1** in the **Annex to this advice note** sets out the ‘circumstances test’ for each consultee listed in Schedule 1 of the APFP Regulations.

## 4. Identifying the relevant Parish/Community councils

4.1 It is considered that parish/community councils<sup>A9</sup> have valuable information about the environment and locality for which they have responsibility and therefore will be notified and consulted by the Secretary of State where they are identified as ‘relevant’ as explained below.

### **Interpretation where either a regulation 6 notification or a scoping request is made to the Secretary of State before 6 April 2013**

4.2 In applying the ‘relevance’ test to identify the relevant parish/community councils, the Secretary of State has developed and will implement the ‘A’ and ‘B’ test, which follows the approach in s.43(2) of the 2008 Act in relation to

A8. Column 2 of Schedule 1 of the APFP Regulations sets out the circumstances when a person must be consulted about a proposed application

A9. The relevant parish council in England or where the application relates to land in Wales or Scotland, the relevant community council



identifying local authorities and is explained further in **Section 2 of this advice note** (s.43 Local Authorities). Therefore, the Secretary of State will notify and consult the following relevant parish/community councils:

- the parish/community council in which the proposed NSIP and any associated development<sup>A10</sup> will be located (referred to as the 'B' parish/community council 'B'); and
- the neighbouring parish/community councils which share a boundary with the 'B' parish/community council (referred to as the 'A' parish/community council).

4.3 As the 'circumstances test' set out in column 2 of the table in Schedule 1 of the APFP Regulations states that the relevant parish/community councils must be consulted in 'all cases', the Secretary of State will notify and consult the relevant 'A' and 'B' parish/community councils in all cases.

### **Interpretation where either a regulation 6 notification or a scoping request is made to the Secretary of State on or after 6 April 2013**

#### **For projects located in England:**

4.4 In applying the 'relevance' test on, or after, 6 April 2013 the Secretary of State will identify the relevant parish council in which the proposed NSIP and any associated development will be located (referred to as the 'B' parish council). The 'relevance' test no longer includes the body responsible for an area which neighbours the location where the proposed development may or will be sited (referred to as the 'A' parish council). Therefore, the Secretary of State will no longer notify and consult the neighbouring parish councils which shared a boundary with the 'B' parish council.

4.5 In accordance with the 'circumstances test' the 'B' parish councils will be notified and consulted in all cases.

#### **For projects located in Wales:**

4.6 The definition of 'relevant' before 6 April 2013 remains in force. In accordance with the 'circumstances test' the 'B' community council(s) and neighbouring 'A' community/parish councils will be notified and consulted in all cases.

## **5. Identifying statutory undertakers as prescribed in the APFP Regulations**

5.1 Schedule 1 of the APFP Regulations includes 'relevant statutory undertakers', which are defined in the APFP Regulations as having the same meaning as in s.127 of the 2008 Act<sup>1A10</sup>, which defines statutory undertakers as:

- having the meaning given by s.8 of the Acquisition of Land Act 1981 ('the ALA'), which are statutory undertakers in specified sectors,
- those deemed to be statutory undertakers for the purposes of the ALA, by virtue of another enactment, and
- those that are statutory undertakers for the purposes of section 16(1) and (2) of the ALA, which are specified health bodies.

5.2 Please refer to **Table 2** in the **Annex of this Advice Note**, which identifies the categories of statutory undertakers which the Secretary of State has interpreted to fall within the definition of 'relevant statutory undertaker'.

A10. As defined in Regulation 2(1) of the APFP Regulations



## B) S.43 Local Authorities

The definition of prescribed consultation bodies under the EIA Regulations includes each local authority that is within s.43 of the 2008 Act, which defines local authorities in terms of whether they fall within the categories of an 'A', 'B', 'C' or 'D' local authority:

- **'A'**<sup>B1</sup> - is a neighbouring local authority (s43(3)) that shares a boundary with a unitary council or lower-tier district council within whose area the development (proposed NSIP and any associated development<sup>11</sup>) is situated (referred to as a 'B' host authority)
- **'B'**<sup>B2</sup> - is either a unitary council or a lower-tier district council in which the development is situated (a host authority)
- **'C'**<sup>B3</sup> - is an upper-tier county council in which the development is situated (a host authority), and
- **'D'**<sup>B4</sup> - a local authority which is not a lower-tier district council and shares a boundary with a 'C' authority' a neighbouring authority (s 43(3)).

Further information on identifying s.43 local authorities is provided in the Planning Inspectorate's **Advice Note 2: The role of local authorities in the development consent process.**

## C) Non-Prescribed Consultees

Set out below, is a limited number of bodies, who have been identified by the Secretary of State as having relevant functions and responsibilities which are akin to other prescribed consultation bodies listed in Schedule 1 of the APFP Regulations.

### 1. Status of Non-Prescribed Consultees

1.1 Applicants should be aware that in relation to some non-prescribed consultees identified below, these bodies may also appear as prescribed consultees in Schedule 1 of the APFP Regulations, as listed in **Table 1** of the **Annex to this advice note**, in relation to other functions and responsibilities they have. Therefore, the Secretary of State may identify the same consultee as both a prescribed and non-prescribed body, depending on which function or responsibility of that body is being considered.

1.2 **Table 3** of the **Annex to this advice note** sets out how the Secretary of State will apply the 'relevance test' and the situations where the Secretary of State will exercise judgement and may on a discretionary basis consult these bodies.

1.3 As mentioned above in this advice note, as these bodies are non-prescribed consultees in relation to the following situations, therefore the applicant is not required to consult with these bodies in order to meet their statutory pre-application consultation obligations.

### 2. Non-Prescribed Consultees in Wales

2.1 The Secretary of State has identified the following bodies as being non-prescribed consultees who have relevant functions and responsibilities in Wales and/or Welsh territorial waters which are akin to prescribed consultation bodies listed in Schedule 1 of the APFP Regulations who operate in England:

- **Cadw** – the Welsh Government's historic environment service, which has a similar function to Historic England;

B1. An 'A' local authority is defined in s.43(2) of the 2008 Act  
B2. A 'B' local authority is defined in s.43(2) of the 2008 Act  
B3. A 'C' local authority is defined in s.43(2A) of the 2008 Act  
B4. A 'D' local authority is defined in s.43(2A) of the 2008 Act





- **Welsh Language Commissioner** - an independent body established by the Welsh Language (Wales) Measure 2011, principally to promote and facilitate use of the Welsh language in Wales;
- **Joint Transport Authorities (JTAs)** – akin to Passenger Transport Executives (PTEs) or Integrated Transport Authorities (ITAs) who operate in England. JTA's consist of: Mid Wales Transport Consortium (TraCC) and South East Wales Directors of Environment and Regeneration (SewDER), which has taken over responsibility from the South East Wales Transport Alliance (Sewta)<sup>C1</sup>. The North Wales (Taith) and South West Wales Integrated Transport Consortium (SWWitch) JTA's which previously were consulted by the Secretary of State, were abolished in 2014<sup>C2</sup>; and
- **Secretary of State for Defence** – added to the list of Schedule 1 consultees of the APFP Regulations on 6 April 2013 for projects in England, which the Secretary of State has interpreted to be 'the Ministry of Defence'.

### 3. Relevant British Crown Dependencies

3.1 The Secretary of State has identified the following bodies as being non-prescribed consultees as they are British Crown Dependencies, but are not listed in Schedule 1 of the APFP Regulations:

- **The Isle of Man**; and
- **The Channel Islands** (the Bailiwicks of Jersey and Guernsey).

### 4. Relevant Development Corporations

4.1 The Secretary of State has identified the following bodies as being non-prescribed consultees as they are types of development corporations with planning powers, but are not defined as a 'local authority' in s.43(3) of the 2008 Act:

- **“urban development corporation”** - defined as a corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980; and
- **“mayoral development corporation”** - defined as a corporation established by an order under section 198 of the Localism Act 2011.

### 5. Consulting where a proposed NSIP includes an offshore element

5.1 There are a number of bodies who have both statutory and non-statutory responsibilities in relation to the marine environment, in particular, maritime search and rescue authorities (SAR) and authorities responsible for the protection of wrecks, which the Secretary of State will exercise judgement and may on a discretionary basis consult.

#### SAR authorities

5.2 The UK Government assumes responsibility for civilian maritime SAR within the UK and its aviation and maritime search and rescue regions, which extends beyond territorial waters (12 nautical miles). This legal obligation is derived from the UK Government's adherence to international conventions<sup>C3</sup>. SAR authorities consist of:

- Relevant police and crime commissioner<sup>C4</sup>;

C1. The South East Wales Transport Alliance (Sewta) ceased to exist in September 2014. However, Sewta confirms on their website that “The Board delegates responsibility, via the South East Wales Directors of Environment and regeneration (SewDER), to the Transport Management Team to continue to progress the regional transport agenda” (<http://www.sewta.gov.uk/about-us>)

C2. Taith JTA ceased to operate from the 30th June 2014 and SWWitch was abolished on 31 March 2014

C3. The Convention on the Law of the Sea (UNCLOS), the Convention on Safety of Life at Sea (SOLAS) (1974), the Maritime Search and Rescue Convention (1979) and the Convention on International Civil Aviation (Chicago 1944) (Annex 12)

C4. The responsibility for the co-ordination of land-based and inland waters SAR operations including the inland aspects of those incidents that originate at sea rests with the Police Service. Through their command infrastructure, the relevant police and crime commissioner will provide co-ordination of all emergency services and other authorities where appropriate



- Relevant fire and rescue authorities<sup>C5</sup>;
- Relevant ambulance trusts;<sup>C6</sup> and
- Royal National Lifeboat Institute (RNLI)<sup>C7</sup>.

## Authorities responsible for the protection of wrecks

5.3 Authorities responsible for the protection of wrecks in English and Welsh territorial waters consist of:

- The Historic Buildings and Monuments Commission for England (Historic England (formally English Heritage<sup>C8</sup>));<sup>C9</sup>
- Cadw<sup>C10</sup>; and
- Ministry of Defence (MoD)<sup>C11</sup>.

## 6. Identifying local authorities within Zones of Visual Influence (ZVI)

6.1 Proposed NSIP schemes located on sites adjacent to estuaries or rivers, in coastal locations, or with an offshore element may have a potential visual impact on local authorities which are not identified as 'A', 'B', 'C', or 'D' authorities under s.43 of the 2008 Act. For example, where a local authority is located on the opposite side of an estuary but does not share a boundary with the 'B' or 'C' authority in which the proposed NSIP would be located. The Secretary of State will therefore exercise judgement and may on a discretionary basis consult the local authority(s) which are located within a ZVI. Where a local authority has been identified on this basis, the local authority will be consulted as a non-prescribed consultation body.

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- C5. Each fire and rescue authority has the power to use the resources primarily provided for fire fighting to deal with non-fire incidents, which may include SAR operations. This power is not restricted to the territorial sea of the United Kingdom (12 nautical miles)
- C6. The NHS ambulance trusts which operate in England and Wales may have helicopter emergency medical service assets which may assist in SAR operations
- C7. The RNLI is a voluntary organisation incorporated by Royal Charter for the purpose of saving lives, promoting safety and providing relief from disaster at sea (in and beyond UK territorial waters)
- C8. From 1 April 2015, English Heritage separated into two different bodies. A new charity retaining the name English Heritage which now looks after the National Heritage Collection and a newly named organisation called Historic England which continues the statutory role of giving expert, constructive advice to owners, local authorities and the public, and championing the wider historic environment (<http://www.english-heritage.org.uk/about-us/search-news/english-heritage-has-changed> (correct at the time of publication))
- C9. Historic England is the relevant body in England for designated wrecks under s.1 and s.2 of the Protection of Wrecks Act 1973 and is also the relevant body in relation to any underwater sites that are scheduled under the Ancient Monuments and Archaeological Areas Act 1979
- C10. Cadw is relevant body in Wales for designated wrecks under s.1 and s.2 of the Protection of Wrecks Act 1973
- C11. The MoD is the relevant body, under the Protection of Military Remains Act 1986, in relation to the wreckage of (any) crashed, sunken or stranded military aircraft or designated vessels



## D) Other EEA States

1.1 Regulation 24 of the EIA Regulations requires the Secretary of State to notify and consult with other EEA states where the Secretary of State is of the view that such development is likely to have significant effects on the environment in another EEA State(s). EEA States comprise the countries of the European Union, plus Iceland, Liechtenstein and Norway.

1.2 Further information on how the Secretary of State undertakes notification and consultation under Regulation 24 of the EIA Regulations is provided in the Planning Inspectorate's **Advice Note 12: Development with Significant Transboundary Impacts**.

## Further information

The Planning Inspectorate, Major Applications and Plans Directorate, Temple Quay House, Temple Quay, Bristol, BS1 6PN

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