Screening, Scoping and Preliminary Environmental Information

**Advice note seven:** Environmental Impact Assessment: Screening, Scoping and Preliminary Environmental Information

**Status of this Advice Note**

This version of advice note 7 supersedes all previous versions and includes minor revisions made in response to emerging best practice on projects.

**Summary of this Advice Note**

This advice note deals with:

- pre-consultation requirements that apply to all applications for development consent orders (DCOs);
- information to be contained in the applicant’s screening and scoping requests under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the EIA Regulations)\(^1\);
- notification and consultation with prescribed consultation bodies and other consultees;
- publication of screening and scoping opinions;
- understanding the role of preliminary environmental information.

**Structure of this advice note**

This advice note is laid out under the following headings:

1. Environmental Impact Assessment development
2. Pre-consultation requirements for all DCO applications
3. Screening
4. Notification of the EIA consultation bodies
5. Scoping
6. Requests for additional information
7. Practical matters
8. The role of preliminary environmental information (PEI)

1. Environmental impact assessment (EIA) development

The EIA Regulations impose procedural requirements for carrying out EIA for nationally significant infrastructure projects (NSIPs) which fall to be considered as 'EIA development' under the EIA Regulations. The schedules to the EIA Regulations contain the following categories of projects:

- **Schedule 1** projects – these are always EIA development and include, for example, nuclear power stations, and
- **Schedule 2** projects – these are only EIA development if the individual project is likely to have significant effects on the environment. Schedule 2 includes, for example, wind farms and overhead cables.

2. Pre-consultation requirements for all DCO applications

It is important for applicants to note that, for procedural purposes, it is not possible to carry out formal pre-application consultation in relation to a proposed NSIP, until they have either:

- requested from the Secretary of State an opinion about whether the NSIP is

---

2 Schedule 2 does not include applicable thresholds and criteria (unlike the Town and Country Planning (Environmental Impact Assessment) Regulations (2011)). The European Court of Justice has held that the projects identified in Schedule 2 should be given a ‘wide scope and broad purpose’ (Kraaijveld (Dutch Dykes) Case c-72/95)

3 Under section 42 (duty to consult) of the Planning Act 2008 (as amended) (‘the 2008 Act’)

---
EIA development (known as a screening request)⁴; or

• informed the Secretary of State that an Environmental Statement (ES) will accompany their DCO application, in which case the NSIP is deemed to be EIA development (known as a Regulation 6 Notification)⁵.

These procedural requirements apply to all proposed DCO applications.

Applicants are required to prepare a consultation report setting out how they propose to consult the local community about their proposed DCO application⁶. That report must state whether the NSIP is EIA development and if it is how the applicant intends to publicise and consult on the PEI⁷. Further information on PEI is given in section 8 of this advice note.

3. Screening

About the screening process

A screening opinion is a written statement from the Secretary of State giving an opinion about whether an NSIP is EIA development. It takes into account information provided by applicants, relevant screening criteria in Schedule 3 to the EIA Regulations⁸ and relevant guidance including guidance published by the European Commission⁹. The screening opinion will include written reasons for the Secretary of State’s decision on whether or not an NSIP is EIA development. The Secretary of State must adopt a screening opinion within 21 days of receiving a screening request¹⁰.

Applicants should be aware that even if the Secretary of State’s determines that a proposed NSIP is not an EIA development, certain environmental information, where appropriate, must still be provided with the DCO application, including for example, a flood risk assessment and information on the historic environment¹¹.

Information to be provided with a screening request

The minimum information that applicants must provide with a screening request is set out in the EIA Regulations. This includes a plan, a

---

⁴ Regulation 6(1)(a) of the EIA Regulations
⁵ Regulation 6(1)(b) of the EIA Regulations. There is no prescribed format for a Regulation 6 Notification but any document submitted to the Secretary of State (such as an email or letter) should state clearly that it is a Regulation 6 Notification. If a Regulation 6 Notification is submitted but the DCO application is not subsequently accompanied by an ES, the application is treated as a screening request and the Secretary of State must undertake screening during the 28 day acceptance period, before the application can be accepted for examination (see Section 3 of this advice note for further information)
⁶ Section 47 of the 2008 Act
⁷ Section 47 of the 2008 Act and Regulation 10 of the EIA Regulations
⁸ Regulation 7 and Schedule 3 of the EIA Regulations. Schedule 3 is only relevant to Schedule 2 projects
⁹ See, for example: Guidance on EIA Screening (June 2001): http://ec.europa.eu/environment/eia/eia-guidelines/g-screening-full-text.pdf
¹⁰ Regulation 6(6) of the EIA Regulations
¹¹ See, for example, Regulation 5(2) of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (as amended) (‘the APFP Regulations’)
description of the proposed development, including both the NSIP and any associated development\(^\text{12}\) (‘the proposed development’), and a description of its possible effects on the environment\(^\text{13}\).

The Planning Inspectorate requests that the following information is shown on the plan:

- the proposed draft DCO site boundary (identified by a red line) including any associated development;
- any permanent land take required for the proposed development;
- any temporary land take required for construction, including construction compounds;
- any existing infrastructure which would be retained or upgraded for use as part of the proposed development and any existing infrastructure which would be removed; and
- features including planning constraints and designated areas on and around the site, such as national parks or historic landscapes.

Where practical, the information should be included on a single plan. Where more than one plan is used, the plans should be at the same scale and a key plan should be used where appropriate.

\(^{12}\) In Wales, associated development cannot be consented by the Secretary of State except in limited circumstances. However, all cumulative development needs to be considered and therefore, for NSIPs in Wales, development that would be treated as associated development in England (for example, grid connections) should be dealt with in the screening request and identified on the plan

\(^{13}\) Regulation 6(3) of the EIA Regulations

In dealing with the description of the development and its possible effects on the environment, applicants should:

- set out the information using the headings in Schedule 3 to the EIA Regulations, being:
  - characteristics of the development;
  - location of the development; and
  - characteristics of the potential impacts.
- ensure that all aspects of the environment likely to be significantly affected by the development are addressed.

**Re-screening**

*Prior to submission of DCO application*

Where the Secretary of State has directed that the proposed development is not EIA development, but subsequently new information becomes available that may affect whether the proposal is EIA development, or where the scheme itself changes, applicants should consider submitting a new screening request to the Secretary of State, prior to submission of the draft DCO application.

*At acceptance*

Where a DCO is submitted for acceptance, if the Secretary of State has previously directed that the proposal is not EIA development and this did not take into account subsequent information that is material to the screening decision, the Secretary of State will treat the submitted DCO application as a screening request and will re-screen the proposed development before the application can be accepted\(^\text{14}\). Alternatively, if an application is submitted without an ES and has not been the subject of a screening request, the Secretary of State will treat the submission

\(^{14}\) Regulation 12 of the EIA Regulations
of the draft DCO application as a screening request\textsuperscript{15}. Applicants should be aware that if the Secretary of State screens or re-screens the proposed development during acceptance and determines that it is an EIA development, applicants are required to provide an ES\textsuperscript{16} and the Secretary of State must suspend consideration of the DCO application until an ES is provided by the applicant\textsuperscript{17}.

4. Notification of the EIA consultation bodies

**Regulation 9 Notification and the Regulation 9 List**

If the Secretary of State either:

- receives a notification that the applicant proposes to provide an ES (Regulation 6 Notification); or
- adopts a positive screening opinion;

the Secretary of State must notify in writing the prescribed consultation bodies\textsuperscript{18}.

This notification informs these bodies of the name and address of the applicant and of the duty imposed on them to enter into consultation with the applicant and make information in their possession relevant to the preparation of the ES available to the applicant\textsuperscript{19}. This is known as a Regulation 9 Notification\textsuperscript{20}. Applicants should note that this duty only applies to the prescribed consultation bodies. The Secretary of State will give the applicant a list containing the names and addresses of the bodies sent a Regulation 9 Notification\textsuperscript{21} (‘the Regulation 9 List’). In this list, the Planning Inspectorate will also include the names and addresses of non-prescribed consultation bodies, which have been notified by the Secretary of State.

Applicants should note that the requirement to provide this Regulation 9 List is only on receipt of the notification under Regulation 6, or the adoption of a positive screening opinion\textsuperscript{22}. Applicants should also note that formal consultation cannot start until notification is made under Regulation 6, or a screening request is made to the Secretary of State\textsuperscript{23}. Therefore, applicants will need to consider carefully the timing of this request as it will affect their project development programme.

\textsuperscript{15} Regulation 12 of the EIA Regulations
\textsuperscript{16} Regulation 5(2)(a) of the APFP Regulations
\textsuperscript{17} Regulation 12(2) of the EIA Regulations
\textsuperscript{18} Regulation 9(1)(a) of the EIA Regulations
\textsuperscript{19} Regulation 9(3) of the EIA Regulations
\textsuperscript{20} Regulation 9(1)(a) of the EIA Regulations
\textsuperscript{21} Regulation 9(1)(b) only requires the list to contain the details of the Prescribed Consultation Bodies. The Secretary of State is also required to notify the applicant of any other person who the Secretary of State thinks is likely to be affected by the development under Regulation 9(1)(c) of the EIA Regulations
\textsuperscript{22} Regulation 9(2) of the EIA Regulations
\textsuperscript{23} Regulation 6(1) of the EIA Regulations
Regulation 9(1)(c) bodies

Applicants should be aware of the requirements\(^2\), in certain circumstances to notify bodies which they have been informed about by the Secretary of State (‘Regulation 9(1)(c) bodies’\(^3\)). This notification requirement is reflected in the Application Form\(^4\) under Section 14(c) where the applicant is asked to identify whether notification has been given to these bodies\(^5\).

5. Scoping

About the scoping process

Before submitting an application for a DCO, the applicant has the opportunity to ask the Secretary of State for a formal written opinion on the information to be included in the ES. This is known as a scoping opinion. The Secretary of State must adopt a scoping opinion within 42 days of receiving a scoping request\(^6\).

Before adopting a scoping opinion the Secretary of State must consult the prescribed consultation bodies, who have 28 days to respond\(^7\). The Secretary of State may also consult the relevant non-prescribed consultation bodies identified in Advice Note 3\(^8\), who would also be given 28 days to respond. Responses received after the 28 day deadline will not be considered within the Secretary of State’s scoping opinion, but will be forwarded to the applicant, for their consideration.

When a scoping opinion is requested the Planning Inspectorate recommends that the applicant meets the requirements of Regulation 6 at the same time\(^9\).

Applicant’s consultation before submitting a scoping request

Prior to submitting a scoping request, applicants may wish to undertake their own informal consultation with the prescribed consultation bodies, or others, to inform the information provided with the scoping request\(^10\). The Planning Inspectorate recommends that applicants consider carefully the timing and nature of any informal consultation exercise to ensure that there is no confusion with the Secretary of State’s scoping consultation period.

\(^2\) Under Regulations 11, 13, 16, 17, 18 of the EIA Regulations

\(^3\) Regulation 9(1)(c) bodies are those which the Secretary of State has notified the applicant about in writing, as the Secretary of State considers these bodies (i) to be, or to be likely to be affected, by or to have an interest in the proposed development; and (ii) to be unlikely to become aware of the proposed development by means of the measures taken in compliance with Part 5 of the 2008 Act (pre-application consultation)

\(^4\) Required to be submitted with a DCO application

\(^5\) In accordance with the requirement in Regulation 11 of the EIA Regulations

\(^6\) Regulation 8(6) of the EIA Regulations

\(^7\) The Planning Inspectorate’s Advice Note 3: EIA Consultation and Notification

\(^8\) Either to request a screening opinion or to notify the Secretary of State that an ES will be provided (see Regulation 6(1) of the EIA Regulations)

\(^9\) For example, applicants may identify and consult on preferred sites or solutions prior to requesting a scoping opinion
Information to be provided with a scoping request

The minimum information that the applicant must provide with a scoping request is the same minimum information that must be provided with a screening request\(^{33}\). Applicants should consider carefully the best time to request a scoping opinion. In order to gain the most from a scoping opinion, applicants should consider requesting the opinion once there is sufficient certainty about the description of the proposed development and the main elements of the proposed development likely to have a significant environmental effect. Where multiple and varied design and layout options remain under consideration (for example a number of route corridors associated with a proposed linear development), applicants should be aware that the Secretary of State and the consultees would only be able to provide high level comments. In addition, there may be insufficient detail in the scoping request to enable the Secretary of State to agree to scope out certain elements at this time.

Although it is not a mandatory requirement, the Planning Inspectorate suggests that applicants provide their scoping request information in the form of a scoping report. The scoping report should contain the information described above in section 3 of this advice note, in relation to a screening request, and the following additional information:

- an outline of the main alternatives considered and the reasons for selecting a preferred option;
- results of desktop and baseline studies where available;
- referenced plans presented at an appropriate scale to convey clearly the information and all known aspects associated with the proposal;
- guidance and best practice to be relied upon, and whether this has been agreed with the relevant bodies (for example the statutory nature conservation bodies or local authorities) together with copies of correspondence to support these agreements;
- methods used or proposed to be used to predict impacts and the significance criteria framework used;
- any mitigation proposed and predicted residual impacts;
- where cumulative development has been identified, how applicants intend to assess these impacts in the ES (for example, a high level review of the grid connection where this does not form part of the proposed development for a power station);
- an indication of any European designated nature conservation sites that are likely to be significantly affected by the proposed development and the nature of the likely significant impacts on these sites;
- key topics covered as part of the applicants’ scoping exercise; and
- an outline of the structure of the proposed ES.

\(^{33}\) Regulation 8(3) of the EIA Regulations
The elements of the proposed development likely to have a significant environmental effect should be identified. Where uncertainty remains, the applicant should provide as much detail as possible or assume the worst case (e.g. maximum dimensions of a building or feature)\textsuperscript{34}.

The applicant may also wish to provide, with the scoping report, a completed transboundary screening matrix\textsuperscript{35} dealing with the effect of the proposed development on other EEA States. This would facilitate the Secretary of State’s consideration under Regulation 24 of the EIA Regulations. Under that provision, the Secretary of State must notify and exchange information with other EEA states if it is of the view that the proposed development is likely to have significant effects on the environment in these states.

**Scoping out topics from the EIA**

The process of scoping assists in defining the key topic areas and information to be included in the ES and can identify where matters could be scoped out of further assessment, if there are no likely significant environmental effects.

Where the applicant wishes to scope out matters, justification should be provided, preferably supported by evidence of agreement with the relevant consultation bodies. Consideration should be given to providing this information in a table format as this would assist the Secretary of State.

\textsuperscript{34} Further information on the use of the ‘Rochdale Envelope’ approach under the 2008 Act is set out in the Planning Inspectorate’s Advice Note 9: Using The ‘Rochdale Envelope’

\textsuperscript{35} Further details of the suggested format for the transboundary screening matrix is provided in the Planning Inspectorate’s Advice Note 12 ‘Transboundary Impact Consultation’

The Secretary of State will conclude on whether matters may be scoped out, having taken into consideration the information provided in the applicant’s scoping report and the comments provided by both the consulted prescribed and non-prescribed consultees. In order to demonstrate that topics have not simply been overlooked, where topics are scoped out prior to submission of the DCO application, the ES should still identify these topics and explain the reasoning and justification for the approach taken.

Applicants should note that matters are not scoped out unless specifically confirmed as being scoped out by the Secretary of State in the scoping opinion. Whilst the Secretary of State may not agree to scope out certain topic or matters within the scoping opinion on the basis of the information available at the time, this does not prevent applicants from subsequently agreeing with the relevant consultees to scope matters out of the ES, where further evidence has been provided to justify this approach. This approach should be explained fully in the ES.

**6. Requests for additional information**

The Secretary of State may request additional information, if sufficient information has not been provided with a screening or scoping request\textsuperscript{36}. For example, where there are inconsistencies between the proposed development as identified on the plans and the corresponding description of the proposed development in the text of the request.

The formal request for additional information will specify how this information should be presented.

\textsuperscript{36} Regulations 6(5) and 8(5) of the EIA Regulations for screening and scoping requests respectively
The applicant is expected to acknowledge this request and inform the Secretary of State as to when they intend to provide the additional information. Where additional information is requested, the relevant statutory time periods\textsuperscript{37} are suspended until the additional information is received, to the satisfaction of the Secretary of State, after which time the relevant statutory time periods re-start.

7. Practical matters

Advance notice and GIS shapefile

Although it is not a statutory requirement, the Planning Inspectorate welcomes advance notification by the applicant of a formal screening and/or scoping request and recommends that a minimum notice of ten working days is given.

At the same time as advance notice is given, a GIS shapefile should be provided to the Planning Inspectorate to identify the land subject to the screening and/or scoping request. This will enable the Planning Inspectorate to allocate resources to deal with the request and enable the Planning Inspectorate to identify the prescribed consultation bodies.

The shapefile should be:

- a polygon geometry type and consist of one or more polygon features representing the proposed DCO site boundary (including any associated development);
- a single, valid, ESRI Shapefile for each site boundary, provided as a *.zip file using the default WinZip settings (i.e., no encryption, normal compression etc.);
- Each site boundary must contain one of each of the following files: *.prj, *.dbf, *.shp, *.shx; and
- There must not be any other files within the *.zip file
- in the British National Grid (OSGB1936) format.

Please note that any shapefile Attribute Table data should be deleted as this is not required to generate the shapefile and will minimise the upload time to the Planning Inspectorate’s GIS system.

Numbering system

The screening and/or scoping request document should use a clear numbering system to enable easy cross-referencing from the Secretary of State’s screening/scoping opinion.

Paper and electronic copies

Applicants are required to provide four paper copies and an electronic copy (provided on a CD) of the request documents.

The electronic copy should be a single file including all appendices and figures. Where the request document contains high resolution plans/figures, due to the potential size of the document, the Planning Inspectorate also requests that a low resolution electronic copy is also provided to enable easier downloads for those viewing the document via the Planning Portal.

\textsuperscript{37} The 21 day timeframe for screening prescribed under Regulation 6(6) and the 42 day timeframe for scoping prescribed under Regulation 8(6) of the EIA Regulations
Information published on the Planning Portal

The following documents will be made available on the relevant project page of the National Infrastructure Planning webpage on the Planning Portal:

- applicants’ screening and scoping requests made to the Secretary of State;
- any information provided by applicants in response to a request for additional information;
- the Secretary of State’s screening opinions;
- the Secretary of State’s scoping opinions including all consultation responses received within the statutory deadline; and
- late scoping consultation responses received by the Secretary of State after the statutory deadline.

Information relating to third parties will be handled in accordance with the Data Protection Act 1998.

8. The role of PEI

As part of their pre-application consultation duties, applicants are required to prepare a Statement of Community Consultation (SoCC). This sets out how the local community will be consulted about the proposed development. The SoCC must state whether the proposed development is EIA development and, if it is, how the applicant intends to publicise and consult on PEI.

PEI is defined in the EIA Regulations as:

‘information referred to in Part 1 of Schedule 4 (information for inclusion in environmental statements) which -

(a) has been compiled by the applicant; and
(b) is reasonably required to assess the environmental effects of the development (and of any associated development)”.

The focus of the PEI is to enable the local community to understand the environmental effects of the proposed development so as to inform their responses regarding the proposed development.

This is reflected in the Department for Communities and Local Government (DCLG) Guidance which advises applicants to provide 'sufficient preliminary environmental information to enable consultees to develop an informed view of the project. The information required will be different for different types and sizes of projects and it may differ depending on the audience of a particular consultation... The key issue is that the information presented must provide clarity to all consultees”.

Therefore, the level of detail and type of PEI may vary depending on:

- when in the design process the consultation is carried out;
- the target audience; and
- the complexity of the project.

Applicants should consider the most appropriate form in which to present the PEI, given the above considerations. Applicants may find it useful to provide more than one version of PEI depending upon whom they are consulting.

38 In accordance with section 47 of the 2008 Act
39 Regulation 10 of the EIA Regulations
40 Regulation 2(1) of the EIA Regulations
41 DCLG Guidance – Planning Act 2008: Guidance on the Pre-Application Process (January 2013), paragraph 73
Applicants should be aware that the level of detail provided in the PEI may affect the level of detail provided in the consultees’ responses and how useful this is to inform the EIA and the design of the proposed development. Applicants should consider whether taking forward PEI at a more advanced stage in the design process of the NSIP, where more detailed information is known about the proposed development and its environmental effects, may generate more detailed responses and provide a more effective consultation exercise.

In order to clarify the role of PEI to consultees, the Planning Inspectorate recommends that applicants clearly explain that the information is ‘preliminary’ and that the applicant is actively seeking their comments on this information, with the opportunity for both the EIA and project design to take into consideration any comments received through this consultation.

Although applicants are not required to provide PEI when undertaking their formal consultation, applicants are encouraged to provide PEI to enable the statutory consultees to understand the environmental effects of the development and to inform the context of consultation. Provision of PEI may assist in the identification of potential issues, enabling these to be addressed at an earlier stage in the pre-application consultation. PEI does not have to be the draft ES, although the use of a draft ES may be appropriate when consulting with the statutory consultees later in the pre-application stage.

It will be for applicants to decide at what stage in the pre-application process they wish to commence statutory pre-application consultation, taking into consideration at what point they feel consultation on PEI will be most effective.

Review of this advice note
The Planning Inspectorate will keep this advice note under review and will update as appropriate.

Further information
The Planning Inspectorate, Major Applications and Plans Directorate, Temple Quay House, Temple Quay, Bristol BS1 6PN
Email: environmentalservices@infrastructure.gsi.gov.uk
Telephone: 0303 444 5000
Web: http://infrastructure.planningportal.gov.uk

42 Including consultation under Sections 42 and 47 of the 2008 Act