



Environmental Impact Assessment (EIA) Conference

**Planning &
Architecture**

ALCUIFGCFLG

EIA 2017 Regulations: a refresher on key changes & messages

William Carlin
Senior Policy Manager

What is EIA?

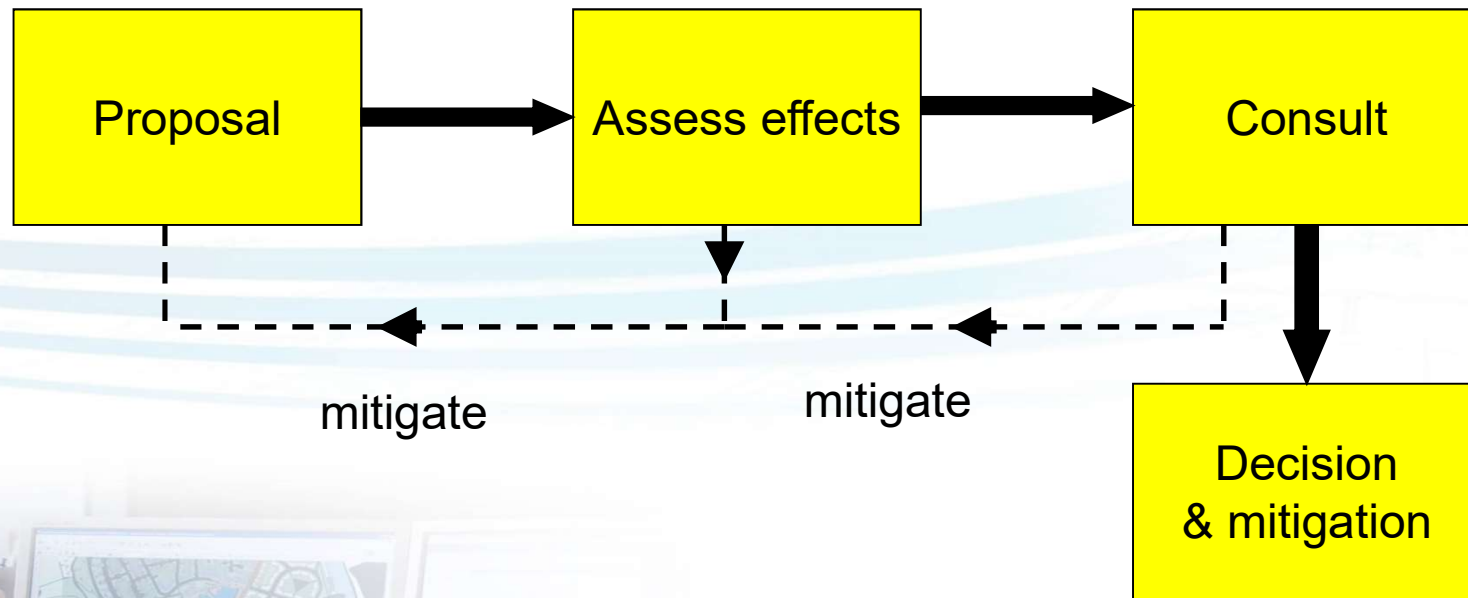
- Process for systematically drawing together an assessment of a development's likely significant effects on the environment
- Informs development consent decisions
- Helps to ensure the public have opportunity to provide comment before a decision is made.



Scottish EIA Regulations 2017

- The **Town and Country Planning** (Environmental Impact Assessment) (Scotland) Regulations 2017
- The **Electricity** (Environmental Impact Assessment) (Scotland) Regulations 2017
- The **Transport and Works** (Scotland) Act 2007 (Applications and Objections Procedure) Amendment Rules 2017
- The **Transport and Works** (Scotland) Act 2007 (Environmental Impact Assessment) Regulations 2017
- The **Forestry** (Environmental Impact Assessment) (Scotland) Regulations 2017
- The **Agriculture, Land Drainage and Irrigation Projects** (Environmental Impact Assessment) (Scotland) Regulations 2017
- The **Marine Works** (Environmental Impact Assessment) (Scotland) Regulations 2017
- The **Roads** (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017
- The **Flood Risk Management** (Flood Protection Schemes, Potentially Vulnerable Areas and Local Plan Districts) (Scotland) Amendment Regulations 2017

EIA – processing principles





Resume of EIA changes

**Planning &
Architecture**

ALCUIFGCFLG

Why was the Directive amended?



EC aims for the new Regulations

- Correct some shortcomings
- Streamline procedures and reduce costs
- Reflect European case-law

Proportionality

- Article 3 – ‘Significant’ effects to be assessed
- Encourage Screening

Process & Transparency

- Co-ordination of EIA and HRA
- Enhanced transparency & publicity
- Reasoned conclusion / Decision Notices

EIA Quality

- Changes to information to be assessed
- Competent experts / access to sufficient expertise
- Conflict of interest provisions
- Monitoring
- Penalties

PROPORTIONALITY

Screening: increased role of developer in screening:

- description of likely **significant** environmental effects
- description of proposed **mitigation** measures
- taking into account available results of any 'relevant assessment' [SEA/HRA?]

Competent Authority role in screening:

- Professional judgement on ‘likely significant effects’ taking into account
 - the Schedule 3 criteria
 - info supplied by developer
 - available results of any ‘relevant assessment’

Screening Opinions

EIA Required

- Reasons for decision

EIA not required

- Reasons for decision
- Mitigation measures



Co-ordination of assessments

Where EIA and Appropriate Assessment apply

- The competent authority must ensure that the Appropriate Assessment and the EIA are co-ordinated.
- Existing best practice in Scotland PAN 1/2013. ***This has been updated to reflect 2017 Regulations***

Process & Transparency

- Greater emphasis on web publication
- 30 day **minimum** timescale to consult the public
- Authority must reach 'reasoned conclusion' on significant effects
- Enhanced decision notices

Decision notices to include:

- Reasoned conclusion
- Statement confirming decision 'up to date'
- Description of any mitigation measures
- Description of any monitoring measures
- [Multi-stage statement on effects 'not fully identifiable']

EIA Quality

Updated assessment criteria

- Population and human health;
- Biodiversity (with emphasis on species & habitats protected under Birds and Habitats Directives)
- Land, soil, water, air, climate;
- Material assets, cultural heritage and the landscape
- The interaction between all factors
- Risks of major accidents and natural disasters

Developer

- EIA Report prepared by **competent experts**.
- EIA Report must be accompanied by a **statement** outlining the relevant expertise or qualifications of such experts.



Competent Authority

- Competent Authority has, or has access to, **sufficient expertise** to examine the EIA Report.

Monitoring

Competent Authority must:

- Consider whether....to require monitoring
- Secure monitoring measures (via S75 / condition)
- Consider provision on remedial action

Monitoring should:

- Be proportionate
- Not duplicate

Penalties



- Any person or bodies corporate who, for the purpose of procuring a particular decision on an application **knowingly or recklessly** makes a statement or uses a document which is **false or misleading** or with **intent to deceive** is liable for a fine.



One year on



- Too soon to realise the full impact of 2017 Regulations,
- In Scotland, in 2017 PAD notified about 44 EIA developments,
- PAD has seen an increase activity on third party requests to the Scottish Ministers for screening directions,
- The EIA community are still debating assessment criteria, such as human health and major accidents,

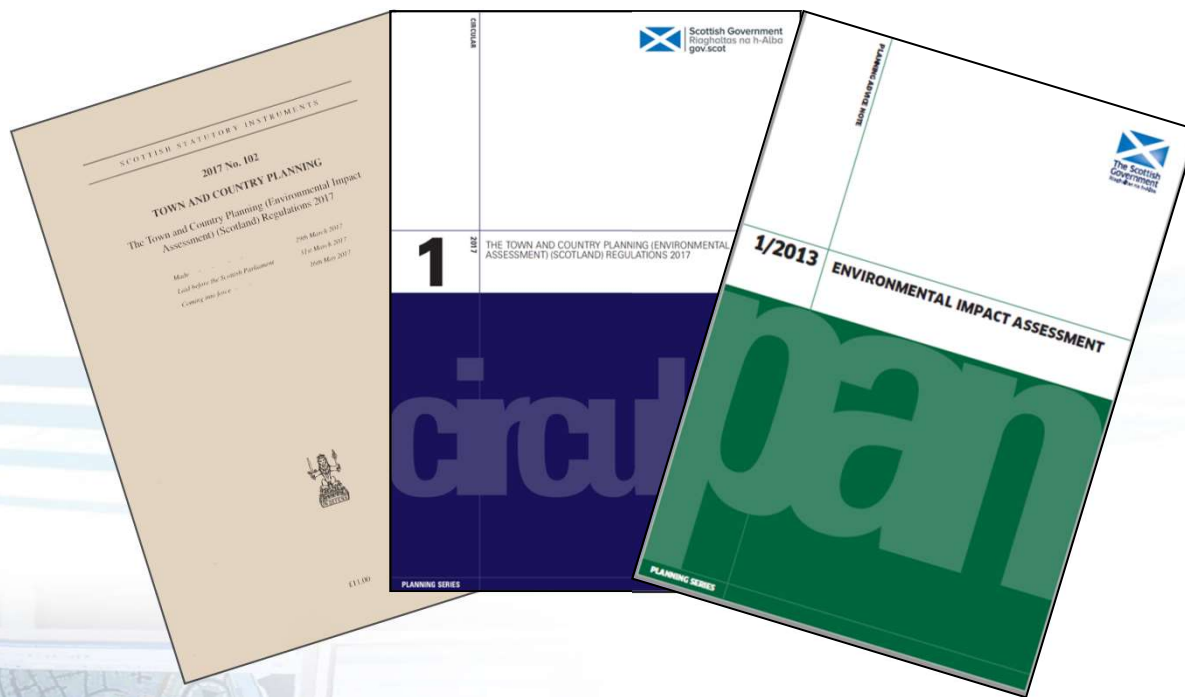
One year on



- PAD has been trialling an internal EIA checklist for 2017 Regulations,
- PAD continues to receive regular queries about subjects such as sensitive areas, thresholds and appropriate categorisation of development,
- Brexit and the implications for environmental assessment.



The end



Planning &
Architecture