

Environmental Impact Assessment Directive (Roads)

Comments by
Northern Ireland Environment Link

21st April 2017

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 70+ Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are made on behalf of Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

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NIEL welcomes the opportunity to engage with the Department on the proposed changes to the Roads Regulations and the implementation of the EIA Amendment Directive.

The 2014 EIA Directive makes reference to changes that both 'simplify' and 'strengthen' the overall EIA process. The primary purpose of EIA remains "high level of protection of the environment" and the first reason given for the new Directive is to "strengthen the quality of the environmental impact assessment procedure". In general we are supportive of the changes that have been brought in by the Directive. Our views on some of the key issues referred to in the consultation document are outlined below:

- We support proposals for a coordinated rather than joint procedure. Guidance is required to help competent authorities coordinate EIA and HRA processes and ensure compliance with both procedures. Updated guidance must also clarify who should be the lead authority in situations where an EIA falls under more than one Planning Authority or where more than one authority. It is also essential that the coordinating body has access to expertise of relevance to both EIA and HRA. This should be set out in the amended Draft Regulations and provided for in practice.
- We support broadening the scope of EIA to cover new factors (e.g. biodiversity, land, human health) and to cover risks of major accidents/disasters. Guidance is key to ensuring these new issues are considered consistently and robustly within all stages of the EIA.
- The scope of the EIA has been broadened to include biodiversity, which the draft Regulations should include. Guidance should provide an appropriate definition for 'biodiversity' and set out what the assessment should cover. This should include reference to the UN 'Aichi' targets, and UK Sustainable Development goals. Mitigation should contribute to avoiding any net loss in biodiversity and should aim for improvements in biodiversity wherever possible.
- In terms of climate, the EIA Regulations have a key role to play in positively shaping new development in a way that builds community resilience to climate change and reduces vulnerability to extreme climate events such as flooding. It should include information on how practitioners are expected to consider vulnerability (exposure and resilience) to major accidents and/or disasters, the risk of these occurring and their likely significance on the environment. Projects should not undermine climate mitigation measures required by the Climate Change Act, 2008 and should accord with tougher greenhouse gas mitigation to pursue efforts to limit the temperature increase to 1.50C as agreed at the UN Paris Conference in December 2015 and ratified by the UK Government in November 2016.
- The changes proposed to the Screening process will place additional pressures on competent authorities to ensure they have sufficient information to underpin their Screening decisions and to properly examine the additional information provided at screening stage. We are concerned that competent authorities and statutory agencies are under-resourced and do not have adequate access to independent ecological expertise to support the additional screening requirements. It is essential that these resourcing issues are addressed.

- Further clarification is required around the definition of, and criteria for judging, 'significant' environmental effects. It is necessary to define 'significant' and outline the criteria that will be used to determine whether or not environmental effects are significant.
- In terms of monitoring, it is questionable whether developments which appear to have 'significant negative effects' on the environment should be given permission if there is no substantial evidence that these effects can be mitigated or offset. Ensuring developers adhere to mitigation measures and monitoring conditions is critically important.
- Robust monitoring and enforcement is essential to ensure that breaches of the requirements are detected. Furthermore, breaches should carry sufficient penalties to act as a strong deterrent to future violation of the Directive.
- We welcome inclusion of the expected effects deriving from the vulnerability of the project to major risks or accidents. Clarification is required around how a major risk or disaster is defined and examples of such circumstances should be provided. For example, given the importance of climate resilience this Regulation should include considerations around the potential vulnerability of a project to climate impacts, such as flooding.
- A new provision should be included in the Transposing Regulations to ensure easy access to environmental information at all stages in the EIA process. A central portal of information should be provided, establishing a central sign-posting hub for all EIA information.
- While these amendments should bring us into line with other UK jurisdictions and EU Member States, NI is lagging behind on a whole range of other environmental issues. For example, of relevance to this consultation is the issue of 'independence' around assessing, evaluating and monitoring environmental impacts and the associated need for effective enforcement. The catalogue of environmental failures in NI is well documented and we are increasingly perceived across the rest of the UK and EU to be underperforming in relation to environmental protection. These failures jeopardise our ability to project and sustain a clean green image when trading across the EU, promoting tourism and economic development. The NI Executive needs to urgently review the need for an Independent Environmental Protection Agency. Attaining minimum acceptable environmental standards will be a key factor in achieving a sustainable and prosperous future for Northern Ireland.