



# IMPACT ASSESSMENT UPDATE

## IRELAND-UK BRANCH OF IAIA:

**December 2009**  
**Newsletter**

<http://www.iaia.org/affiliatesbranches/irelanduk-branch.aspx>

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### **Been Forwarded this newsletter? Why Not Join the IAIA**

The International Association for Impact Assessment exists to improve and better inform the decision-making of today that has environmental consequences for tomorrow. The IAIA is the leading global networking organisation on impact assessment for sustainable decision-making, providing an international forum for communicating information on best practice and innovation. It is truly a multi-disciplinary organisation covering the many aspects of impact assessment, and has 1500 members in more than 120 countries, including private and public sector planners and managers, consultants and policy analysts, university and college lecturers, researchers and students, and community bases.

#### **Who Should Join**

Individuals and organisations in research, industry, government, community groups, consultancies or educational institutions - those who want to be more informed, more effective participants in the development of better environmental outcomes. See [www.iaia.org](http://www.iaia.org) for full details of membership services and benefits.



## **1. INTRODUCTION**

Dear Members,

Welcome to the IAIA Ireland-UK Branch Newsletter 'Impact Assessment Matters' for November 2009. This brings together recent news of legislation, guidance, consultations and events relating to impact assessment.

Since the July 2009 newsletter, emails have been sent to members on:

- Climate Change Adaptation and Impact Assessment – Branch event, 8 October 2009
- Climate Change Adaptation: Drivers, Barriers and Strategy – CPD from Imperial College London and Collingwood Environmental Planning, October 2009 (*postponed*)

For the next Branch newsletter, please email any contributions to [ie\\_uk@iaia.org](mailto:ie_uk@iaia.org), with 'IAIA Branch news' in the subject line.

You can also always circulate any more urgent items to all IAIA Branch members on the listserv by sending an email to [ie\\_ukbranch@iaia.org](mailto:ie_ukbranch@iaia.org).

### **IAIA Events**

- **IAIA '10: Geneva: 6-11 April 2010**

The international conference comes to Europe once more. We hope for a good delegation from Ireland & the UK! A Preliminary programme and presentation materials should be available shortly. See <http://www.iaia.org/iaia10/>

### **IAIA Newsletters**

The **July and October 2009** IAIA newsletters are available for members to login and download at [www.iaia.org](http://www.iaia.org) > login > Publications > Newsletter Members.

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### **The Ireland-UK Branch of IAIA**

For those based in Ireland and the UK, membership of IAIA comes with the added value of automatic membership of the **Ireland-UK Branch**. This regional Branch was created in 2005, with the aim of promoting interactions among and between professionals in the field and impact assessment researchers at leading Irish and UK universities.

The existence of the Branch provides further benefits to members, including:

- Additional networking opportunities at IAIA Branch events with reduced costs;
- Branch Newsletter with domestic impact assessment news, events listings and members' contributions;
- Opportunities to contribute to the promotion of impact assessment interests at national level;
- Branch webpage.

For more information on the Branch please see <http://www.iaia.org/affiliatesbranches/irelanduk-branch.aspx> **[new!]**

An annual summary of Branch activities is also made at the meeting of Affiliates and Branches section during the IAIA annual conference, most recently at IAIA09 in Accra.

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## **2. BRANCH NEWS**

### **IAIA sign Memorandum of Understanding with IEMA**

In August 2009, the IAIA signed a Memorandum of Understanding (MOU) with the Institute of Environmental Management and Assessment (IEMA). The key points of agreement are to develop improved communication tools to improve dissemination of Impact Assessment related information, provide mutual assistance in the form of contacts and information, share information on developments within the field of IA and support capacity development.

The MOU was initially discussed at the IAIA's Calgary Cumulative Effects Assessment in November 2008. The formal MOU was signed by Rita Hamm (CEO, IAIA) and Martin Baxter (acting CEO of IEMA at the date of signing). The MOU also indicates that IEMA will work with the IAIA's Ireland & UK Branch to advance the objectives of the agreement. The MOU will initially run for 3 years – until August 2012. We hope the agreement will shortly be available to view at the Branch website:

<http://www.iaia.org/affiliatesbranches/irelanduk-branch.aspx>

### **Report of Branch event: Climate Change and Impact Assessment**

The Ireland & UK Branch of the IAIA held a joint event with the Met Office on the 8<sup>th</sup> October 2009 to look at how climate change adaptation is currently considered in IA and how this could be improved in the future. The event was held in Exeter at the headquarters of the Met Office. The Met Office are world-leading expertise that help Government and public services make strategic decisions about weather and climate change impacts and are a significant contributor to the global understanding of climate change.

Through the day the conference delegates explored the following themes:

1. The UK's approach to adapting to the changing climate
2. Environmental Assessment and Climate Change Adaptation
3. Topic Specific issues & Climate Change Adaptation

The first session included presentations from leading experts in the climate change adaptation field with Dr Richard Betts, Head of Climate Impacts at the Met Office, setting out the science of climate change and how future climate change scenarios are developed to ensure everyone had a sound basis for discussion. This was followed by a presentation on the UK's policy context related to adapting to a changing climate, by Jonathan Capstick from Defra (the Government department responsible for CC adaptation). Finally to help link the science and policy to decision-making Mark Goldthorpe from the UK Climate Impacts Programme (UKCIP) set out their work at the boundary between scientific research, policy makers and stakeholders and how they act to coordinate and influence research into our future climate and share the outputs in ways that are useful to stakeholders.

Following coffee with active discussion amongst delegates on the need to ensure climate change adaptation is given due weight in policy and plan making and project consent decisions. The second session looking at how environmental assessment is currently considering cc adaptation began. This session included presentations on: how planning as a discipline is starting to consider climate change adaptation, a preview of the Scottish Government's forthcoming guidance on considering all aspects of CC in Strategic Environmental Assessment; a look at how IA may be able to influence the CC agenda via a case study of the application of SEA to Scotland's CC Adaptation Strategy. The session also included a very useful talk by former IAIA president Dr Ross Marshall on how the

Environment Agency's National Environmental Assessment Service are building CC adaptation into the work they do on flood risk and shoreline management. The presentation indicated that this leading group of IA professionals is again leading practice ensuring helping to ensure that environmental enhancements designed into Environment Agency schemes provide appropriate benefits for the environment now, but also help the environment adapt to unavoidable climate changes.

During a late lunch delegates were able to take a tour of the Met Office and see their new £30Million super-computer which will eventually be able to perform a trillion calculations per second, thus improving their already impressive weather and climate modelling capacity. The afternoon session focussed on how climate change is likely to impact on 3 specific topic areas: Flood Risk, Ecology, and Health. The presentations brought together numerous aspects of research, policy and practice in these areas indicating how changing climate could affect extreme weather events, alter habitat ranges and influence nearly all factors that contribute to a healthy society. A clear message from Dr Olly Watts from the Royal Society for the Protection of Birds (RSPB) was that there is a need to both continue to protect currently designated sites, in order to have health populations of species that are capable of withstanding losses related to climate change impacts, and to also prepare for future change by ensuring suitable future habitats are available for species to utilise as their optimal range alters under CC.

The day ended with questions and discussion about the need to move from a small number of examples of how IA practice considers cc adaptation to a much greater uptake in all aspects of IA. Feedback from the event indicated a desire from practitioners to have advice and guidance in this area, which will hopefully be satisfied, in part, by forthcoming guidance in Scotland on SEA and an indication that the European Union (EU) plans to produce CC Guidance for EIA and SEA during 2011.

The Ireland & UK Branch would like to thank the Met Office and all the speakers. Special thanks go to Martin Broderick and his team at Golder Associates, who kindly sponsored the event and managed the delegate bookings ensuring that the event was successful and generated a health contribution to the Branch's reserves.

All the presentations from this conference will shortly be available to download from:

<http://www.iaia.org/affiliatesbranches/irelanduk-branch.aspx>

*Josh Fothergill, Senior Environmental Advisor, IEMA (Chair of Branch)*

## **Call for Future Branch Events**

A future event is currently being planned in Bath in February 2010, and is likely in Oxford later in 2010. Details will be circulated to members when available. If you have any ideas (themes, locations, speakers) for possible future Branch events, or would like to consider hosting or collaborating on an event, we would like to hear from you. Please email [ie\\_uk@iaia.org](mailto:ie_uk@iaia.org).

## **Members survey**

A members survey is being finalised and will be circulated to members shortly, to help the Branch organising committee understand what members want from your Branch.

## Recent publications

The following recent publications have been authored or led by IAIA Ireland-UK Branch members, or are otherwise likely to be of interest to members:

- Bristol-Alagbariya, E. T., 2009, **Participation in Petroleum Development: Towards Sustainable Community Development in the Niger Delta**. Dundee University Press, Dundee. <http://www.dup.dundee.ac.uk/>
- Fischer, T., Kidd, S., Jha-Thakur, U., Gazzola, P., and D. Peel, 2009. **Learning through EC directive based SEA in spatial planning? Evidence from the Brunswick Region in Germany**. *Environmental Impact Assessment Review* [Volume 29, Issue 6](#), November 2009, Pages 421-428.
- Fischer, T., 2010. **Reviewing the quality of strategic environmental assessment reports for English spatial plan core strategies**. *Environmental Impact Assessment Review* Volume 30 (2010), Pages 62–69.
- Masden, E. A., Fox, A., Furness, A., Bullman, R., and D.T. Haydon. **Cumulative impact assessments and bird/wind farm interactions: Developing a conceptual framework**. *Environmental Impact Assessment Review* Volume 30 (2010), Pages 1-7.
- Perdicoulis, A., and J. Glasson, 2009. **Practice report: The causality premise of EIA in practice**. *Impact Assessment and Project Appraisal*, [Volume 27\(3\)](#), September 2009, pages 247–250.
- Therivel, R., 2009. **Appropriate Assessment of Plans in England**. *Environmental Impact Assessment Review* [Volume 29, Issue 4](#), July 2009, Pages 261-272

## 3. IMPACT ASSESSMENT NEWS

### 1. EU Reviews of EIA and SEA Directives

In June 2009 and September 2009, the EU's Directorate General for the Environment reported to the European Parliament on the application and effectiveness of the EIA and SEA Directives across all Member States, following the 4<sup>th</sup> five year review of the EIA Directive and the 1<sup>st</sup> 5-year review of the SEA Directive by consultants.

The Commission's EIA report sets out recommendations on how the EIA Directive can be improved and will have some influence on amendments being considered as a result of the five year review of the EIA Directive. The proposed amendments will come to light over the coming months and are expected to include plans to enhance EIA's role in reducing and adapting to climate change. The Commission's SEA report indicates that further experience is needed before deciding on whether the SEA Directive should be amended and, if so, how this should be done. However, if the SEA Protocol enters into force (requiring 16 further signatories to ratify its requirements) the Directive may need to be extended to cover policy and legislative proposals. The report also strongly encourages the need for further capacity building in SEA.

See <http://ec.europa.eu/environment/eia/> for the two reports from the Commission; [http://ec.europa.eu/environment/eia/pdf/eia\\_study\\_june\\_09.pdf](http://ec.europa.eu/environment/eia/pdf/eia_study_june_09.pdf) and <http://ec.europa.eu/environment/eia/pdf/study0309.pdf> (consultants reports)

See also 'Improving Environmental Assessment' article in Members Section below on this subject.

## 2. EIA regime changes mooted in England and Scotland

Following two rulings on Environmental Impact Assessment (EIA) 'screening' decisions (see July 2009 Branch newsletter, news items 4 and 5 for details), the UK's Department of Communities and Local Government (CLG), and the Scottish Government, are considering amending EIA regulations.

CLG and the Scottish Government have written to all chief planning officers in England and Scotland to provide interim guidance, for planning authorities regarding EIA screening following these two cases, in advance of any legislative changes:

- The recent European Court of Justice preliminary ruling that requires planning authorities to give reasons for a negative Screening Opinion when requested by a third party (the 'Mellor case'). While there is no need for a negative screening opinion to give reasons, there is a duty to provide further information on the reasons for the decision if an interested person subsequently requests them.
- The High Court ruling (the 'Baker case') that screening decisions for proposed changes or extensions to existing or approved developments must look at the likely significant effects of the whole development as modified, not just the effect of the modification alone (as currently required under schedule 2.13(a)(i) of the 1999 regulations). This ruling also applies where the development is of a type listed in Schedule 2 but the modification alone does not meet the thresholds or criteria which determine whether a development listed in schedule 2 needs to be screened for an EIA, and for development within a 'sensitive area'.

It is understood that Scotland plans to launch its consultation on the amended Regs early in 2010. The letters can be found at:

<http://www.communities.gov.uk/publications/planningandbuilding/letterenvironmentaljudgement> and <http://www.scotland.gov.uk/Resource/Doc/212607/0087897.pdf>

## 3. Guidance on Appropriate Assessments under Habitats Directive

Ireland's Department of the Environment, Heritage and Local Government (DEHLG) has produced new *Guidance for Planning Authorities on Appropriate Assessment of Plans and Projects in Ireland* under the Habitats Directive. This was launched in Dublin on 10 December 2009 at a joint meeting hosted by IEMA, the Irish EPA, the National Parks and Wildlife Service (NPWS), BirdWatch Ireland and IEEM. The event was designed to raise awareness of what is required and improve the quality of assessments and decision-making processes. The informative meeting attracted considerable attention and could probably have been sold out twice over - which is an indication of the level of (controlled?) panic that is felt over this grey area in Irish planning law.

The guidance document and details of the launch event have now appeared on the NPWS and BirdWatch Ireland's websites:

<http://www.npws.ie/en/WildlifePlanningtheLaw/AppropriateAssessment/> and <http://www.birdwatchireland.ie/Ourwork/PolicyAdvocacy/tabid/250/Default.aspx>.

*John Fry, University College Dublin*

## 4. Scotland and Northern Ireland SEA Guidance for Air, Soil and Water

The Scotland & Northern Ireland Forum for Environmental Research (SNIFFER) launched their web-based guidance on SEA for air, soil and water, at an event organised by IEMA's Northern Ireland Steering Group in September 2009. The new guidance takes the form of a web-based tool providing topic specific guidance as well as links to other valuable SEA information available online, and can be found at [www.seaguidance.org.uk](http://www.seaguidance.org.uk)



## 5. Changes to Sustainability Appraisal and SEA Guidance in England

The UK Department for Communities and Local Government (CLG) has launched the new Sustainability Appraisal (SA) guidance for Development Plan Documents (DPDs), which replaces the 2005 Government guidance on 'Sustainability Appraisal of Regional Spatial Strategies and Local Development Documents' as it applies to DPDs (the 2005 guidance currently remains valid for RSS). The new guidance is based upon the revised DPD process which was changed by the 2008 Regulations. It is more streamlined and takes a more practical approach with less emphasis on procedure and more on good plan making. The 2005 Practical Guide to the SEA Directive also remains valid.

See: <http://www.pas.gov.uk/pas/core/page.do?pageId=152450>

## 6. Health Impact Assessment Guidance

New guidance on Health Impact Assessment (HIA) has been issued by the Institute of Public Health in Ireland, endorsed by the Department of Health, Social Services and Public Safety in Northern Ireland and the Department of Health and Children in the Republic of Ireland. This guidance manual explains what HIA is and the stages involved in conducting it. It has been revised and updated based on the experience of HIA practitioners and includes new tools which have been developed to assist each step of the HIA process. It aims to provide a user friendly and practical framework to guide policy-makers and practitioners in undertaking HIA. See

[http://www.apho.org.uk/default.aspx?QN=P\\_HIA](http://www.apho.org.uk/default.aspx?QN=P_HIA)

## 7. Scottish budget includes carbon assessment

Claimed as a world first, the Scottish Government has prepared an analysis of the greenhouse gas emissions likely to be produced by its spending plans. See:

<http://www.scotland.gov.uk/News/Releases/2009/09/18083004>;

[http://scotland.wwf.org.uk/what\\_we\\_do/press\\_centre/?3298/Scottish-budget-World-First-as-climate-impacts-assessed](http://scotland.wwf.org.uk/what_we_do/press_centre/?3298/Scottish-budget-World-First-as-climate-impacts-assessed)

## 8. IEMA issues draft principles of considering Climate Change Mitigation in EIA

On 7 December 2009 IEMA launched a 3 page consultation document on: *draft Principles on Climate Change Mitigation (GHG Emissions) & Environmental Impact Assessment*.

Climate Change is an area of EIA practice where direction has been needed for some considerable time and IEMA is using the period up to the 1<sup>st</sup> March 2010 to provide the opportunity to feed into the *draft Principles*. The final Principles will be used to influence Government and key environmental assessment stakeholders, including the EU, which is currently exploring how Climate Change can be more effectively built into the EIA Directive and plans to develop European guidance in this area by the end of 2011 (see 1<sup>st</sup> news item above).

The draft Principles form part of the wider documentation produced in relation to Volume 14 of IEMA's Practitioner Series (Climate Change Mitigation: a guide for organisations, Dec. 2009). The Practitioner can be purchased from IEMA, priced £25, but the draft principles are available to download for free from:

<http://www.iema.net/ems/practitioner-14/guidance>

For non-members of IEMA, comments on the draft principles can be sent to IEMA directly by using the subject: *draft Principles CC&EIA* in an email to: [technical@iema.net](mailto:technical@iema.net)



## 9. Scottish SEA Forum

The Scottish Government's new Environmental Assessment Team hosted its first SEA Forum event in November 2009, with the aim of gauging if Responsible Authorities were interested in participating in a Scottish National SEA Forum, in order to help develop SEA practice in Scotland. Participants at the event were asked to help determine how the National Forum could be organised, what subjects it could cover, who should attend and how its outcomes could be managed. The Agenda for the event and the presentations given on the day can be found at:

<http://www.scotland.gov.uk/Topics/Environment/SustainableDevelopment/14587/Forum>

## 10. Minor amendments to EIA legislation in Scotland

In August 2009, the EIA (Scotland) Amendment Regulations 2009 (SSI 2009/221) came into force which make changes to the 1999 EIA (Scotland) Regulations and serve to otherwise update the Regulations in light of the Planning etc (Scotland) Act 2006, and associated secondary legislation. The amended regulations are accompanied by an Addendum to EIA Circular 8/07.

The Town and Country Planning (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2009 also come into force in November 2009, which make minor amendments to the Conservation (Natural Habitats, &c.) Regulations 1994, the Environmental Impact Assessment (Scotland) Regulations 1999, and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008.

Links to the above legislation and Addendum to Circular 8/07 can be found at <http://www.scotland.gov.uk/Topics/Built-Environment/planning/National-Planning-Policy/themes/enviro-assessment/eia>.

## 11. EIA regulations amended on harbour dredging in Great Britain

Amendment regulations were issued in August and September 2009 to ensure that the extraction of minerals by marine dredging in harbours is also covered by EIA (and HRA in Scotland) requirements in England, Wales and Scotland. See links below:

*The Marine Works (Environmental Impact Assessment)(Amendment)(England and Wales) Regulations 2009 No. 2258:*

[SI 2009/2258 - Web Version \(HTML\)](#)

[SI 2009/2258 - Print Version \(PDF - 43 kb\)](#)

[SI 2009/2258 - Explanatory Memorandum \(PDF - 229 kb\)](#)

*The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Amendment Regulations 2009 No. 333:*

[SSI 2009/333 - Web Version \(HTML\)](#)

[SSI 2009/333 - Print Version \(PDF - 42 kb\)](#)

[SSI 2009/333 - Executive Note \(PDF - 84 kb\)](#)

## 12. EIA regulations for stalled minerals reviews in Wales

The Welsh Assembly Government has consulted on proposed Regulations applying Environmental Impact Assessment to stalled mineral review cases. Consultation ended in October 2009 but information is still available here:

<http://new.wales.gov.uk/consultations/planning/eiaromps/;jsessionid=hTgLKX0cyhFmVlBjY1h2rB0Qb72Dx2qZgLSJDdlfCDrnhdYMRlLl!-600962393?lang=en>

### 13. EIA guidance for Offshore Petroleum and Pipelines

In August 2009, the UK's DECC issued a guidance note to industry on the Offshore Petroleum Production and Pipelines (Assessment of Environmental Effects) Regulations 1999 (as amended 2007), relating to the EIA of offshore petroleum production and pipelines developments. The revised guidance notes are intended to provide general information and advice to operators, environmental authorities and the public. The revisions were deemed necessary based on DECC research, conducted by the University of Manchester, which indicated 49 per cent of Environmental Statements submitted under these regulations between 2000 and 2005 were considered to be unsatisfactory. The revised guidance is available online:

<https://www.og.decc.gov.uk/environment/EIAGuidanceNote.pdf>

### 14. New EIA and Habitats Regulations for Nationally Significant Infrastructure Projects in England and Wales

In October 2009, the UK's Infrastructure Planning Commission (IPC, established under the Planning Act 2008) began stage 1 of its official operations, and will now provide EIA Screening and Scoping Opinions for Nationally Significant Infrastructure Projects (NSIPs) in England and Wales. The IPC will initially only be authorised to make recommendations regarding the approval of NSIPs until the relevant National Policy Statement (see news item below) has been adopted; after adoption the IPC will have powers to approve such projects. The IPC will begin taking NSIP applications from 1 April 2010.

New regulations relating to the application process, the EIA process and the application of the Habitats Directive were laid before Parliament in September. These include new requirements for pre-application consultation, and the preparation, consultation and publicity of 'preliminary environmental information'. The new Habitats regulations also ensure that, where an application for development consent for NSIP, or a National Policy Statement, is likely to have a significant effect on a Natura 2000 site, the application or NPS is subject to appropriate assessment as required by Article 6(3) of the Habitats Directive.

The various regulations and explanatory memos are linked below:

*The Conservation (Natural Habitats, &c.) (Amendment) (No. 2) Regulations 2009 No.*

2438: [SI 2009/2438 - Web Version \(HTML\)](#)

[SI 2009/2438 - Print Version \(PDF - 73 kb\)](#)

[SI 2009/2438 - Explanatory Memorandum \(PDF - 131 kb\)](#)

*The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 No.*

2263: [SI 2009/2263 - Web Version \(HTML\)](#)

[SI 2009/2263 - Print Version \(PDF - 165 kb\)](#)

[SI 2009/2263 - Explanatory Memorandum \(PDF - 142 kb\)](#)

*The Conservation (Natural Habitats, &c.) (Amendment) (England and Wales) Regulations*

2009: [SI 2009/6 - Web Version \(HTML\)](#)

[SI 2009/6 - Print Version \(PDF - 57 kb\)](#)

[SI 2009/6 - Explanatory Memorandum \(PDF - 190 kb\)](#)

*The Offshore Marine Conservation (Natural Habitats, &c.) (Amendment) Regulations*

2009: [SI 2009/7 - Web Version \(HTML\)](#)

[SI 2009/7 - Print Version \(PDF - 51 kb\)](#)

[SI 2009/7 - Explanatory Memorandum \(PDF - 61 kb\)](#)

## 15. National Policy Statements and AoS (SEA) & HRA consultations for Energy and Ports

In November 2009, the UK's Department for Energy and Climate Change (DECC) launched consultations on its suite of draft National Policy Statements (NPSs) related to energy. The NPSs being consulted on are:

- EN1: Over-arching energy;
- EN2: Fossil fuel;
- EN3: Renewables;
- EN4: Gas supply / pipelines;
- EN5: Electricity networks;
- EN6: Nuclear Power Generation.

The consultation period for Energy NPSs runs until 22 February 2010.

See <https://www.energynpsconsultation.decc.gov.uk/home/>

Alongside this the Department for Transport launched a consultation on a Ports NPS, with a consultation period until 15 February 2010. The NPS builds on existing policy but also includes wider government objectives for sustainable development, covering issues such as climate change considerations and the wider environmental impact of port development. See: <http://www.dft.gov.uk/consultations/open/portsnps/>

Each draft NPS establishes the need case for infrastructure under its remit and will provide the policy basis on which individual planning decisions on applications for consent for Nationally Significant Infrastructure Projects will be made by the new IPC from April 2010 (see news item above). The draft NPSs are accompanied by an Appraisal of Sustainability (AoS) Report, which incorporates SEA requirements, and a strategic-level Habitats Regulations Assessment report to meet Habitats Directive requirements.

The draft Nuclear NPS is also accompanied by site-specific AoS and HRA reports focusing on each of the 'potentially suitable sites' for the development of listed in the draft NPS, and on each alternative sites also considered but deemed not potentially suitable. Ten of the original 11 sites nominated by industry in March 2009 (see July 2009 Branch newsletter) have been included in the draft NPS as potentially suitable for new nuclear power development by 2025: Bradwell (Essex), Braystones, Kirksanton and Sellafield (all Cumbria), Hartlepool, Heysham (Lancashire), Hinkley Point (Somerset), Oldbury (Gloucestershire), Sizewell (Suffolk) and Wylfa (Anglesey). Dungeness was also nominated but has not been listed in the draft NPS as the Government does not consider that potential impacts on European protected habitats can be mitigated and there are concerns about coastal erosion and flood risk. Three other sites have been assessed and ruled out for future nuclear developments.

The draft Nuclear NPS and its HRA report/s conclude that the potential for adverse effects to arise on the integrity of designated European sites cannot be ruled out from the development of sites listed in the draft NPS. The Government concluded that there are no better alternatives and presents a case in the draft NPS for Imperative Reasons of Overriding Public Interest (IROPI) as to why the NPS should proceed given the uncertain conclusions reached in the strategic HRA. See:

<https://www.energynpsconsultation.decc.gov.uk/nuclear/>

## **16. Planning and legal duties for European Protected Species**

An important legal judgement was handed down recently which clarifies the correct application of European law where a development may have an impact on any European Protected Species (e.g. bats, Great Crested Newts, Dormouse, Otter).

The case concerned a planning permission for the demolition of a large house and redevelopment of the site for three apartments in Cheshire, north west England. The planning permission was quashed as a result of the failure of the local planning authority to comply with the species protection requirements of the Habitats Regulations and Directive. For developments that affect any European Protected Species, it provides legal clarification that Local Planning Authorities have a strict legal duty under Regulation 3(4) of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended) to "have regard to the requirements of the Habitats Directive" when considering and granting planning permission for such developments, and that this duty cannot be ignored by assuming that impacts will be assessed by Natural England at the species licence application stage. This will be important for all planning applications and accompanying EIAs where European Protected Species are potentially affected by a development. See: [http://www.bats.org.uk/news.php/52/judicial\\_review\\_leads\\_to\\_increased\\_protection\\_of\\_bats](http://www.bats.org.uk/news.php/52/judicial_review_leads_to_increased_protection_of_bats);

Natural England have subsequently prepared a statement on the above case, and are working with the CLG and DEFRA to update part IV of the UK Government's Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System' on this issue:

[http://www.naturalengland.org.uk/Images/WoolleyVsCheshireEastBC\\_tcm6-12832.pdf](http://www.naturalengland.org.uk/Images/WoolleyVsCheshireEastBC_tcm6-12832.pdf)

## **17. SEA for Ireland's Offshore Renewable Energy plans**

Ireland's Department of Communications, Energy and Natural Resources are preparing plans for the development of Offshore Renewable Energy in Ireland, including offshore wind, wave and tidal energy technologies in all viable locations in Irish waters. The Department has requested that the Ocean Energy Development Unit, working in close collaboration with the Marine Institute, undertake a Strategic Environmental Assessment of Offshore Wind and Marine Renewable Energy in Ireland, to evaluate the likely significant environmental effects of implementing the plans. The consultation on the SEA Scoping Report closed in November 2009 but documents are still available at:

[http://www.sei.ie/Renewables/Ocean\\_Energy/Offshore\\_Renewable\\_SEA/](http://www.sei.ie/Renewables/Ocean_Energy/Offshore_Renewable_SEA/)

## **18. Marine Waterbirds and SEA**

A final report of aerial surveys of waterbirds in the UK carried out in 2007-2008 for the UK Department of Energy and Climate Change (DECC)'s SEA programme has now been published and is available at [http://www.offshore-sea.org.uk/site/scripts/consultation\\_download\\_info.php?downloadID=267](http://www.offshore-sea.org.uk/site/scripts/consultation_download_info.php?downloadID=267).

In addition, a University of Aberdeen report on effects of offshore wind farms on the energy demands on seabirds has recently been published, see UK Department for Business Innovation and Skills website:

<http://bis.ecgroup.net/Publications/EnergyClimateChangeDECC/NewRenewablewind.aspx>

## 19. Bats and single wind turbines

Natural England, Scottish Natural Heritage and the Countryside Council for Wales have published a joint interim guidance note to provide a consistent approach to dealing with planning applications for single large wind turbines in relation to the potential adverse impacts on bats. This takes into account the current lack of knowledge of the scale of any impacts of wind turbines on bat populations, whilst providing a proportionate and precautionary response. It has been written to help wind turbine developers, planners, statutory nature conservation agency staff and wind turbine operators consider the potential adverse impacts on bats when drawing up or assessing proposals for single wind turbine developments. It will be updated as more evidence becomes available. See: <http://naturalengland.etraderstores.com/NaturalEnglandShop/TIN059>

## 20. Effects of upland wind turbines on distribution of breeding birds

A study across 12 operating upland wind farms in the UK examined whether there is reduced occurrence of breeding birds close to wind farm infrastructure (turbines, access tracks and overhead transmission lines). Results suggested that numbers of several breeding birds of high conservation concern are reduced close to wind turbines due to 'disturbance displacement'. The RSPB state that the new study should help developers planning renewable energy projects by offering greater certainty as to likely impacts so that they can quickly progress acceptable proposals in appropriate locations by avoiding important areas for birds. The study 'The distribution of breeding birds around upland wind farms', published in the Journal of Applied Ecology, was funded by RSPB Scotland, Scottish Government, Scottish Natural Heritage, and the Scottish Mountaineering Trust. See <http://www.rspb.org.uk/news/details.asp?id=tcn:9-230416> and <http://www3.interscience.wiley.com/journal/122608445/abstract>

## 21. Eco-towns PPS and guidance

The UK's Department for Communities and Local Government (CLG) has published its final Planning Policy Statement (PPS) on Eco-towns as a supplement to PPS1: Planning for Sustainable Development, following earlier consultation on the draft PPS and SEA/HRA reports (see Dec 2008/Jan 2009 IAIA Branch newsletter). It provides the standards any eco-town will have to adhere to and the list of locations identified with the potential for an Eco-town. Although the government is aiming for 20 eco-towns by 2020, only 4 have been given a provisional go-ahead, in Hampshire, Norfolk, Cornwall and Oxfordshire. See: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/pps-ecotowns.pdf>

A second wave of Eco-towns, although more akin to urban extensions, is also envisaged by the Government, with the announcement in December that a further nine local authorities in England are considering plans to develop eco-town developments, see: <http://www.planningresource.co.uk/news/ByDiscipline/Housing/971189/Healey-unveils-second-wave-eco-town-sites/>

Meanwhile, the Town and Country Planning Association (TCPA) have also prepared guidance for Eco-towns in the form of a series of technical worksheets on low-carbon housing, green infrastructure, transport, biodiversity, zero waste and water management. The Worksheets set out recommendations, and pointers to sources of further information, for planners and developers of eco-towns in both public and private sectors. The Worksheet series has been supported by CLG, and been developed in collaboration with many groups and individuals who have contributed their skills, experience and knowledge. See: <http://www.tcpa.org.uk/pages/sustainability-worksheets.html>

## **22. Natural England launches A Natural Development project**

Natural England wants to ensure green infrastructure is delivered as an integral component in all development and regeneration. The Natural Development Project was launched in November 2009 in London to demonstrate how both large and small scale developments can incorporate green infrastructure in practice. Natural England and key players in the development sector are forming a partnership to understand how to value, design and create quality green infrastructure, which aims to demonstrate how – at different scales and locations – the contribution of the natural environment in regeneration can move from that of traditional landscaping to one of providing vital spaces for people, wildlife, health, wellbeing, and climate change adaptation.

See: <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/greeninfrastructure/naturaldevelopment/default.aspx>

## **23. River basin management plans submitted**

England and Wales' first River Basin Management Plans, prepared under the Water Framework Directive, have been submitted by the Environment Agency to Ministers and the Welsh Assembly Government for approval. The RBMPs set out the pressures on the water environment, the actions that will be taken to address them, and the improvements that can be achieved. The EA has also published its responses to comments received during the public consultation on the draft RBMPs and the SEA Environmental Reports, and the actions taken to inform development of the plans. A Habitats Regulations Assessment report is due to be published later in December 2009.

See <http://www.environment-agency.gov.uk/research/planning/33106.aspx>

## **24. Soil strategy for England**

In September, the UK's Department for the Environment, Food and Rural Affairs (DEFRA) set out its plans to stop and reverse soil degradation in England over the next 20 years, working with the farming and construction industries, land managers and planners. The strategy Safeguarding Our Soils is found here:

<http://www.defra.gov.uk/environment/quality/land/soil/documents/soil-strategy.pdf>

## **25. Flood risk assessment guidance updated**

The UK's CLG has updated the practice guide to Planning Policy Statement 25: Development and Flood Risk, which provides guidelines on how to implement development and flood risk policies by the land use planning system. The guide is updated at regular intervals to keep up to date with current practice. See

<http://www.communities.gov.uk/publications/planningandbuilding/pps25guideupdate>



#### **4. MEMBERS SECTION**

##### **Assessment of plans under the Habitats Directive: international workshop develops good practice principles**

Jo Hughes<sup>1</sup>, Riki Therivel<sup>2</sup>, Orlando Venn<sup>3</sup> and Jeremy Owen<sup>4</sup>

Draft principles for good practice appropriate assessment of plans under the Habitats Directive were developed during a two-day international workshop held in Oxford on 1 and 2 October. Usually called 'Habitats Regulations Assessment' in the UK, such assessments test the impacts of plans on Special Protection Areas and Special Areas of Conservation (jointly forming the EU-wide network of nature protection areas called Natura 2000). Guidance on appropriate assessment or Habitats Regulations/Directive Assessment of plans is limited and at times contradictory in various Member States, including the UK, and the draft principles should help to provide consistency and improve good practice.

The workshop was attended by 35 experts from 14 Member States, with three additional member states providing written contributions. Attendees included government officials, academics, NGOs and private consultants. The workshop included talks about current practice in different Member States, a site visit to Oxford Meadows Special Area of Conservation and a series of workshops to explore existing and potential good practice.

Variations in practice between Member States include differences in the types of plans assessed, whether appropriate assessments are integrated within the Strategic Environmental Assessment process or kept as a separate process, whether they are carried out by accredited ecologists or not, the level of data available about Natura 2000 sites, and the level of certainty needed about appropriate assessment before a plan can be adopted.

The workshop concluded that assessment can best inform plans where there is support from all key parties, along with an understanding of (and thus lack of fear and resentment about) the assessment process. Ways of helping to achieve this include the following:

1. Coordination between Member States and pan-European studies to help to address the current shortage of key information on Natura 2000 sites and the overall assessment process. Two areas were emphasised: i) the need for comprehensive, consistent and detailed conservation objectives for all Natura 2000 sites; and ii) the value of a central database of screening reports, assessment reports and relevant information on mitigation etc.
2. The quality of assessment is variable, both between and within countries. Two measures would assist with this: i) qualified assessors (with a strong understanding of ecological integrity and ecosystem function) and ii) independent review bodies.
3. There were concerns in most countries over the effectiveness of the assessment in actually influencing plans. Two measures would assist with this: i) requirement for a record of how the plan has been amended in response to the assessment - this could form part of an 'appropriate assessment statement' similar to the Strategic Environmental Assessment statement that is already required and ii) higher level adjudication to ensure that the findings of the assessment have influenced the plan

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effectively.

4. Any avoidance or mitigation measures that are relied upon in the appropriate assessment must be binding, and should be monitored and enforced post-adoption.
5. Plan wording should reflect the level of uncertainty in the assessment: where there is more uncertainty in the assessment findings and where issues are devolved to lower tiers of decision-making (common with high-level, strategic plans and programmes), the plan should be flexible; there should, for example, be a commitment to re-consider the quantum of any development that could potentially have impacts on Natura 2000 sites.
6. Collaborative working is very important to the effectiveness and efficiency of the overall process. Workshops involving all stakeholders are effective means of ensuring both a high level of understanding of the sensitivities of Natura 2000 sites and a comprehensive analysis of effects 'in combination' with other plans, programmes and projects.
7. The assessment process is most effective when it begins early and is therefore able to inform plan development. It cannot be a simple 'audit' at the end of the plan development.
8. The wider Natura 2000 network comprises more than a collection of individual sites. Impacts on the network should be considered more fully in the assessment.
9. More guidance specifically on the assessment of plans and programmes (rather than projects) is required because the Habitats Directive Assessment (HDA) of plans and programmes needs to be distinguished from both the HDA of projects and the Strategic Environmental Assessment (SEA) of plans and programmes. Such guidance should address issues where there is confusion and inconsistency, such as what should be included in the screening stage of the assessment, appropriate mitigation, relationship with SEA, etc.

The draft principles and other information about the workshop are available at [www.levett-therivel.co.uk/IW.htm](http://www.levett-therivel.co.uk/IW.htm).

### **Improving Environmental Assessment**

Adam Boyden, Nicholas Pearson Associates

The EU's 5 year reports on the application and effectiveness of both the EIA and SEA Directives were published earlier this year, prepared by consultants COWI (see 1<sup>st</sup> 'news' item).

The report on SEA included a number of recommendations to consider alongside those required to align the SEA Directive with the SEA Protocol in future. On EIA, the European Commission carried forward many of its recommendations in a report to the European Council and Parliament in July. The report confirms the Commission's view that the benefits of EIA clearly outweigh the costs, and considered some improvements are needed to ensure EIA is adapted to EU and international policy and legal contexts:

- Screening: Inconsistencies across the EU in the use of exclusive thresholds for Annex II projects, and other problems, should be addressed, for example by detailing selection criteria and establishing consistent EU-wide exclusive thresholds, as well as considering a simplified assessment procedure for smaller projects. The consultants also suggested that prior assessment of a project in an earlier planning stage under the SEA Directive might reduce EIA requirements.

- **Quality of Environmental Statements (ES):** The Commission notes that proper quality control in EIA is crucial for its effectiveness, and should be ensured, e.g. through: accreditation of EIA consultants, independent external ES review, project-specific guidelines, a mandatory scoping stage, and updating Annex IV (information required in an ES). The consultants also suggested requiring an independent ES review is published simultaneously with the ES.
- **Alternatives:** As the assessment of alternatives usually a difficult issue, it may be necessary to set more specific requirements, e.g. the range of alternatives that must be studied.
- **Monitoring:** The lack of a requirement in the Directive to monitor the significant environmental effects of projects is a cause for concern, and could be addressed by introducing new specific provisions. The consultants considered this quite logical and suggested an EIA requirement for monitoring as in the SEA Directive.
- **Public participation:** Some gaps are apparent in how Member States allow early and effective opportunities to participate in environmental decision-making, which could be addressed by requiring public and stakeholder consultation at EIA screening or scoping stages, and by establishing minimum timeframes for the public to respond.
- **Other Directives:** Despite the risk of overlaps in requirements, there are no major problems between the EIA Directive and other Directives and policies:
  - **SEA:** There is no current case for merging the EIA and SEA Directives, and many Member States want each process to remain distinct, but improved guidance may be required as to where overlaps can occur.
  - **IPPC:** Harmonising the thresholds and criteria used to define projects falling under the two directives, and streamlining information requirements, may be required.
  - **Habitats:** The requirements of Article 6(3)-(4) of the Habitats Directive are not always considered fully in EIA, and the EU is highly unlikely to meet its 2010 target of halting biodiversity loss. Biodiversity could be expressly reflected in the Directive, and a single assessment procedure for projects falling under both directives could be established.
- **Climate change:** EIA does not expressly or adequately address climate change, cumulative effects or adaptation issues. Annexes I and II could be updated to require specific project types to assess climate change impacts, such as energy and transport infrastructure projects and also projects for which energy efficiency is an issue. The Commission is also developing guidelines by 2011 to ensure that climate impacts are taken into account in EIA and SEA.

Overall, the Commission states that 'the momentum is there to step up the Directive's minimum requirements and improve the Directive'. Do members agree?

I have a feeling that EIA needs to adapt to be effective. But how exactly?

*A previous version of the above was first published in IEMA's The Environmentalist magazine, Issue 86, 19 October 2009.*

## **5. OTHER EVENTS**

### **CIRIA Training:**

- **20 January 2010**, London: Environmental Good Practice on Site  
See [www.ciria.org](http://www.ciria.org) - Training



## **International Association for Public Participation Training (IAP2) Public Participation Professional Training**

- **1 - 5 February 2010**, Edinburgh
- **10-14 May 2010**, Edinburgh
- **1 - 5 November 2010**, Edinburgh

IAP2 will be running their training course in Public Participation in Edinburgh in February, May and November 2010. This is the International Association for Public Participation (IAP2) internationally recognized modular Certificate Programme consisting of 3 modules: Effective Planning – 2 days, Effective Communication – 1 day and Techniques for Effective Public Participation – 2 days. See <http://www.iap2.org/calendar.cfm>

## **Comprehensive HIA Training Course**

- **8 – 10 February 2010**, Dublin: A 3-day HIA training course by the Institute of Public Health in Ireland  
See <http://www.publichealth.ie/ireland/hiatraining/comprehensivehiatrainingcourse>

## **Ecological Survey & Impact Assessment: IEEM Workshops:**

- **3 March 2010**, Chester: Introduction to Habitats Regulations Assessment
- **11 March**, Tonypany: Introduction to Managing Uncertainties in EclA
- **22 April**, Plymouth: Ecological Impact Assessment  
See: <http://www.ieem.net/workshops.asp> for details.

## **RTPI Strategic Environmental Assessments and Sustainability Appraisal Masterclass:**

- **24 March 2010**, London: This one-day masterclass aims to explain how to fulfil latest legal requirements, and how to use the SEA/ SA process to help improve plans.  
See: [www.rtpiconferences.co.uk/rtpi/event.php?product=2079&type=public](http://www.rtpiconferences.co.uk/rtpi/event.php?product=2079&type=public)

## **Imperial College London & Collingwood Environmental Planning**

- **March 2010**: Climate Change Adaptation: Drivers, Barriers and Strategy
- SEA / Sustainability Appraisal (to be confirmed)  
See: <http://www3.imperial.ac.uk/cpd/courses/subject/environmental>

## **1-day HIA Training Course**

- **14 July 2010**, Birmingham: A 1-day HIA Introductory training course from the West Midlands Public Health Observatory and Wales HIA Support Unit, following the 2009 course, for those with little or no knowledge of HIA.  
See <http://www.wmpho.org.uk/hiatraining/>

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***This newsletter is for members of the IAIA within the Ireland & United Kingdom 'region', who automatically become members of the Ireland-UK Branch on joining.***

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