Delivering quality development – application of primary, secondary and tertiary mitigation

Introduction
IEMA’s guidance on shaping ¹ and delivering ² quality development introduces three categories of mitigation measures (primary, secondary and tertiary) to support proportionate EIA, and clarify how each mitigation measure is secured. This paper discusses issues arising from experience of applying these classifications during an EIA for a development consent order (DCO) submission.

What’s in a name?
How helpful are the terms primary, secondary and tertiary mitigation to non-EIA practitioners like the general public? IEMA seems to acknowledge this in its guidance by adding inherent, foreseeable and inexorable respectively in brackets. However, using more descriptive terms is preferable as readers do not need to reference back to their initial explanation. Jacobs has settled upon embedded, additional and good practice to categorise mitigation as either integral to the project design (primary), project-specific to further reduce likely significant environmental effects (secondary), or actions that would occur without input from the EIA (tertiary).

In what order?
Dropping the quasi-ranking of primary, secondary and tertiary for more descriptive terms also helps alignment with the EIA process because the logical sequence in EIA is primary and tertiary, then secondary (embedded and good practice, then additional) as set out in figure 1.

Therefore, topic assessors are instructed to first consider embedded and good practice mitigation when initially predicting environmental effects. The consideration of good practice mitigation at the initial stage is important in focusing the assessment on realistic scenarios. Environmental effects deemed ‘significant’ will require design improvements to be integrated through the iterative nature of EIA or additional project-specific mitigation measures that would further ameliorate predicted adverse effects.

Coordination
Consistency of terminology and process instils an environmental statement (ES) with narrative flow, giving the impression that a single author has completed assessment of, for example, a nationally significant infrastructure project subject to DCO, whose scale actually necessitated countless specialists wrestling with sometimes incompatible topic-specific technical assessment guidance.

The EIA coordinator has an established role to ensure mitigation measures are not contradictory (a noise bund also situated where a pond has been proposed) and ensure measures are considered in the assessment (the visual effects of a proposed noise bund). But ensuring consistent mitigation categorisation is now an additional consideration. For example, an inconsistent categorisation of dust mitigation measures across ecology, community and air quality topic assessments not only risks confusing the reader of an ES, but can muddy the waters when securing mitigation measures, as described below.

Our early preparation work proved effective in guiding topic assessors on measures applicable within each mitigation category.
This process introduced interesting debates around the shades-of-grey measures that were seldom self-defining – one specialist’s good practice mitigation might well be considered additional by another.

We asked all topic leads early in the process to advise what mitigation they anticipated would be needed, and whether they considered those measures to be embedded, good practice or additional mitigation. After considered comparison of all returns, a table was compiled to help authors ensure a consistent project-approach to mitigation measures across topics. This table was also sent to client-side reviewers to enable understanding and mitigation buy-in when considering individual ES chapters, reducing potential review comments. Many mitigation measures proved to belong in single categories, but a significant proportion required a judgement on how measures should be categorised and phrased in the best interests of the project.

**Securing commitment**

Accomplishing consistent mitigation categorisation early in the preparation of the ES further benefited the project by guiding to some extent the securing of mitigation measures. Embedded mitigation claimed in the ES is taken as inherent since it is in certified plans or project descriptions. Good practice and additional measures can be presented in appropriate certified documents such as a Code of Construction Practice or draft Construction Environmental Management Plan. This provides relative clarity for proposing measures by which potentially significant environmental effects may be mitigated. A Schedule of Environmental Commitments or Mitigation Route Map provides an effective means to ‘audit’ how the ES demonstrates environmental effects would be mitigated, and how commitment to those mitigation measures would be secured.

This clarity provided a basis on which the developer’s legal team could commit the project to mitigation when presenting to competent authorities. This focuses developers’ and contractors’ attention on ensuring the measures proposed are appropriate and deliverable on the ground.

**To conclude...**

Many IEMA EIA Quality Mark papers have been based upon ensuring and securing the delivery of mitigation beyond EIA. In our recent experience, categorisation of mitigation into three streams has created a consistent approach across multi-disciplinary teams, facilitating mechanisms by which to secure commitments, and bringing forward consideration by EIA practitioners and developers of the practicability and deliverability of mitigation measures to ensure better and more certain environmental outcomes. Gone are the days when ESs report baseline conditions, assess potential environmental effects and merely propose mitigation (sometimes aspirationally), punting forward the deliverability of proposed measures to those working further down the development process!

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