

**IEMA**

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# Levelling up EIA to Build Back Better

September 2020



# Purpose of paper

IEMA is the professional body for everyone working in environment and sustainability. It is the largest professional body for environmental practitioners in the UK and worldwide with almost 16,000 members. IEMA is an authoritative voice on Impact Assessment (IA) and is at the forefront of reform. We have remained an integral part of the consultation on change including previous modifications to regulations in the UK. The Impact Assessment Network, established in 2015 brings together skilled and experienced experts in IA and includes representation from developers, consultancies, statutory consultees, academia and others.

We have reviewed the August consultation on changes to planning policy and regulations<sup>1</sup>, hereafter referred to as the August White Paper, and welcome the opportunity to lead and support progressive EIA reform as part of the emerging, separate consultation in autumn 2020.

There were a number of key themes within the August White Paper including: focusing on digitalisation; maximising environmental benefits; earlier identification of impacts and resolution; improving transparency and reducing duplication of effort.

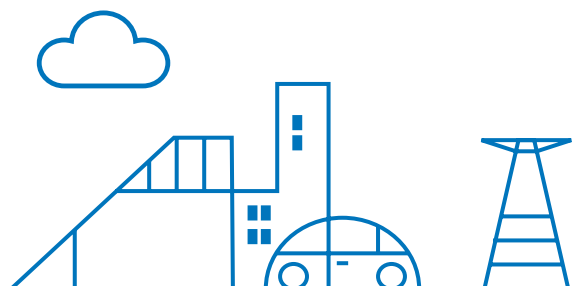
IEMA endorse these themes and are already advanced and mobilised with mechanisms to deliver solutions. We invite those involved with the reform to engage early with us and in particular allow the established strategies and the breadth of experience amongst the IA Network to shape the autumn consultation.

We would very much like to meet to discuss our involvement and ensure that any reform implemented delivers the key themes of the August White Paper so that EIA is widely recognised as delivering valuable and accessible information that positively influences development design and planning to the benefit of developers, communities and the environment.

We have prepared this initial paper to aid this process. At this stage we cannot anticipate the content of the autumn consultation and therefore the focus is on answering four questions:

- Why is EIA good? What does good practice deliver?
- Is EIA really the cause of unnecessary cost and delay?
- How can we achieve proportional EIA?
- What are the potential solutions to the themes of the August White Paper?

<sup>1</sup> Ministry of Housing Community & Local Government, Planning for the future, August, 2020



# Why is EIA good? What does good practice deliver?

EIA is well established and is practiced in over 100 countries. It is not driven only by the European Directive but by internationally recognised principles, agreements and standards which provide stewardship of the environment. EIA has enabled millions of people across the whole of society to understand and reduce the environmental consequences of thousands of major developments that attracted the investment which built modern Britain.

EIA is a design tool to identify potential adverse impacts and then assist in avoiding, reducing or offsetting those impacts during the design, through early commitment to mitigation. It is equally a vehicle to capture opportunity and quantify the significant benefits of the project, including net gains – vital in decision making.

High quality assessment is driven by sufficient information about the project parameters including its design, construction, operation and decommissioning. The EIA is also a critical component in identifying and developing mitigation and management measures to control potentially adverse environmental and social impacts. Flexibility can be built into project parameters assessed to enable projects to evolve without unnecessary re-assessment in the future.

EIA provides a critical tool for decision makers to make judgements based on sound scientific and legal advice regarding the environmental and social impacts of a proposed development prior to making a decision on the merits of a scheme. The Environmental Statement is a decision-making tool evaluating all significant impacts in a single document with common terminology to enable comparison of different impacts on a common scale. Assessment is required to be undertaken

by competent experts and is evidence-based with quantification of gains and losses where required.

Equal to its role for decision makers, EIA is often the process which facilitates the provision of robust environmental information to inform and support the involvement of local communities.

EIA is therefore a practical method of implementing the National Planning Policy Framework<sup>2</sup> goal of achieving sustainable development and good design, as well as supporting the UK's efforts to meet its commitments to the United Nations Sustainable Development Goals and international treaties on climate, biodiversity and environmental justice.

EIA provides the confidence to all parties of how risks can be managed and benefits and quality will be delivered. Equal to the importance of the tool in decision making is the role that EIA delivers in formulating the environmental integrity of a project. This is key to demonstrating the commitment major developers have to the environment and local community, which is rapidly becoming a core principle of any business or strategy for investment.

<sup>2</sup> NPPF 2019 MHCLG paragraph 7 'The purpose of the planning system is to contribute to the achievement of sustainable development'.contribute to the achievement of sustainable development'.

# Is EIA really the cause of unnecessary cost and delay?

In 2019, EIA was only being delivered on 423<sup>3</sup> projects, which were considered to be of the highest risk to the environment. For the majority of projects (99.9%), EIA is not required.

Equal to EIA reform is the need to reform the approach to the majority of planning applications where EIA is not required. These are currently informed by validation lists, which are often applied in a systematic nature and adopt a precautionary approach. Tackling this as a priority would have a significant impact on reducing the burden and cost of planning applications and represents a significant opportunity in wider planning reform.

Where EIA is required, the primary causes of delay are often not linked to the process of EIA, but are often nevertheless blamed on EIA.

## These include:

- Pre-feasibility, procurement, and site selection, land acquisition and financing;
- Duration of design process and changes to design;
- A systematic, precautionary approach to data collection, not always proportionate to the impact being evaluated;
- Competent authority and stakeholder objection to the project and design;

- Proposals not in line with policy or local requirements;
- Developer delays for legal, financial and/or technical reasons unrelated to EIA;
- Over-precautionary advice from risk-averse legal professionals inflating the EIA scope; and/or
- Political interference, delays in decision making, reviews or inquiries.

For a more detailed review of some of the key issues see IEMA's 2011 report on the State of EIA<sup>4</sup>.

<sup>3</sup> This data is related to English district, county and Nationally Significant Infrastructure Projects (NSIP) in 2019.

<sup>4</sup> IEMA, Special Report – The State of Environmental Impact Assessment Practice in the UK, 2011



# How can we achieve proportional EIA?

Proportionality has been a key criticism of EIA in recent years, with final reports often running to thousands of pages. IEMA recognise this is an area for improvement and to that end published a Proportionate EIA Strategy<sup>5</sup> in 2017 working with EIA professionals, government agencies, developers and industry. The strategy identified four key areas of focus to improve proportionality: Enhancing People, Improving Scoping, Sharing Responsibility, and Embracing Innovation and Digital.

**Enhancing People:** There is a notable absence of EIA professionals, or professionals with competent experience in EIA, within statutory consultees, local government and regulators. Stakeholder feedback from these organisations have referenced staff cuts over more than a decade as a principal cause of lack of experience. Therefore, the expertise provided by EIA professionals working as consultants is undermined by a lack of knowledge, experience and understanding within the stakeholders and authorities, leading to delays, unnecessary requirements and costs. Funding for dedicated EIA roles within key public organisations and institutions, along with EIA training for existing staff, would make a genuine difference to EIA practice, reducing timeframes and improving outcomes.

**Improving Scoping:** Evidence-based scoping to reduce topics and effects for consideration within the EIA is a critical area of improvement. Lack of proportionate scoping is normally as a result of the absence of available evidence and compounded by the earlier point made concerning a lack of professional expertise. In the

absence of a robust evidence base concerning the potential effects of certain types of development, and lacking professional confidence and competence to make judgements based on professional experience, stakeholders and authorities can require unrealistic amounts of information in order to scope out issues during the scoping process. This information is not available for two reasons. Firstly, there is no UK wide or industry specific evidence programme that collates, analyses and publishes evidence on EIA. Secondly, the scoping process has traditionally been completed at an early stage in the EIA process and therefore often precedes any substantial primary data collection. Good practice is to delay the scoping until after initial consultation, initial baseline information and preliminary designs have advanced to provide sufficient evidence to justify a reduced scope. However, this is often not achieved in practice.

IEMA has been working in recent years with The Crown Estate to develop a pilot Industry Evidence Programme<sup>6</sup> for the Offshore Wind Sector, which seeks to address scoping through the collation of an industry evidence base to inform scoping of future projects to be more proportionate in scope. This project is scheduled to produce a working Offshore Wind Evidence Hub to support Round 4 and is currently being progressed by The Crown Estate in partnership with IEMA.

<sup>5</sup> Proportionate EIA – A Collaborate Strategy For Enhancing UK Environmental Impact Assessment Practice, IEMA 2017

<sup>6</sup> Industry Evidence Programme Offshore Wind Farms - Pilot Industry Evidence Base June 2018 IEMA TCE RHDHV

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**Sharing Responsibility:** IEMA recognises that disproportionate EIA is driven by many factors and that enabling proportionate assessment will require collaborative actions that work towards a shared goal. Disproportionate assessment is a long-term systemic problem, which cannot be resolved by the actions of any individual stakeholder group within the UK's EIA community. Broad engagement across the EIA community is needed to bring stakeholders together to define both the individual and collaborative actions necessary to create a coordinated action plan for proportionate assessment.

**Embracing Innovation and Digital:** Modernising EIA will deliver effective and efficient assessment and reporting that adds value to projects and their interaction with the environment. UK EIA is a mature process sat within a series of well-established consenting regimes that emphasise robust evidence-based decision-making, a consequence of which is a general inertia towards novel and new approaches. Since publishing the strategy, IEMA created a digital working group to take forward this area of practice and in 2020 published a Primer on Digital Impact Assessment<sup>7</sup> and an Impact Assessment Outlook Journal on Digital Impact Assessment in Practice<sup>8</sup>, providing examples and case studies of digital IA innovations by IEMA members and EIA Quality Mark organisations. The adoption of digital and paper-less submissions and virtual consultations has been accelerated by recent amendments to mitigate the Covid pandemic. IEMA recommends that some of these temporary measures are considered further to become permanent changes, such as the removal of the need to provide hard copies of documents.

This is a brief summary of some of the key findings of the strategy. The strategy sets out more detail on each of the challenges, recommend responses, and examples of existing initiatives for each of the four recommendations.



<sup>7</sup> IEMA, Digital Impact Assessment – A Primer for Embracing Innovation and Digital Working, March, 2020  
<sup>8</sup> IEMA, Impact Assessment Outlook Journal Vol. 6 Digital IA in Practice, May, 2020.

# What are the potential solutions to the themes of the August White Paper?

UK Government is considering how planning reform can assist in building back better to tackle current economic and societal challenges. EIA reform can provide an important contribution to the planning reform by strengthening and improving EIA to better promote good design and sustainable development.

EIA reform represents an opportunity to remove causes of unnecessary cost and delay. These and other weaknesses in some current practice stem from a lack of clear requirements and standards as part of, or in support of, any regulatory framework. IEMA reported some of the above (and other) weaknesses cohesively in 2011<sup>9</sup> and has consistently been providing forward thinking, good practice advice on improving quality<sup>10</sup>, delivering proportionality<sup>11</sup> and responding to the need for digitalisation<sup>12</sup>. Delay (and cost) could be rectified with new UK requirements and standards on EIA, mandating good practice. This would reduce uncertainty which is often the cause for disproportionate assessment as an attempt to avoid perceived risks of challenge.

**The following are considered priorities:**

- **Governance on 'scoping' non-EIA development:** Provide new requirements and standards on how the need for reporting is scoped for projects which are not EIA development – the 99.9% of planning applications. As part of this, a consistent mechanism should be defined to ensure the requirements and mitigation of the project are implemented – this could be a through the use of an Environmental Management Plan (EMP).
- **Publish clear requirements and standards for EIA:** Convene a working group to define existing good practice which will deliver the key themes outlined in the August White Paper. This should include re-defining EIA as a design tool for plan making and design coding; a delivery mechanism for net gain; and delivery of effective scoping. This would lead to an agreed set of enhanced and simplified requirements and standards and would give practitioners and decision makers the evidence behind approaches taken and decisions made.
- **Ensure EMPs are central to the EIA process and provides certainty on implementation:** EMPs becomes a validation requirement of any EIA and this singularly houses all design and mitigation requirements – delivering quality design. This can then become a single plan which can be monitored to ensure implementation/deliver post consent monitoring and evolve to provide the structure and control mechanisms of further plans (e.g. construction environmental management plans). There needs to be a re-focus on capturing data on the implementation and effectiveness of mitigation through monitoring.

<sup>9</sup> IEMA, Special Report – The State of Environmental Impact Assessment Practice in the UK, 2011

<sup>10</sup> Including but not limited to: IEMA, Environmental Impact Assessment Guide to Shaping Quality Development, November, 2015; and IEMA, Environmental Impact Assessment Guide to Delivering Quality Development, July, 2016.

<sup>11</sup> Including but not limited to IEMA, Delivering Proportionate EIA – A Collaborate Strategy For Enhancing UK Environmental Impact Assessment Practice

<sup>12</sup> IEMA, Digital Impact Assessment – A Primer for Embracing Innovation and Digital Working, March, 2020

- **Appraise the role of a national EIA unit:** Revisit previous consideration of a national EIA unit to deliver a uniform approach in determining the requirement for EIA and to develop (or commission) a proportionate evidence base to support screening and scoping decisions. This would reduce uncertainty in the current Planning Policy Guidance (PPG), provide early certainty to developers, reduce timescales and reduce the risk of successful legal challenge<sup>13</sup>. This could be explored as part of any evolving role of the Planning Inspectorate and would help to deliver a consistent and proportionate approach to screening and scoping.
- **Embrace innovation and digital EIA:** Define the steps that will be implemented and when (acknowledging that some of them will be required to be up and running prior to implementation of reform). Priorities should include a national data hub (both for primary data and EIAs), a permanent move to digital submissions and improved use of interactive mapping to provide clarity on whom or what is impacted. Any national data hub needs to deliver better accessibility and can also be used to share industry intelligence<sup>14</sup>.
- **Competence in EIA:** Acknowledge EIA as a specialist area of expertise, one that requires competent experts to lead and prepare and competent experts to use the tool correctly in the decision-making process. This may include a decision on shared technical capacity across determining authorities so that the value of training is realised (unless the benefits of a national unit resolve this need).

<sup>13</sup> Screening remains a key target for current legal challenge as emphasised by a recent flurry of cases in 2020.

<sup>14</sup> A priority will be the documentation of commonly occurring impacts that we have a high confidence in being able to mitigate. This will further influence the proportionality agenda.





# IEMA Consultation

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IEMA and its members have purposively kept this note as short as reasonably practicable. It is aimed at providing early input to emerging thinking at Ministry of Housing, Communities & Local Government (MHCLG) and Defra regarding EIA reform. IEMA will provide longer and more formal consultation responses to the August White Paper and forthcoming autumn consultation on EIA.

In the interim IEMA offers to meet and/or host virtual meetings and/or consultation workshops with the government to provide access to our resources and members to aid the reform proposals. We urge you to take advantage of IEMA's access to three decades of Impact Assessment best practice and experience, our membership of over 50 dedicated EIA organisations and an Impact Assessment Network of hundreds of leading EIA professionals.

Note prepared by, and on behalf of, IEMA and the Impact Assessment Network UK Steering Group. Sent to Defra and MHCLG by email on 3rd September 2020.

Please contact Dr R. A. Howard FIEMA CEnv – Policy Lead for Impact Assessment, IEMA for further discussion in relation to this note.

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## About IEMA

IEMA is the professional body for everyone working in environment and sustainability. We're committed to supporting, encouraging and improving the confidence and performance, profile and recognition of all these professionals. We do this by providing resources and tools, research and knowledge-sharing along with high-quality formal training and qualifications, to meet the real-world needs of members from their first steps on the career ladder, right to the very top. We believe that, together, we can change perceptions and attitudes about the relevance and vital importance of sustainability as a progressive force for good. **Together, we're transforming the world to sustainability.**

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