



# Good Practice Guidance on SEA Screening

# ENVIRONMENTAL PROTECTION AGENCY

The EPA is responsible for protecting and improving the environment as a valuable asset for the people of Ireland. We are committed to protecting people and the environment from the harmful effects of radiation and pollution.

## The work of the EPA can be divided into three main areas:

**Regulation:** *Implementing regulation and environmental compliance systems to deliver good environmental outcomes and target those who don't comply.*

**Knowledge:** *Providing high quality, targeted and timely environmental data, information and assessment to inform decision making.*

**Advocacy:** *Working with others to advocate for a clean, productive and well protected environment and for sustainable environmental practices.*

## Our responsibilities include:

### Licensing

- Large-scale industrial, waste and petrol storage activities;
- Urban waste water discharges;
- The contained use and controlled release of Genetically Modified Organisms;
- Sources of ionising radiation;
- Greenhouse gas emissions from industry and aviation through the EU Emissions Trading Scheme.

### National Environmental Enforcement

- Audit and inspection of EPA licensed facilities;
- Drive the implementation of best practice in regulated activities and facilities;
- Oversee local authority responsibilities for environmental protection;
- Regulate the quality of public drinking water and enforce urban waste water discharge authorisations;
- Assess and report on public and private drinking water quality;
- Co-ordinate a network of public service organisations to support action against environmental crime;
- Prosecute those who flout environmental law and damage the environment.

### Waste Management and Chemicals in the Environment

- Implement and enforce waste regulations including national enforcement issues;
- Prepare and publish national waste statistics and the National Hazardous Waste Management Plan;
- Develop and implement the National Waste Prevention Programme;
- Implement and report on legislation on the control of chemicals in the environment.

### Water Management

- Engage with national and regional governance and operational structures to implement the Water Framework Directive;
- Monitor, assess and report on the quality of rivers, lakes, transitional and coastal waters, bathing waters and groundwaters, and measurement of water levels and river flows.

### Climate Science & Climate Change

- Publish Ireland's greenhouse gas emission inventories and projections;
- Provide the Secretariat to the Climate Change Advisory Council and support to the National Dialogue on Climate Action;
- Support National, EU and UN Climate Science and Policy development activities.

### Environmental Monitoring & Assessment

- Design and implement national environmental monitoring systems: technology, data management, analysis and forecasting;
- Produce the State of Ireland's Environment and Indicator Reports;
- Monitor air quality and implement the EU Clean Air for Europe Directive, the Convention on Long Range Transboundary Air Pollution, and the National Emissions Ceiling Directive;
- Oversee the implementation of the Environmental Noise Directive;
- Assess the impact of proposed plans and programmes on the Irish environment.
- Environmental Research and Development
- Coordinate and fund national environmental research activity to identify pressures, inform policy and provide solutions;
- Collaborate with national and EU environmental research activity.

### Radiological Protection

- Monitoring radiation levels and assess public exposure to ionising radiation and electromagnetic fields;
- Assist in developing national plans for emergencies arising from nuclear accidents;
- Monitor developments abroad relating to nuclear installations and radiological safety;
- Provide, or oversee the provision of, specialist radiation protection services.

### Guidance, Awareness Raising, and Accessible Information

- Provide independent evidence-based reporting, advice and guidance to Government, industry and the public on environmental and radiological protection topics;
- Promote the link between health and wellbeing, the economy and a clean environment;
- Promote environmental awareness including supporting behaviours for resource efficiency and climate transition;
- Promote radon testing in homes and workplaces and encourage remediation where necessary.

### Partnership and networking

- Work with international and national agencies, regional and local authorities, non-governmental organisations, representative bodies and government departments to deliver environmental and radiological protection, research coordination and science-based decision making.

### Management and structure of the EPA

The EPA is managed by a full time Board, consisting of a Director General and five Directors. The work is carried out across five Offices:

- Office of Environmental Sustainability
- Office of Environmental Enforcement
- Office of Evidence and Assessment
- Office of Radiation Protection and Environmental Monitoring
- Office of Communications and Corporate Services

The EPA is assisted by advisory committees who meet regularly to discuss issues of concern and provide advice to the Board.



# Good Practice Guidance on SEA Screening

This guidance note has been prepared by RPS Consultants,  
with input from A&L Goodbody, on behalf of the EPA.

Published December 2021

## **ACKNOWLEDGEMENTS**

This guidance note has been prepared by RPS Consultants, with input from A&L Goodbody, on behalf of the EPA.

© Environmental Protection Agency 2021

Although every effort has been made to ensure the accuracy of the material contained in this publication, complete accuracy cannot be guaranteed. Neither the Environmental Protection Agency nor the author(s) accepts any responsibility whatsoever for loss or damage occasioned, or claimed to have been occasioned, in part or in full as a consequence of any person acting or refraining from acting, as a result of a matter contained in this publication. All or part of this publication may be reproduced without further permission, provided the source is acknowledged.

# TABLE OF CONTENTS

<b>1. INTRODUCTION</b>	<b>1</b>
1.1 Purpose of the Guidance	1
1.2 Overview of SEA	2
1.3 The Benefits of SEA	2
1.4 Current Shortcomings in SEA Screening	2
<b>2. IN A NUTSHELL</b>	<b>3</b>
2.1 Aim and Purpose of SEA	3
2.2 Who Does it Apply to?	3
2.3 What Plans and Programmes Require SEA?	4
2.4 Mandatory SEA	5
2.5 Consequence of not Carrying out SEA	5
<b>3. SEA LEGISLATIVE REQUIREMENTS</b>	<b>6</b>
3.1 The SEA Directive (2001/42/EC)	6
3.2 The Relevant Recitals	6
3.3 Article 2	7
3.4 Article 3	7
3.5 Annex II	7
3.6 Transposing Irish Legislation	8
3.6.1 European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. 435/2004 as amended by S.I. 200/2011)	8
3.6.2 Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. 436/2004, as amended by S.I. 201/2011)	9
<b>4. KEY CONCEPTS</b>	<b>10</b>
<b>5. THE SCREENING PROCESS</b>	<b>12</b>
5.1 Stage 1 – Applicability	14
5.1.1 Outcome from Stage 1	16
5.2 Stage 2 Screening – Case-by-Case Consideration	16
5.3 Stage 3 Determination	21
<b>6. TEMPLATES</b>	<b>22</b>
6.1 Applicability Template 1	22
<b>6.2</b> Screening Report Template 2	24
6.3 Screening Determination Template 3	29

APPENDIX A:	Case Studies	30
APPENDIX B:	Case Law	35
APPENDIX C:	SEA Decision Tree	45
APPENDIX D:	List of Typical Authorities to Which SEA May Apply	46
APPENDIX E:	Impact Description Terminology – Based on EPA Draft Guidelines on Information to be Contained in EIAR	47

## LIST OF FIGURES AND TABLES

Figure 1-1:	Screening in the overall SEA process	1
Figure 4-1:	Integration of SEA with other environmental assessment processes	11
Figure 5-1:	SEA screening process under S.I. 435/2004, as amended	13
Figure 5-2:	Source-pathway-receptor concept [Source EPA]	17
Figure 5-3:	Example of graphic showing hierarchy [Source NPF 2018]	18
Figure 5-4:	Typical classifications of the significance of impacts – from draft EPA guidelines on information to be included in an EIAR	19
Table 3-1:	Requirement for SEA of certain land use plans under S.I. 436/2004, as amended	9



## ABBREVIATIONS

<b>AA</b>	Appropriate Assessment
<b>CA</b>	Competent Authority
<b>CDP</b>	County / City Development Plan
<b>CJEU</b>	Court of Justice of the European Union
<b>DAFM</b>	Department of Agriculture, Food and the Marine
<b>DECC</b>	Department of the Environment, Climate and Communications
<b>DHLGH</b>	Department of Housing, Local Government and Heritage <sup>1</sup>
<b>EC</b>	European Commission
<b>EIA</b>	Environmental Impact Assessment
<b>EIAR</b>	Environmental Impact Assessment Report
<b>EPA</b>	Environmental Protection Agency
<b>EU</b>	European Union
<b>LA</b>	Local Authority
<b>LAP</b>	Local Area Plan
<b>LSE</b>	Likely Significant Effects
<b>NIR</b>	Natura Impact Report
<b>NPWS</b>	National Parks and Wildlife Service
<b>PDA</b>	Planning and Development Act
<b>P/P</b>	Plans and Programmes [should also be read to include the full range of studies, strategies, frameworks, etc.]
<b>RBMP</b>	River Basin Management Plan
<b>RFRA</b>	Regional Flood Risk Appraisal
<b>RSES</b>	Regional Spatial and Economic Strategy
<b>SDZ</b>	Strategic Development Zone
<b>SEA</b>	Strategic Environmental Assessment
<b>S.I.</b>	Statutory Instrument
<b>S-P-R</b>	Source-Pathway-Receptor
<b>WFD</b>	Water Framework Directive
<b>ZoI</b>	Zone of Influence

<sup>1</sup> Formerly Department of Housing, Planning and Local Government (DHPLG).

# 1. INTRODUCTION

## 1.1 PURPOSE OF THE GUIDANCE

This Guidance Note provides specific stand-alone guidance on Strategic Environmental Assessment (SEA) Screening, i.e. whether SEA of a plan / programme (P/P) is required. It adds to a collection of existing guidance on SEA process and practice published by the EPA.<sup>2</sup> This guidance is specific to the Irish context and is focused primarily on screening of P/P other than statutory land use plans (such as Regional Spatial and Economic Strategies (RSES), County / City Development Plans (CDP), Local Area Plans (LAP) etc.). Separate and dedicated guidelines for such land use plans were published by the Department of the Environment, Heritage and Local Government (DEHLG<sup>3</sup>) in 2004 and an update is in preparation from the Department of Housing, Local Government and Heritage (DHLGH) and is expected in 2021.

The purpose of this Guidance Note is to provide good practice guidance to assist P/P makers and SEA practitioners in carrying out screening for SEA of P/P, in accordance with the SEA Directive (2001/42/EC). The guidance includes an elaboration of the steps needed for screening, the legislative landscape underpinning SEA screening, and step-by-step process and templates to assist in preparing the required documentation. The guidance also includes reference to case law which is shaping the SEA process, noting that this is an evolving space and guidance also includes case studies to illustrate good practice. Key guidance on SEA is also available on the European Commission (EC) website.<sup>4</sup>



Figure 1-1: Screening in the overall SEA process

<sup>2</sup> <https://www.epa.ie/our-services/monitoring--assessment/assessment/strategic-environmental-assessment/>

<sup>3</sup> Department has since been renamed the Department of Housing, Local Government and Heritage.

<sup>4</sup> <https://ec.europa.eu/environment/eia/sea-support.htm>

## 1.2 OVERVIEW OF SEA

SEA is a process for evaluating, at the earliest appropriate stage, the environmental consequences of implementing P/P initiatives prepared by authorities at a national, regional, or local level. The purpose is to ensure that the environmental consequences of P/P are assessed both during their preparation and prior to adoption. The SEA process also gives interested parties an opportunity to comment on the environmental impacts of the proposed P/P and to be kept informed during the decision-making process.

The European Directive (2001/42/EC) on the Assessment of the Effects of Certain Plans and Programmes on the Environment (the SEA Directive), was transposed into national legislation in Ireland by the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. 435/2004, as amended by S.I. 200/2011) and the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. 436/2004, as amended by S.I. 201/2011).

This guidance focuses primarily on those plans prepared under S.I. 435/2004, as amended. All reference to “the Regulations” in the guidance will mean S.I. 435/2004, as amended, unless otherwise stated.

## 1.3 THE BENEFITS OF SEA

SEA emphasises the importance of considering the environment early in the planning process before projects are conceived and provides an opportunity to further integrate with other pieces of environmental legislation, e.g. the Water Framework Directive (2000/60/EC), Floods Directive (2007/60/EC) and Habitats Directive (92/43/EEC).

SEA has many benefits for plan makers and the public. It can lead to changes in P/P which promote positive environmental outcomes and reduce negative ones; it can increase understanding of environmental issues relevant to an area or sectoral activity; it promotes early stakeholder engagement; it can allow for consideration of alternatives when more options are possible at higher tiers of decision-making; it can provide for a high level of protection of the environment; it can contribute to the integration of environmental considerations in plans and programmes; and it can promote sustainable development.

While not all P/P will statutorily fall under SEA, the key objective of the SEA Directive is in whether the P/P will impact on the environment and how to address that as early in the planning process as possible. This is in keeping with the intent of the SEA Directive at Article 1:

*“The objective of this Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”*

## 1.4 CURRENT SHORTCOMINGS IN SEA SCREENING

Uncertainty in some of the terminology relevant to the application of the SEA Directive has led to certain sectors being slower to engage with the legislation than others. Emerging case law is broadening the scope of the SEA Directive, requiring more thoughtful consideration about the purpose of the SEA Directive rather than a narrow interpretation of the terms “plan and programme”. Consistent application of significance criteria is also needed to ensure the overall objective of the SEA Directive is met.

## 2. IN A NUTSHELL

### 2.1 AIM AND PURPOSE OF SEA

The aim of the SEA Directive is to ensure that an environmental assessment is carried out at the earliest stage, before P/P are adopted, and while there is still an opportunity to influence decision-making. The requirement for an SEA at the initial stage is not affected by, and does not affect, the separate need for subsequent environmental assessments when individual projects within the P/P come to be considered. SEA involves assessment of the environmental effects of P/P at a strategic level, whereas Environmental Impact Assessments (EIA) relate to individual projects.

### 2.2 WHO DOES IT APPLY TO?

The SEA Directive applies to plans and programmes which are subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and which are required by legislative, regulatory or administrative provisions (including those co-financed by the European Community, as well as any modifications to them).

Generally, the SEA Directive applies to public bodies tasked with delivering P/P to guide sectoral development. Typically, this means any public sector body representing general government, public sector, central government and local government. In addition, government agencies and semi-state agencies under the aegis of a government department may also fall under the scope of the Directive. It is not practical to list the relevant P/P authorities given the regularity with which department and agency names are changed; however, a Register of Public Service Bodies is held by the Central Statistics Office<sup>5</sup> and this should be consulted. **Appendix D** also provides a list of typical authorities which should consider the applicability of the SEA Directive.

In limited circumstances, P/P prepared by private entities may be within the scope of the SEA Directive, notably P/P prepared by statutory undertakers<sup>6</sup> [on behalf of a public authority] or where plans have been prepared by a private developer and are to be adopted into a County Development Plan, or will direct development for example. In such instances, a shared approach to SEA may be required, with the public authority working with the private sector to ensure environmental issues are integrated into plan making at the right stage.

5 For full and up-to-date lists of public authorities see the Register of Public Sector Bodies in Ireland at [cso.ie](http://cso.ie) and [gov.ie](http://gov.ie)

6 Defined in the Planning and Development Act 2000, as amended: “means a person, for the time being, authorised by or under any enactment or instrument under an enactment to—(a) construct or operate a railway, canal, inland navigation, dock, harbour or airport, (b) provide, or carry out works for the provision of, gas, electricity or telecommunications services, or (c) provide services connected with, or carry out works for the purposes of the carrying on of the activities of, any public undertaking.

## 2.3 WHAT PLANS AND PROGRAMMES REQUIRE SEA?

The SEA Directive applies to P/P which are (i) prepared or adopted by a national, regional or local level and (ii) required by legislative, regulatory or administrative provisions.

Mandatory SEA is required for P/P that (i) are prepared for certain sectors and (ii) set the framework for future development consent of projects listed in Annexes I and II to the EIA Directive OR which require assessment under the EU Habitats Directive (92/43/EEC) (and which are not small area/local or minor modifications etc).

SEA may also be required for other P/P where they are likely to have significant effects on the environment and this is determined on a case-by-case basis.

### CASE LAW

*Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale (Case C-567/10)* displays the broad and purposive approach adopted by the Court of Justice of the European Union (CJEU) to the interpretation of SEA. It chose to interpret “required” in a manner which ensures that SEA covers plans and programmes that are subject to formal approval procedures, not only those where there is a specific legal requirement for these to be developed and adopted. Although Article 2(a) of the SEA Directive only specifically mentions the preparation, adoption and modification of plans and programmes, the CJEU accepted that the partial or total repeal of a plan or programme is likely to have a significant effect on the environment, since it may modify what is envisaged in the areas that the plan covers. If the partial or total repeal of plans was excluded from the scope of SEA, it would undermine the Directive’s effectiveness and compromise its practical effect. See Case Law 3 in **Appendix B**.

Case law from the CJEU makes it clear how unsympathetic the Court is to arguments that particular forms of P/P technically fall outside the scope of the SEA Directive. The starting point is that the SEA Directive and its application need to be examined bearing in mind its wide scope and broad purpose. That purpose, as identified within the recitals, includes the importance of integrating environmental considerations into the preparation of P/P through systematically accounting for their likely significant environmental effects. For example, although Article 2(a) of the SEA Directive only specifically mentions the preparation, adoption and modification of P/P, the CJEU has widened this to include partial or total repeal of a P/P also, since it may modify what is envisaged in the areas that the P/P covers.

All references to P/P in this guidance relate to the wider understanding of the terminology as presented by case law.

### CASE LAW

*In A and Others (C-24/19)* the CJEU reaffirmed the meaning of “required”. It is clear that SEA may apply to circulars which are capable of producing compulsory legal effects for third parties, rather than being of purely indicative value. See Case Law 7 in **Appendix B**.

## 2.4 MANDATORY SEA

Recital 10 of the SEA Directive states that:

*“All plans and programmes which are prepared for a number of sectors and which set a framework for future development consent of projects listed in Annexes I and II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment,<sup>7</sup> or plans and programmes which have been determined to require assessment pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna,<sup>8</sup> are likely to have significant effects on the environment, and should as a rule be made subject to formal environmental assessment. When they determine the use of small areas at local level or are minor modifications to the above plans or programmes, they should be assessed only where Member States determine that they are likely to have significant effects on the environment.”*

An SEA is therefore considered mandatory for P/P which are:

- ▲ prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use and which set the framework for future development consent of projects listed in the EIA Directive (85/337/EEC, as amended); or
- ▲ have been determined to require an assessment under the Habitats Directive (92/43/EEC as amended).

## 2.5 CONSEQUENCE OF NOT CARRYING OUT SEA

Domestic courts may be required to annul the project consents which were granted in breach of SEA obligations; while the European Court has recognised that there are limited exceptions to this, robust systematic and transparent screening of P/P offers the most appropriate risk mitigation for P/P makers.<sup>9</sup>

7 OJ L 175, 5.7.1985, p. 40. Directive, as amended, by Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

8 OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

9 Case C-24/19, Judgment of the Court (Grand Chamber) 25 June 2020, A and Others v. Gewestelijke stedenbouwkundige ambtenaar van het departement Ruimte Vlaanderen, afdeling Oost-Vlaanderen: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=227726&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18572712>

### 3. SEA LEGISLATIVE REQUIREMENTS

This section presents a review of relevant provisions of the screening elements within the SEA Directive and transposing Irish legislation. The integration of the SEA process with other relevant environmental protection legislation, notably the EU Habitats Directive, the Water Framework Directive and the Floods Directive is also considered.

#### KEY POINTS

- ▲ The screening stage of SEA is primarily addressed through Article 2 and Article 3 of the SEA Directive and Annex II which sets out the considerations in relation to determining significant environmental effects.
- ▲ Even though the SEA Directive refers to P/P, it covers a wider scope than just those documents with these words in their title. The Courts have ruled on the side of a broader interpretation which does not limit the scope or purpose of the SEA Directive, which is to provide a high level of protection of the environment and integrate environmental considerations into P/P preparation.
- ▲ Even P/P that are grounded in environmental protection/health, e.g. River Basin Management Plans (RBMP), may need SEA on the basis of significant positive and/or negative impacts.
- ▲ No matter what the document is called – Plan/Programme/Framework/Strategy/ Study/ Policy Action etc. – it may fall under the SEA Directive.
- ▲ SEA is directly linked to Appropriate Assessment under the EU Habitats Directive through Article 3.2b. In circumstances where screening for SEA is pointing toward screening out (i.e. SEA is determined not to be required), this determination cannot be concluded until such time as screening for Appropriate Assessment (AA) has been concluded.

#### 3.1 THE SEA DIRECTIVE (2001/42/EC)

The screening stage of SEA is primarily addressed through Article 2 and Article 3 of the SEA Directive and Annex II which sets out the considerations in relation to determining significant environmental effects. A number of the recitals are also relevant for context. In determining whether any P/P falls within the scope of the SEA Directive, Articles 2 and 3 should be read together, and interpreted in light of each other, and the SEA Directive as a whole.

Nevertheless, each Article contains individual elements, which are required to be satisfied before any measure could be regarded as a P/P which falls within the scope of the SEA Directive. Case-law shows that there has been difficulty in deciding whether a relevant P/P falls within the provisions of Article 2 of the SEA Directive. This difficulty stems from the fact that the expressions “plan” or “programme” are vague terms, and their meaning in the Directive and the Regulations is very broad.

#### 3.2 THE RELEVANT RECITALS

Recitals are intended to assist in the interpretation and intent of the articles which follow in the SEA Directive but they do not have legal effect in their own right.<sup>10</sup> Rather, they can assist in teasing out ambiguities if they exist in the legislative provisions. They are, as a result, an important aspect of the context for the legislation and should not be overlooked or discounted. Those specifically relevant to SEA screening are Recitals 4, 10 to 13, and 15. Recital 10 in particular introduces the concept of mandatory SEA.

10 19TH QUALITY OF LEGISLATION SEMINAR ‘EU Legislative Drafting: Views from those applying EU law in the Member States’ EUROPEAN COMMISSION SERVICE JURIDIQUE - QUALITY OF LEGISLATION TEAM Brussels, 3 July 2014 (Charlemagne Building). Complexity of EU law in the domestic implementing process.

### 3.3 ARTICLE 2

Article 2(a) of the SEA Directive establishes two cumulative conditions which P/P must satisfy in order for the further elements of the SEA Directive to be applicable to them:

- a) they must have been prepared and/or adopted by an authority at national, regional or local level or prepared by an authority for adoption, through a legislative procedure, by a parliament or government;

and

- b) they must be required by legislative, regulatory or administrative provisions.

If these conditions are not satisfied, the measure is not regarded as a P/P which comes within the scope of the SEA Directive. However, case law has taken a broad view of what falls within these conditions (see Case Law examples 1–7 in **Appendix B**).

### 3.4 ARTICLE 3

Once a P/P has been determined to be within the scope of the SEA Directive, Article 3 sets out the criteria for determining which P/P require environmental assessment. The mandatory nature of the assessment under a range of sectors is underpinned by the use of “shall” in Article 3(2)a and with reference back to Recital 10 which relates to projects listed under Annex I and II of the EIA Directive (the SEA legislation references Directive 85/337/EEC which has in the intervening time been codified by Directive 2011/92/EU, as subsequently amended by Directive 2014/52/EU) and those subject to Appropriate Assessment under the Habitats Directive (93/43/EC).

As with Article 2, a number of conditions must be met, notably they must (a) belong to the list of sectors and (b) set the framework for future development consent of projects listed in Annexes I and II to the EIA Directive, or (c) require an Appropriate Assessment under the EU Habitats Directive (92/43/EEC). Note that conditions (b) and (c) can independently trigger SEA.

Other P/P and those which determine the use of small areas at local level and minor modifications to P/P must first determine whether they are likely to have significant environmental effects with reference to criteria set out in Annex II of the SEA Directive specifically. These address the characteristics of P/P and the characteristics of the effects and of the area likely to be affected. Exemptions to the SEA Directive are also specified under Article 3.

#### CASE LAW

In *Terre Wallonne ASBL & Inter-Environnement Wallonne ASBL (Joined Cases C-105/09 and C-110/09)* – The CJEU in assessing whether a plan or programme sets a framework for future development consent of projects, found it is necessary to examine their content and purpose, and assess the extent to which they contain a specific and organised system which provides practical and coordinated arrangements. If the plan or programme contains a specific and organised system it is more likely to require SEA (assuming that the other prerequisites are satisfied). Case Law 2 in **Appendix B**.

### 3.5 ANNEX II

Annex II of the SEA Directive presents the criteria for determining the likely significant effects referred to in Article 3(5) of the Directive. The significance of effects is determined with reference to the type and nature of the P/P, its position in the planning hierarchy and its influence on other P/P. It also has regard to the nature of the effects and the sensitivity of the receiving environment as well as the magnitude and spatial extent of the effects. Cumulative and transboundary issues must also be considered. This significance of effects must be considered on a case-by-case basis – an effect may not be significant at a national scale but may become so at a local scale.

### 3.6 TRANSPOSING IRISH LEGISLATION

Ireland made the decision to transpose the SEA Directive into Irish law in 2004 through two separate statutory instruments or regulations, one specifically concerning specific listed town and country/land use plans (S.I. 436/2004) and one concerning all other sectors (S.I. 435/2004). The transposing regulations are as follows:

- ▲ European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations (S.I. 435/2004); and
  - ▲ Planning and Development (Strategic Environmental Assessment) Regulations (S.I. 436/2004).
- Both pieces of legislation were amended in 2011 through the following amendment regulations:

- ▲ European Communities (Environmental Assessment of Certain Plans and Programmes) Amendment Regulations (S.I. 200/2011); and
- ▲ Planning and Development (Strategic Environmental Assessment) Amendment Regulations (S.I. 201/2011).

The SEA Directive has also been given effect through other Irish legislation. For example, the Planning and Development Act [PDA] 2000, as amended, includes a specific requirement to carry out and facilitate SEA alongside the preparation of the Regional Spatial and Economic Strategies; and the Water Services Act 2007, as amended, requires that: *“The purpose for which this Act is enacted includes giving effect to so much of the following as relates to water services” - listing specifically Directive 2001/42/EC.*

#### 3.6.1 EUROPEAN COMMUNITIES (ENVIRONMENTAL ASSESSMENT OF CERTAIN PLANS AND PROGRAMMES) REGULATIONS 2004 (S.I. 435/2004 AS AMENDED BY S.I. 200/2011)

The transposition of the SEA Directive through S.I. 435/2004, as amended, deals with P/P relating to agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism and town and country planning or land use. Note that P/P outside these sectors are also covered by the Regulations; refer to Article 9(1)(b) and 9(3) of the Regulations. The Regulations are not intended to address statutory land use plans prepared under the PDA, notably County Development Plans, Local Area Plans, SDZ or RSES. Such statutory land use plans are the subject of S.I. 436/2004, as amended. S.I. 435/2004, as amended, can be seen as a focal point for all other types of P/P in the land use planning sector, such as masterplans, and as such these other types of land use plans must consider their requirement for SEA under S.I. 435/2004, as amended.

Broadly S.I. 435/2004, as amended, has transposed the SEA Directive text relating to screening with the following additions:

- ▲ It clarifies that *“the competent authority shall make any necessary determination.”* This indicates that the CA should record a specific determination based on information available [reports, consultation feedback, etc.]. This is only necessary for non-mandatory P/P.
- ▲ It opts to apply a case-by-case determination with regard to the potential of P/P to give rise to significant environmental effects with reference to Schedule 1, which follows the text of Annex II of the SEA Directive.
- ▲ The Regulations specifically require that account be taken of any submission or observation from the environmental authorities for SEA in Ireland – named at *Art. 9(5)*.

### 3.6.2 PLANNING AND DEVELOPMENT (STRATEGIC ENVIRONMENTAL ASSESSMENT) REGULATIONS 2004 (S.I. 436/2004, AS AMENDED BY S.I. 201/2011)

SEA under S.I. 436/2004, as amended deals, specifically with land use plans governed by the Planning and Development Act 2000, as amended, and the Planning and Development Regulations (PDR) 2001, as amended. The SEA regulations dealing with planning and land use have in turn amended the Planning and Development Regulations, particularly in Part 3, Art. 13–15 and also Part 14, Art. 179.

Unlike P/P covered by S.I. 435/2004, as amended, these regulations provide a clear hierarchy of land use plans requiring mandatory SEA, including limits for certain plans and case-by-case determination with regard to the potential of others below the threshold to give rise to significant environmental effects with reference to Schedule 2A, which itself follows the text of Annex II of the SEA Directive. This is further detailed in **Table 3-1**.

**Table 3-1: Requirement for SEA of certain land use plans under S.I. 436/2004, as amended**

S.I. 436/2004	Requirement for SEA	Legislation Reference
<b>Mandatory</b>	▲ Regional Spatial and Economic Strategies	▲ Section 10 of the SEA regulations and Art. 15 of the PDR
	▲ County and City Development Plans and review of such plans where the population of the area of the planning authority is >10,000	▲ Section 7 of the SEA regulations and Art. 13 of the PDR
	▲ Local Area Plans where: <ol style="list-style-type: none"> <li>the population or the target population of the area of a local area plan is 5,000 persons or more, or</li> <li>the area covered by the local area plan is greater than 50 square kilometres, or</li> <li>the local area plan is being prepared for a town and its environs area, or</li> <li>where the planning authority determines under Article 14A(3) or (5) that the implementation of a local area plan, an amended plan or an amendment to a local area plan would be likely to have significant effects on the environment</li> </ol>	▲ Section 8 of the SEA regulations and Art. 14 of the PDR
	▲ Planning Scheme for Strategic Development Zones (SDZ)	▲ Section 11 of the SEA regulations [Part 14], Art. 179 of the PDR
<b>Screening required with reference to Schedule 2A criteria</b>	▲ Development Plans where the population or the target population of the area of the planning authority is less than 10,000	▲ Section 7 of the SEA regulations and Art. 13(A) of the PDR
	▲ Proposed variation to a city or county development plan	▲ Section 7 of the SEA regulations and Art. 13(K) of the PDR
	▲ Local area plan for an area or an amendment to a local area plan for an area the population or the target population of which is less than 5,000 persons or where the area covered by the local area plan is less than 50 square kilometres	▲ Section 8 of the SEA regulations and Art. 14(A) of the PDR

## 4. KEY CONCEPTS

**How to interpret Articles 2 and 3 of SEA Directive:** Article 2 of the Directive relates to definitions and Article 3 relates to the scope of the Directive. Case law shows that there has been difficulty in deciding whether a relevant P/P falls within the provisions of Article 2 of the SEA Directive. This difficulty stems from the fact that the expressions “plan” or “programme” are vague terms and defy precise definition. In determining whether any P/P falls within the scope of the SEA Directive, Articles 2 and 3 of the SEA Directive should be read together, and interpreted in light of each other, and the SEA Directive as a whole. Nevertheless, each Article contains individual ingredients, which are required to be satisfied before any measure could be regarded as a P/P which falls within the scope of the SEA Directive.

**What are the key features of P/P that set a framework for future development consent?**

A plan or programme is a measure which defines criteria and detailed rules for development and subjects the implementation of one or more projects to rules and procedures for scrutiny.

**What is the meaning of “required”?** “Required by legislative, regulatory or administrative provisions” means that there is something by way of formal provision which could be said to govern or regulate the production of the P/P. The requirement for SEA covers P/P that are subject to formal approval procedures, not only those where there is a specific legal requirement for these to be developed and adopted. See A and Others (C-24/19) – Case Law 7 in **Appendix B**.

**What does “framework for future development consent” mean?** This typically requires an examination of the content and purpose of the measures in question and those measures must contain a significant body of criteria and detailed rules. Such criteria and rules require to be construed qualitatively and not quantitatively.

### CASE LAW

In *D’Oultremont v Région Wallonne* (Case C-290/15) the CJEU reaffirmed that a broad, purposive interpretation must be adopted to defining the boundaries of “plans and programmes”. It noted that even if a plan or programme does not establish a complete framework, it may still qualify as a plan or programme where criteria and detailed rules are established which need to be complied with. Restricting the application of the SEA Directive to measures embodying a comprehensive and coherent approach would encourage authorities to circumvent the obligation to carry out an assessment by engaging in splitting more comprehensive measures into smaller parts to avoid assessment. See Case Law 1 in **Appendix B**.

In *Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale* (Case C-671/16) the Court clarified that in engaging with the concept of “a significant body of criteria and detailed rules”, this must be construed qualitatively and not quantitatively. Case Law 5 in **Appendix B**.

**How to apply the screening criteria in Annex II:** The application of the criteria in Annex II to establish if significant environmental effects would arise from the implementation of the P/P should have regard to the established approaches used for determining significance under EIA and AA processes. This includes a combination of objective and subjective concerns. Concerns will have regard to both scientific evidence base and professional judgement of competent experts in the determination of significance. The basis for the decisions must be clearly set out so that the varying degrees of significance attributed to different factors can be understood. The level of detail of the analysis should be proportional to the level of detail of the P/P and should consider not only direct and indirect impacts but also cumulative, transboundary and synergistic impacts.

**Integration with other environmental assessment legislation:** SEA does not stand alone in environmental assessments of P/P. **Figure 4-1** presents the integration of SEA with other environmental assessment processes as applied to a Regional Spatial and Economic Strategy. Of key significance in these parallel processes is that they inform issues of significance under SEA topic headings such as Biodiversity, Human Health, Water, etc. The AA screening stage is particularly important in light of Article 3(2)b of the Directive which explicitly requires P/P that require AA to also undergo SEA, unless they are of small scale/local area or minor modifications to P/P, in which case they need to be screened for likely significant effects. As such, the timing of AA screening is critical to SEA screening (Stage 1 in the graphic below) as the latter cannot conclude on the basis of screening out SEA without the AA screening being completed.

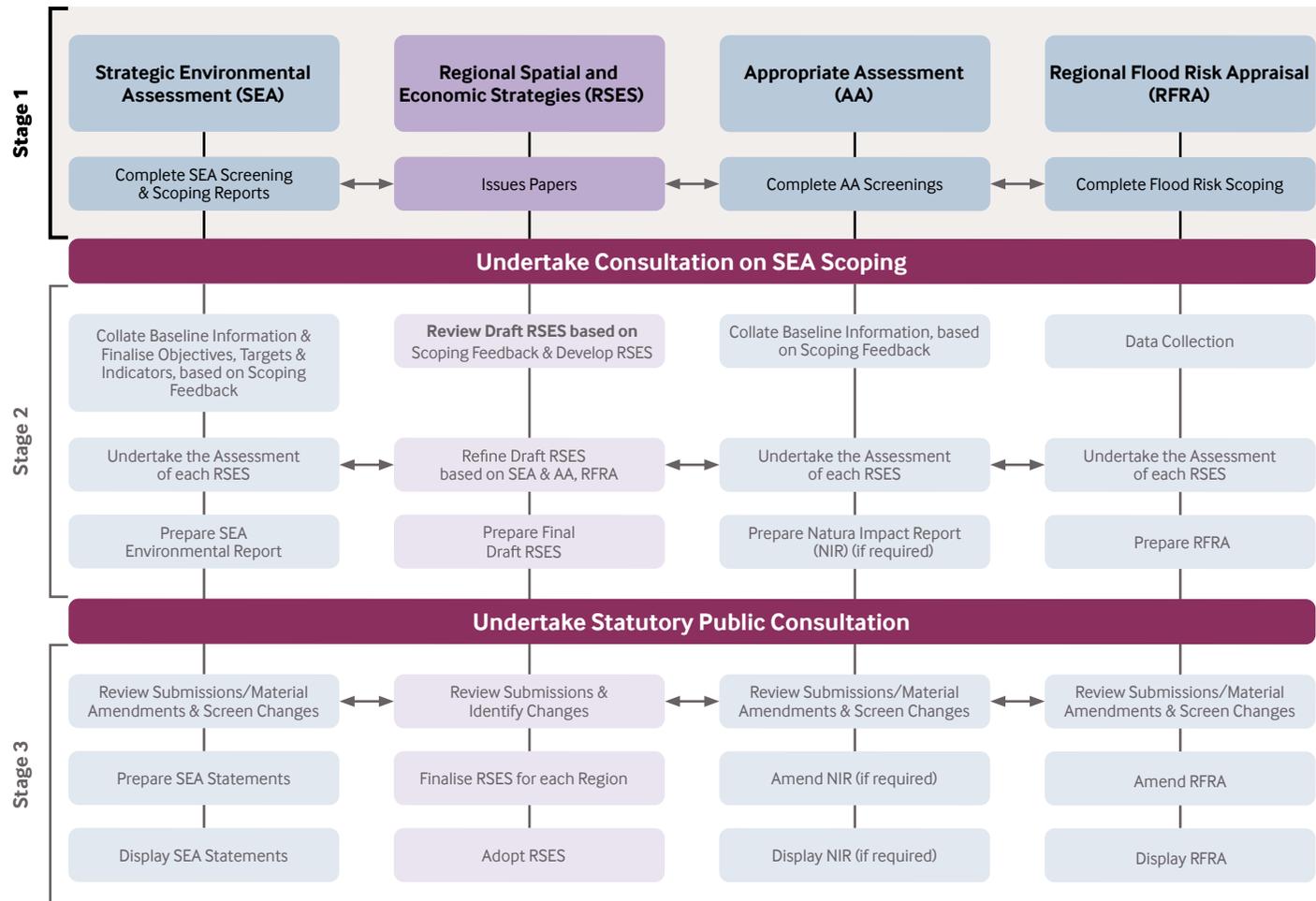


Figure 4-1: Integration of SEA with other environmental assessment processes

## 5. THE SCREENING PROCESS

This section presents the screening process and the main steps involved. The screening process proposed broadly follows the SEA Decision Tree adapted from the research report *Development of Strategic Environmental Assessment (SEA) Methodologies for Plans and Programmes in Ireland* (Scott and Marsden, 2001)<sup>11</sup> which is included at **Appendix C** for reference.<sup>12</sup>

### KEY POINTS

- ▲ It is the responsibility of the P/P maker, as the competent authority for the P/P, to manage the SEA screening process.
- ▲ Consideration of the need for SEA should start early in the P/P-making process to ensure that SEA can be fully integrated where it is required.
- ▲ A determination on the need for AA is required before SEA screening can be completed.
- ▲ There is a high level of overlap between the SEA process and the AA process but other related processes also need to be considered early and in parallel as they may inform SEA screening, e.g. Water Framework Directive, Flood Directive.
- ▲ If there is uncertainty with regard to whether a P/P is setting the framework for future development consent it is recommended that the process proceeds to Stage 2 screening and application of the detailed criteria from Annex 2 of the SEA Directive.<sup>12</sup>

The Screening Process comprises three principal stages – applicability, screening and determination – which are discussed further in this section and outlined below in **Figure 5-1**.

1. **Applicability (including mandatory requirement):** To determine the applicability of SEA to the P/P-maker and P/P and/or where relevant to confirm if mandatory SEA is required.
2. **Screening:** To examine whether a P/P which relates to use of a small area at local level, or a minor modification to a plan or programme listed under the SEA Directive, or a P/P other than those listed under the SEA Directive but which sets the framework for development consent, is likely to have significant effects on the environment.
3. **Determination:** Where screening of non-mandatory P/P is required, a formal determination on the outcome is required.

11 [https://www.epa.ie/publications/monitoring--assessment/assessment/EPA\\_development\\_methodology\\_SEA\\_synthesis\\_report.pdf](https://www.epa.ie/publications/monitoring--assessment/assessment/EPA_development_methodology_SEA_synthesis_report.pdf)

12 Note that use of the term “stage” in this guidance is not a mandatory legal title but is useful to distinguish the key steps in the screening process.

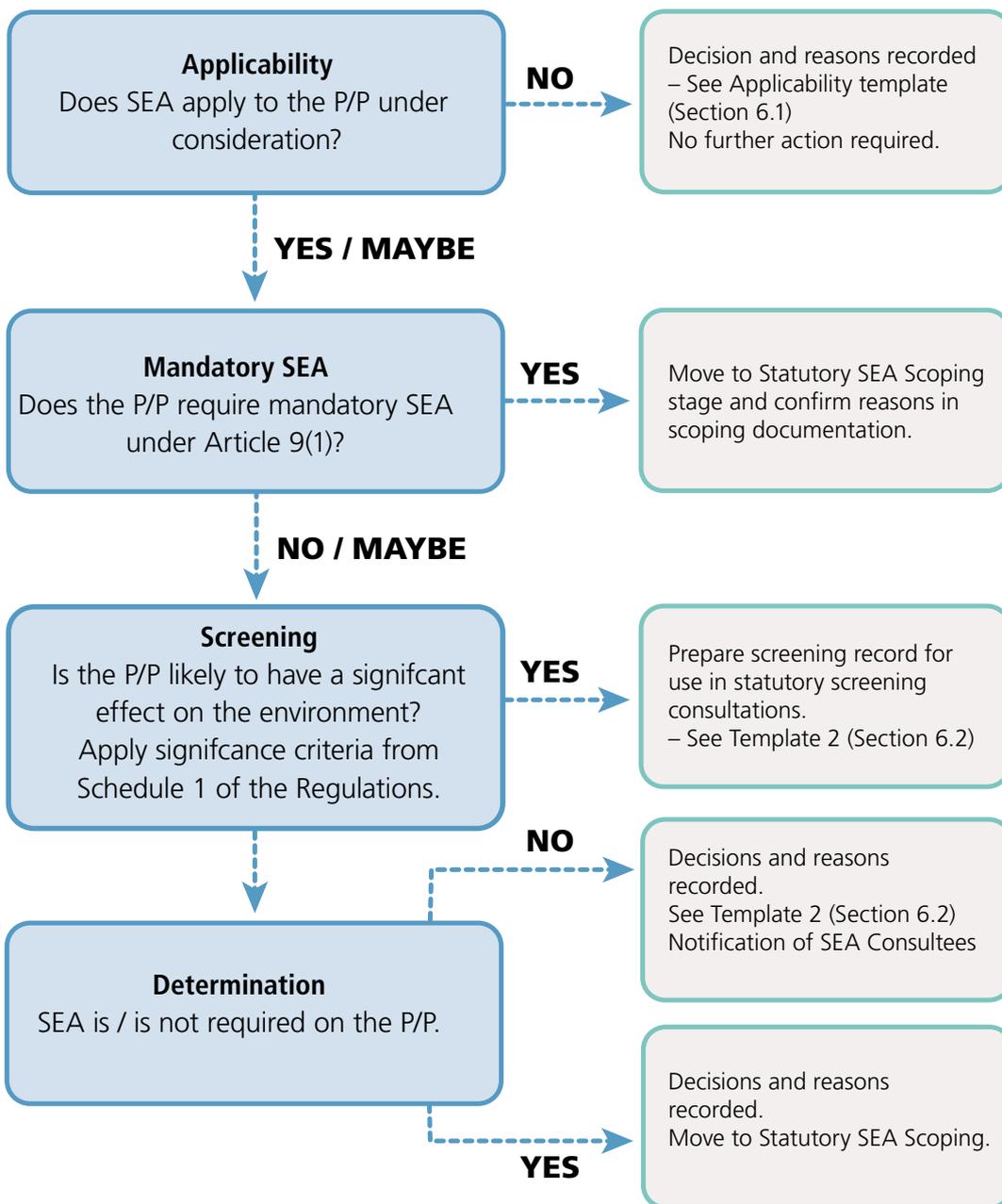
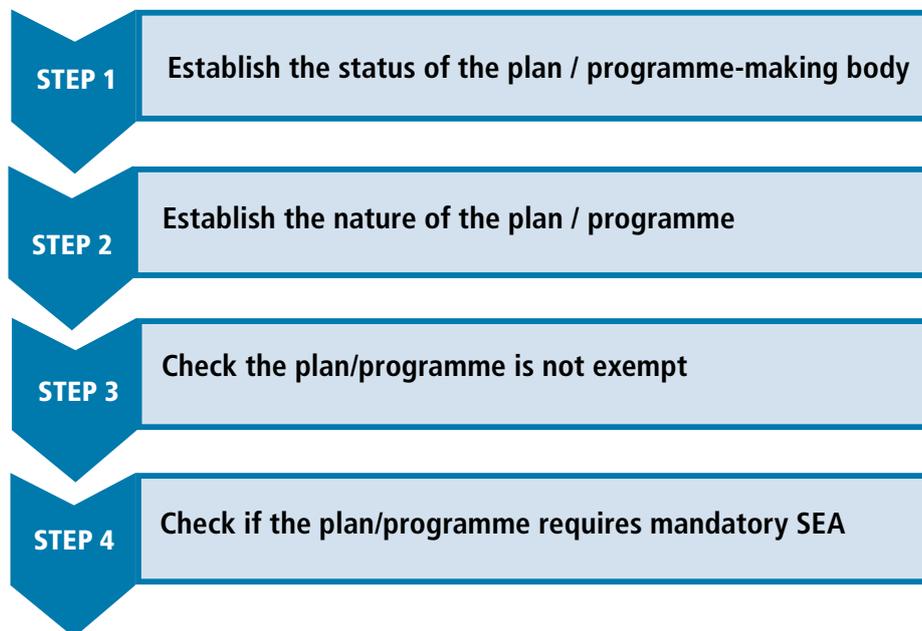


Figure 5-1: SEA screening process under S.I. 435/2004, as amended

## 5.1 STAGE 1 – APPLICABILITY

See **Template 1 – Section 6.1**

The first and most basic task is to determine if the P/P falls within the scope of the SEA Directive and transposing legislation, and to confirm if it constitutes a P/P that requires mandatory SEA. The steps involved in the Applicability stage are listed below.



### STEP 1 – STATUS OF THE PLAN / PROGRAMME-MAKING BODY

- ▲ *Is the P/P prepared and/or adopted by an authority at national, regional or local level or prepared by an authority for adoption through a legislative procedure by Parliament or Government?*

Typically, this means any public sector body representing general government, public sector, central government and local government. Additionally, it includes government agencies (e.g. EPA) and semi-state bodies under the aegis of a Government Department. In limited circumstances, the private sector may have a role where they represent a public body or may be statutory undertakers (e.g. electricity or telecoms service providers), or where a development agency/company holds or manages significant landbanks for which masterplans or similar are to be prepared for integration with a P/P. Ultimately, it is the nature of the P/P itself and whether it meets the requirements of the SEA Directive. However, the emphasis on this step of the process is to ensure that all types of P/P makers consider that they may fall under the remit of the Directive. See **Appendix D** for a non-exhaustive list of examples.

### STEP 2 – STATUS OF THE PLAN / PROGRAMME

- ▲ *Is the P/P required by legislative, regulatory, or administrative provisions?*

Typically this means P/P required to fulfil a statutory requirement or a statutory function of the P/P makers identified above. This can be a clear requirement where, for example, a River Basin Management Plan is required by the Water Framework Directive or a Regional Spatial and Economic Strategy is required by the Planning and Development Act. It may be more implicit, however, where statutory function is concerned. A legislative requirement for population growth for example could indicate that a P/P must accommodate that growth through increased densities or building heights and this would indeed fall under the scope of the SEA Directive. Similarly, an entity preparing a P/P on behalf of a Government Department, as happens with statutory undertakers, may fall under the scope of the SEA legislation also.

## STEP 3 – EXCLUSIONS

▲ *Is the sole purpose of the P/P for national defence, civil emergency or finance / budget?*

Article 3(8) of the Directive in the main specifies the conditions for exemption from the SEA Directive as follows:

8. *The following plans and programmes are not subject to this Directive:*

- *plans and programmes the sole purpose of which is to serve national defence or civil emergency,*
- *financial or budget plans and programmes.*

The exclusions identified in the legislation are typically those requiring emergency response without time for environmental consideration and would be expected to have a human or environmental health imperative as their sole purpose, i.e. a civil emergency such as a natural or man-made disaster. P/P to inform actions into the future such as flood risk management plans or climate action plans are **not** excluded from the scope of the SEA legislation.

Financial / budgetary plans also fall outside the scope of the SEA Directive but need careful consideration where they also identify infrastructure or other actions not dealt with elsewhere in P/P-making. The Strategic Investment Framework for Land Transport (Department of Transport, 2015) for example underwent SEA and AA although principally a budgetary plan. This allowed consideration of prioritisations in term of expenditure.

## STEP 4 – DOES THE P/P FALL UNDER MANDATORY PROVISION FOR SEA?

▲ *Is the P/P prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecoms, tourism, town and country planning or land use<sup>13</sup> and does the P/P set the framework for future development consent of projects listed in the Annexes of the EIA Directive;*

or

▲ *Will the P/P require assessment under Art. 6 or 7 of the EU Habitats Directive?*

This step should be considered broadly, e.g. the reference to energy may be interpreted to include transmission grid, petroleum industry, electricity generation, renewables, etc. In considering whether a P/P sets the framework for future development consent, consideration must be given to whether the P/P includes rules, limits or other criteria that would be used in development management. A broad interpretation is needed in light of EU case law which has widened the interpretation to include P/P which sets limits or criteria; hence guidance documents and legislation may also fall under this step. Revocation or repeal of a P/P can also fall under this consideration as this would equate to a modification of the P/P. If there is uncertainty with regard to whether a P/P is setting the framework for future development consent it is recommended that the process proceeds to Stage 2 screening and application of the detailed criteria from Annex II of the SEA Directive.

This step also considers whether the P/P requires assessment under the EU Habitats Directive. To establish this, screening for Appropriate Assessment is required to determine if full AA is required – the SEA Applicability Stage cannot screen a P/P out for SEA without the AA determination. In practice, the AA screening is normally commenced or undertaken in parallel with the SEA screening to facilitate integration of this feedback. Early commencement of AA screening is essential to inform this criterion.

13 The reference to town and country planning and land-use may relate to plan making procedures under S.I. 435/2004, as amended, such as “masterplans”, “public realm strategies”, “urban centre strategies” and plan making procedures under S.I. 436/2004, as amended, such as Regional Spatial and Economic Strategies, County Development Plans, Strategic Development Zones and Local Area Plans.

### 5.1.1 OUTCOME FROM STAGE 1

▲ *The SEA Directive does not apply*

The P/P is not of a type which falls within the remit of the SEA Directive / SEA Regulations. It is recommended as good practice to keep a note of the deliberations alongside the P/P on the relevant website, alongside the AA screening determination – See Template 1 in **Section 6.1**. There is no requirement to notify the environmental authorities.

▲ *The SEA Directive does apply*

The P/P is of a type which falls within the remit of the SEA Directive / SEA Regulations and requires mandatory SEA. Proceed to SEA Scoping and statutory consultation with the designated environmental authorities. The Screening outcome should be confirmed within the SEA Scoping Report.

▲ *The SEA Directive may apply*

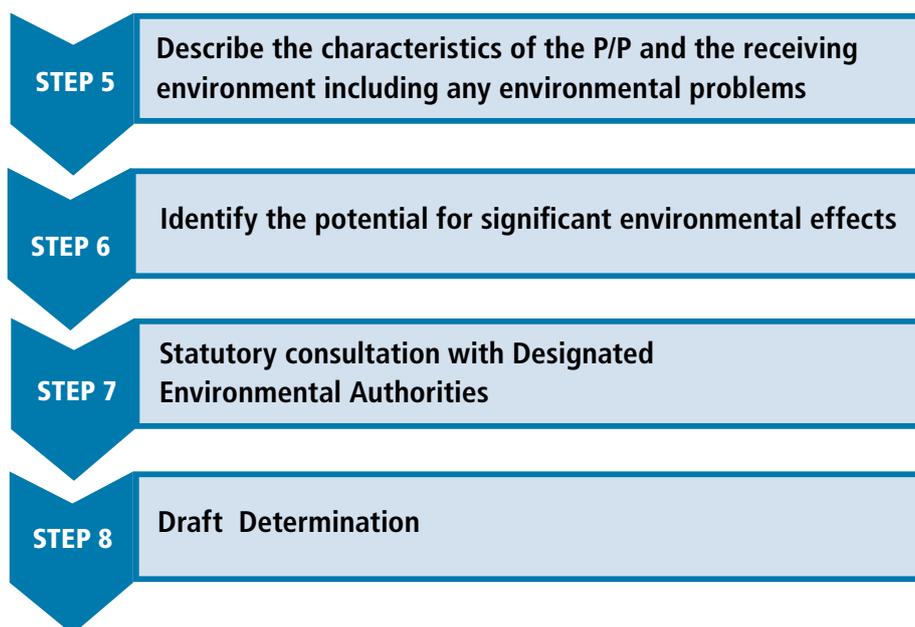
The P/P may be within the remit of the SEA Directive as either it relates to use of a small area at local level or minor modifications to a relevant P/P, it is a P/P which may set the framework for future development consent even though not listed as a P/P type, or there is uncertainty in relation to any of the provisions considered at the Applicability Stage, and so a case-by-case determination will be required. Proceed to Stage 2 Screening.

### 5.2 STAGE 2 SCREENING – CASE-BY-CASE CONSIDERATION

See **Template 2 – Section 6.2**

The purpose of Stage 2 is to determine, on a case-by-case basis, if SEA is required for P/P which have characteristics which may give rise to significant effects or for which there is uncertainty on key characteristics. Although an SEA Screening Report is not a mandatory requirement in the legislation it has become embedded good practice and is the recommended approach in this guidance note.

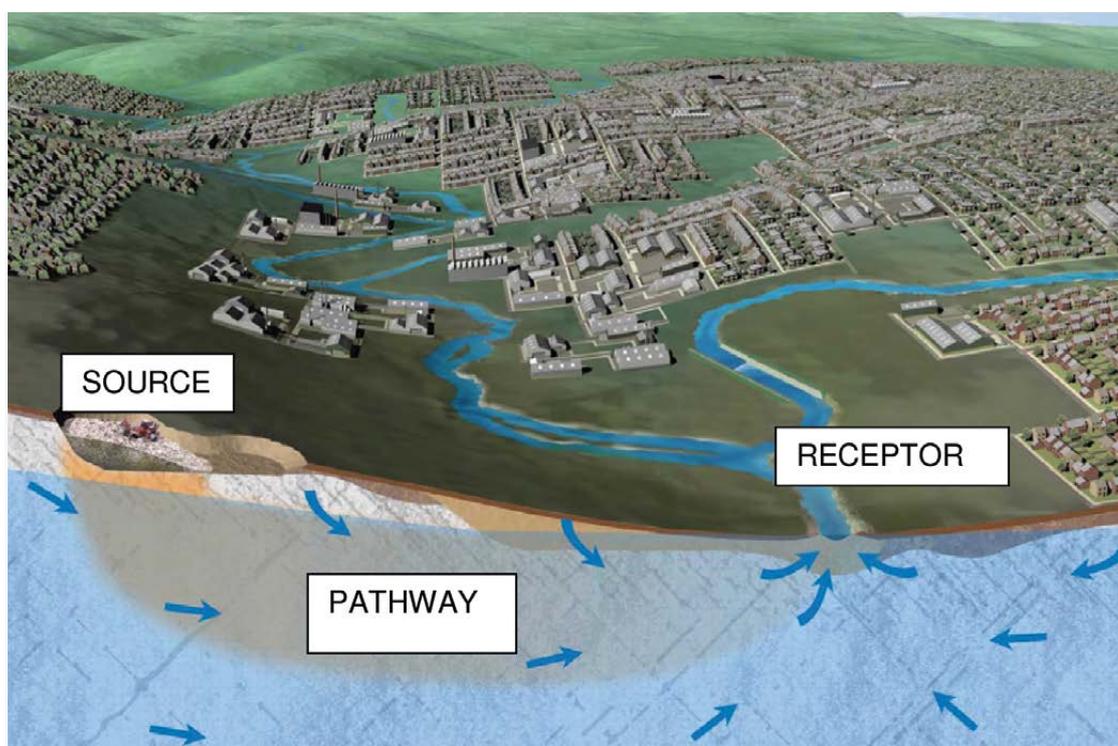
The output from this stage is the Screening Report (see **Template 2** in **Section 6.2**) which should be used to inform the notification to the environmental authorities and should be kept alongside the P/P for the duration of the plan-making cycle.



Stage 2 gives the P/P maker an opportunity to robustly and systematically consider the potential of the P/P to give rise to significant effects before making a final determination on whether to screen in or out for SEA. Note that the understanding of the P/P at this point should be detailed enough to allow the potential for likely significant effects (LSE) to be considered without the P/P being virtually completed to the point of a draft P/P for consultation. If a P/P is determined to require SEA, scoping and assessment of alternatives must inform the emerging P/P.

This stage uses the Source-Pathway-Receptor (S-P-R) concept (**Figure 5-2**) to identify significant environmental effects where: the source relates to the origin of the risk, e.g. actions / policies / measures in the P/P; the pathway typically relates to the route of transfer, usually through air, water and soils; and the receptor is the entity that may be impacted, e.g. aquatic organisms in a river, communities in a region etc.

Importantly, this stage also specifically requires formal consultation with the designated environmental authorities for SEA.



**Figure 5-2: Source-pathway-receptor concept [Source EPA<sup>14</sup>]**

## STEP 5 – DESCRIBE THE CHARACTERISTICS OF THE P/P

The criteria under which the nature of the P/P should be described are presented in Annex II (1) of the SEA Directive.<sup>15</sup> This description should include information on “where” and “what” in terms of the P/P, but it should also provide context on how the P/P will influence other P/P and projects in the hierarchy where relevant. A simple graphic showing the hierarchy of where the P/P sits should be presented for clarity noting both horizontal (on same level) or vertical (lower or higher levels). An example is presented in **Figure 5-3**.

It is important to remember in describing the receiving environment, that even small projects can have significant effects if the location is highly sensitive to change. Consideration should therefore be given to the current status of the environmental receptors and known pressures and risks which may be relevant. This should specifically include consideration of other community

14 Code of Practice Environmental Risk Assessment for unregulated Waste Disposal Sites, EPA 2007

15 S.I. 435/2004 Schedule 1 Criteria for Determining whether a plan or programme (or modification thereto) is likely to have significant effects on the environment; and S.I. 436/2004, as amended, Schedule 2A Criteria for Determining whether a plan is likely to have significant environmental effects for purposes of Articles 13A, 13K and 14A.

and national environmental protection legislation, e.g. Water Framework Directive. For example, does the receiving environment include high status water bodies which could be impacted by the P/P; or a designated European site that could be at risk of not achieving its conservation objectives as a result of the P/P; or an Architectural Conservation Area with associated CDP policies that could be compromised as a result of the P/P?

Each P/P area will be different and different scales will require differing levels of detail corresponding to their relevant national, regional or local environment. Scale and significance are important considerations in this regard, as a minor impact at a national scale may have a very different outcome for a local P/P. It is recommended that baseline data collection is carried out only to the extent needed to identify the presence of likely significant effects and not to analyse or evaluate these effects.

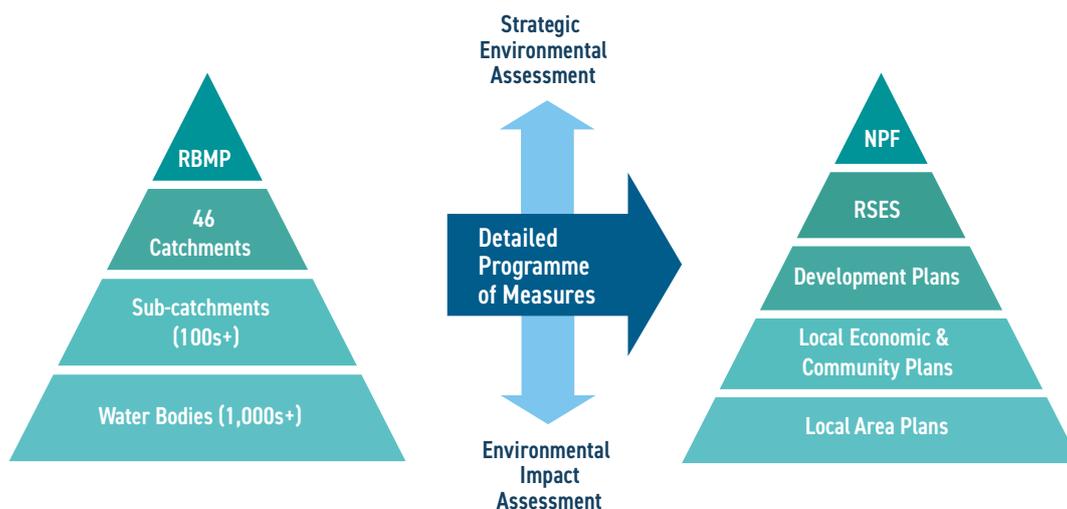


Figure 5-3: Example of graphic showing hierarchy [Source NPF 2018]

## STEP 6 – IDENTIFY POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL EFFECTS

In considering the potential for significant effects, the whole set of Annex II criteria should be considered, recognising that some may be less relevant to the P/P, for example transboundary effects.

The criteria should then be applied in a robust and consistent manner. A good starting point to achieve this is to consider the effects on all of the environmental receptors listed in Annex I (f) of the SEA Directive, i.e. biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage and landscape. The interrelationships between these factors should also be addressed, as this provides a broad consideration of environmental receptors. Describing the nature of the effects should also be broad and include consideration of effects that are direct and indirect; cumulative; synergistic; short-, medium- and long-term; permanent and temporary; positive and negative.

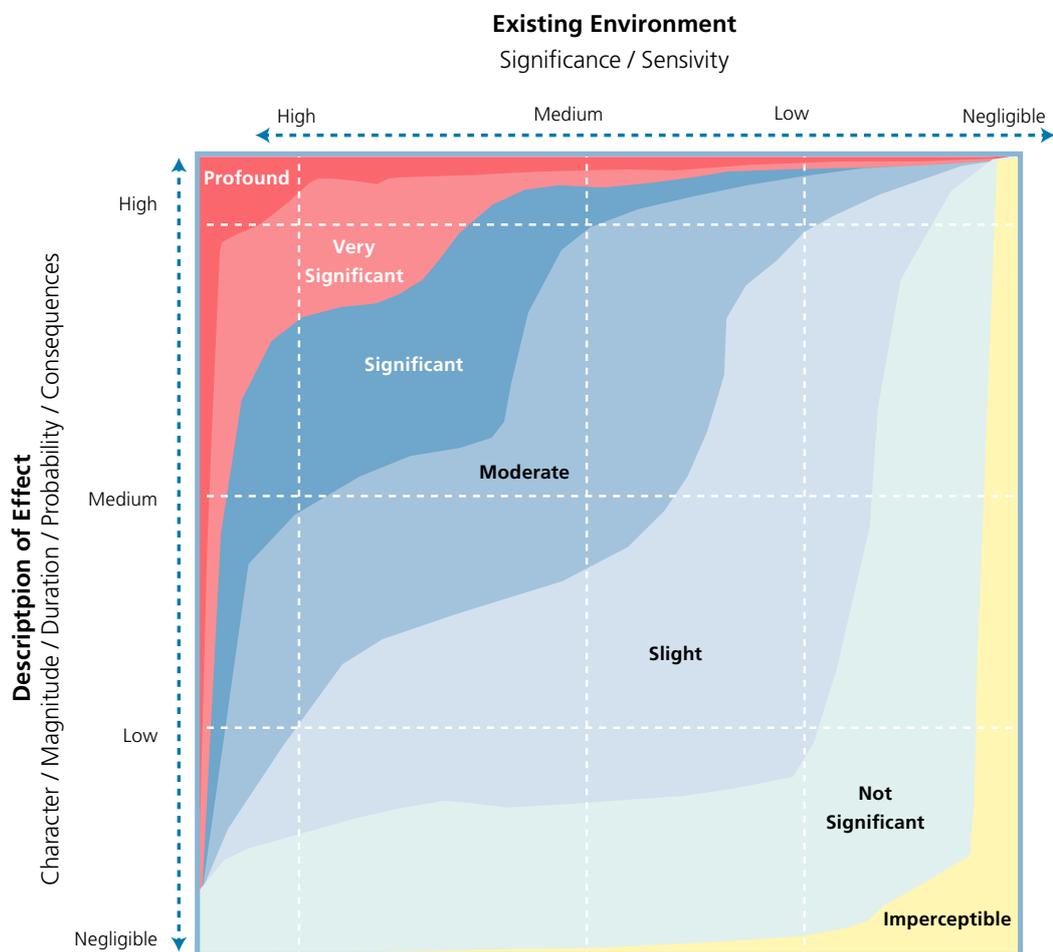
There is no threshold or limit that can be applied to the determination of significance at the SEA screening stage – even small-scale P/P can have significant effects on the environment by nature of the sensitivity of the receiving environment, the nature of the impact or in combination with other effects. A risk-based approach can provide a useful tool in this regard, together with the application of the source-pathway-receptor concept where:

- ▲ **Source:** Identifying the source of the risk or hazard
- ▲ **Pathway:** How the risk or hazard would transfer
- ▲ **Receptor:** What or who might be at risk, significance of the risk

Use of online geographic information systems (GIS) can also inform decision-making by helping with visualisation of environmental data in the context of the P/P. Examples include the EPA's Environmental Sensitivity Mapping (ESM) web-tool,<sup>16</sup> which is hosted by the OSi's GeoHive mapping service.<sup>17</sup>

Consideration by appropriate experts may be sought to ensure a robust determination; however, a rule of thumb would be if there is any doubt on whether the environmental effects identified are significant then the P/P should be screened in. This will allow the P/P makers to work with the SEA team, from an early stage in the plan making process, to consciously and proactively integrate environmental protections and/or considerations that clearly and robustly ensure significant effects are avoided.

The diagram below is taken from the EPA *Guidelines on Information to be Contained in an EIA* (draft 2017) and shows how comparison of the character of the predicted impact to the sensitivity of the receiving environment may be applied to determine the significance of the impact. This may be applied in SEA also. **Appendix E** presents useful terminology taken from the same draft Guidelines to help describe effects consistently. This terminology is established in EIA language with clear definitions to ensure objectivity.



**Figure 5-4: Typical classifications of the significance of impacts – from draft EPA guidelines on information to be included in an EIA<sup>18</sup>**

16 EPA ESM Web-tool: <https://airomaps.geohive.ie/ESM/>

17 OSi GeoHive mapping service: <https://www.geohive.ie>

18 This chart is adapted from guidance provided in section C8 of *A handbook on environmental impact assessment: Guidance for competent authorities, consultees and others involved in the Environmental Impact Assessment Process in Scotland*, Scottish Natural Heritage, 5th Edition, 2018. The depiction of significance classifications is indicative and should not be relied on as being definitive. It is provided for general guidance purposes.

## STEP 7 – STATUTORY CONSULTATION

Prior to finalising any determination on the need for SEA, it is a statutory requirement to consult with the SEA Environmental Authorities. Plan makers are required to notify the EPA for all stages of the SEA process. The remit of the other Environmental Authorities is set out in the relevant SEA Regulations, as amended. The online Irish Statute Book (<http://www.irishstatutebook.ie/>) is a key resource to access the regulations and any relevant amendments. However, it is noted that amendments to the names of environmental authorities do not always keep pace with changes in real time and as such other sources can be helpful to check current best practice. In this regard, the EPA website [<https://www.epa.ie/our-services/monitoring--assessment/assessment/strategic-environmental-assessment/>] includes important and up-to-date information on the other SEA Environmental Authorities and the SEA process. It is strongly recommended that this information is accessed directly during SEA screening to ensure contacts are up to date. Currently, the SEA Environmental Authorities listed are:

- ▲ Environmental Protection Agency;
- ▲ Minister for Agriculture, Food and the Marine;
- ▲ Minister for Housing, Local Government and Heritage;
- ▲ Development Applications Unit of the Department of Housing, Local Government and Heritage;
- ▲ Minister for Environment, Climate and Communications

Additionally, under S.I. 436/2004 as amended, adjoining local authorities should also be notified.

In certain circumstances, transboundary consultation may be warranted, e.g. where rivers flow between Ireland and Northern Ireland or where shared marine waters occur. In these cases the Northern Ireland Department of Agriculture, Environment and Rural Affairs (DAERA) should be contacted as the designated Environmental Authority.

Notice of the screening must be sent to the designated environmental authorities for their consideration for a period of not less than 4 weeks from the date of the notice. A copy of relevant P/P information which has informed the SEA screening (including an outline of the draft P/P) and the draft SEA Screening Report should be included with the notice. These documents are considered draft until the consultation is completed and a final determination is made. The notice must state that the P/P authority is making a new P/P or is modifying a P/P; that the P/P authority must determine if the P/P would have significant effects on the environment having regard to the significance criteria at Schedule 1 of the Regulations; and that a submission or observation in relation to whether or not the implementation of a new P/P would be likely to have significant effects on the environment may be made to the authority within a specified period which shall be not less than 4 weeks from the date of the notice. It should also state that any submissions or observations received will be considered prior to making a determination.

Following the consultation period, the P/P maker and SEA team should update the outline of the draft Plan and Screening Template to reflect feedback. A determination can then be made on the basis of the screening information and the observations/submissions received.

The above represents the statutory minimum for consultation during screening but there is merit in considering wider consultation where a P/P may be of interest to a wider stakeholder base. This may be limited to some other Government Departments / Agencies, or it may involve public consultation.

## 5.3 STAGE 3 DETERMINATION

See **Template 3 – Section 6.3**

### **Step 8 – Final Determination**

As soon as practicable after making the final determination as to whether SEA is required or not, the plan maker should make a copy of the decision, including, as appropriate, the reasons for requiring or not requiring an environmental assessment, available for public inspection at the P/P offices and on the website. The P/P maker should also send a copy of the final determination to the relevant SEA environmental authorities notified during screening. This determination should stay linked to the P/P or modification on the website to ensure transparency and provide important information on decision making during the lifetime of the P/P or if any modifications are made.

A Screening Determination Template is provided in **Template 3** in **Section 6.3** of this document. It is recommended as good practice for this be presented on the competent authority headed paper and kept with the plan for the duration of the P/P cycle.

## 6. TEMPLATES

### 6.1 APPLICABILITY TEMPLATE 1

The left hand column in the template presents the requirements to be considered. The right hand column provides example outline responses based on the NPWS Biodiversity Sectoral Climate Change Adaptation Plan which is presented as Case Study 1 in **Appendix A**. A clean template is also available for download and can be used as a record of the screening.

Section 1: General Details	
<b>Type and title of P/P:</b>	
<b>Name of P/P Maker:</b>	
<b>Date:</b>	
Section 2: Status of the P/P Maker	
<p>Is the P/P prepared and/or adopted by an authority at national, regional or local level or prepared by an authority for adoption through a legislative procedure by Parliament or Government?</p> <p><i>Clarify who will prepare the P/P, if they are affiliated to any authority and if the P/P will be adopted through any legislative provision.</i></p>	<p>e.g. The <i>Biodiversity Sectoral Climate Change Adaptation Plan</i> will be prepared by NPWS which is the national authority for nature conservation and part of the DCHG. The Biodiversity Sectoral Climate Change Adaptation Plan will not be adopted by any legislative provision.</p>
<p>Is the P/P required by legislative, regulatory, or administrative provisions?</p> <p><i>Provide information on any legislative, regulatory, or administrative requirements. This criterion also includes P/P required to deliver administrative functions of an authority e.g. Dublin Port Company Masterplan.</i></p>	<p>e.g. The <i>Biodiversity Sectoral Climate Change Adaptation Plan</i> is required by the Climate Action and Low Carbon Development Act, 2015.</p>
Section 3: Nature of the P/P	
<p>Is the P/P prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use?</p> <p><i>Clarify if the P/P falls under any of these categories. This should be considered broadly such that energy may be interpreted to include grid, petroleum industry, electricity, renewables.</i></p>	<p>e.g. The <i>Biodiversity Sectoral Climate Change Adaptation Plan</i> is not prepared for any of the categories listed.</p>
<p>Does the P/P provide a framework for the development consent for projects listed in the EIA Directive?</p> <p><i>This is a fundamental question in the applicability stage. The interpretation of this statement should include any P/P which includes full or partial rules, limits or other criteria that would be used in development management; P/P that set legal requirements or are binding rules; P/P that have goals or targets; P/P that commence the process of optioneering for locations or technology or modes etc. If there is any doubt regarding the applicability of this statement, the P/P should move forward to Stage 2 and consideration of screening criteria.</i></p>	<p>e.g. No, the <i>Biodiversity Sectoral Climate Change Adaptation Plan</i> does not set any framework for future development consent. The Plan included 38 actions to deliver on objectives for monitoring, financing, better understanding and awareness of biodiversity and climate adaptation.</p>

<p>Is the P/P likely to have a significant effect on a Natura 2000 site which leads to a requirement for Article 6 or 7 assessments?</p> <p><i>To fully answer this question, the AA screening must be complete, particularly where the outcome is pointing to a P/P being screened out.</i></p>	<p>e.g. Screening for Appropriate Assessment has been undertaken and it has been determined that there is no likely significant effect to any European site arising from the implementation of the <i>Biodiversity Sectoral Climate Change Adaptation Plan</i>, either alone or in combination with other plans and projects.</p>
<h3>Section 4: Exemptions</h3>	
<p>Is the sole purpose of the P/P to serve national defence or civil emergency or is it a financial/budget P/P or is it co-financed by the current SF/RDF programme?</p> <p><i>Clarify if the P/P relates to any of the exemptions. If it is of this type, no SEA is required.</i></p>	<p>e.g. No the <i>Biodiversity Sectoral Climate Change Adaptation Plan</i> is not a P/P of a type exempted from SEA.</p>
<h3>Section 5: Conclusion</h3>	
<p>Summarise the relevant information informing the assessment and the main reasons the P/P <b>does or does not</b> fall within the scope of the SEA Directive.</p> <p><b>Does fall within scope:</b></p> <ol style="list-style-type: none"> <li><i>The plan does apply to one or more of the sectors in the SEA Directive <u>and</u> does provide a framework for development consent of projects requiring EIA</i></li> </ol> <p><i>AND/OR the plan is likely to have a significant effect on a Natura 2000 site and, therefore, requires an assessment under Article 6(3) of the Habitats Directive. SEA is therefore required.</i></p> <ol style="list-style-type: none"> <li><i>There is uncertainty about the nature of the P/P and whether it may give rise to significant effects on the environment. The plan cannot be screened out for SEA or AA and requires a more detailed screening assessment.</i></li> </ol> <p><b>Does NOT fall within scope:</b></p> <ol style="list-style-type: none"> <li><i>The plan does not apply to any of the sectors in the SEA Directive and does not provide a framework for development consent of projects requiring EIA,</i></li> </ol> <p><i>AND</i></p> <p><i>The plan is not likely to have a significant effect on a Natura 2000 site and therefore does not require an assessment under Article 6(3) of the Habitats Directive. SEA is therefore not required.</i></p> <p><i>For outcome 1 the plan maker should advise that they will move forward to SEA scoping. For outcome 2 the P/P should move to Stage 2 Screening. For outcome 3 the applicability template should be completed and kept on file.</i></p>	<p>e.g. The <i>Biodiversity Sectoral Adaptation Plan</i> does not fall into any of the sectors covered by the Directive, it is not likely to have a significant effect on a Natura 2000 site nor does it provide a framework for development consent. It is therefore not deemed to require SEA or any further screening for SEA by the pre-screening process and no further consideration of its possible impacts is required.</p>

## 6.2 SCREENING REPORT TEMPLATE 2

The left hand column in s. 3 of the template presents the requirements to be considered and broad context. The right-hand column provides example outline responses based on a number of P/P which were reviewed as part of development of the guidance note. See also **Appendix A** for Case Studies.

Section 1: Details of the P/P	
<b>Name of P/P Maker:</b>	
<b>Title of P/P:</b>	
<b>Type of plan:</b>	
<b>Date:</b>	
Section 2: Key Information about the Plan or Programme	
<b>Background and Context of the P/P</b>	
<i>Provide details on the reason the P/P is required, how it relates to other sectoral / corporate P/P.</i>	
<b>Purpose of the P/P</b>	
<i>Provide information on the aims and objectives of the P/P including any issues relating to protection of the environment and human health. Why it is needed and how it will influence other P/P or projects.</i>	
<b>Geographical Area Covered by the P/P</b>	
<i>Describe the area covered by the P/P (also national, regional, local). The detail should reflect the level of detail of the P/P, e.g. a national plan will have limited specific info whereas a local tourism plan will have specific detail and location. Mapping and aerial photography should be used to support the description. Consideration of any transboundary elements of the P/P.</i>	
<b>Content of the P/P</b>	
<i>Provide an outline of the P/P. Give information on the level of detail such as objectives or specific actions and their intent.</i>	
Section 3: Potential for Significant Environment Effects	
The characteristic of the Plan having regard, in particular, to:	
<ul style="list-style-type: none"> <li>▲ The degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size, operating conditions or by allocating resources.</li> <li>▲ Will it set out locations, rules, standards or criteria that will guide developments later in the planning hierarchy? This could include guidelines, legislation, plans, masterplans etc.</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. <i>GNI Gas Network Development Plan</i> is a supply/demand analysis and capacity statement The plan does not specify geographically where network upgrades or infrastructure requirements would be located, however a number of capital projects and technologies are mentioned. The Plan will not in and of itself set the context for land use or development activities or future development consent; however, on a precautionary basis the nature of these elements of the plan should be further considered under the criteria in Schedule 1.</li> </ul>
<ul style="list-style-type: none"> <li>▲ The degree to which the plan or programme influences other plans and programmes including those in a hierarchy.</li> <li>▲ This should set out where the P/P is in a hierarchy – vertical or horizontal. A graphic may assist in explaining how it relates to other P/P.</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. <i>Regional Spatial and Economic Strategy (RSES)</i> sits within a land-use planning hierarchy which commences with the National Planning Framework and associated National Development Plan. These national policy documents influence the RSES which in turn influences all lower tier CDP within the region.</li> </ul>

<ul style="list-style-type: none"> <li>▲ The relevance of the plan, for the integration of environmental considerations in particular with a view to promoting sustainable development.</li> <li>▲ The degree to which the P/P addresses environmental and sustainability issues. Does it provide for conservation or protection of any environmental receptor?</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. <i>Wind Energy Development Guidelines</i> include specific planning policy requirements with respect to setback distance, identification of specific areas of wind potential, visual amenity and other environmental matters with a view to protection of environmental receptors.</li> </ul>
<ul style="list-style-type: none"> <li>▲ Environmental problems relevant to the plan.</li> <li>▲ What is the current state of the receiving environment, is water quality / air quality at good status, are populations and areas of protected habitats and species increasing or declining etc. What are the likely impact pathways and receptors? A good starting point is to use Annex I (f) from the Directive as a guide i.e. biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between these factors.</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. <i>Cliffs of Moher Strategy 2040</i> area includes the Cliffs of Moher Special Protection Area (SPA). Relevant problems identified to date include disturbance to important sea bird colonies of cliff nesting areas, site management and visitor impact challenges, destruction/trampling of structures and vegetation/fauna/habitats, landslides and soil/cliff movement, management of littering and waste generated, physical development, transient emissions and noise pollutants, uncontrolled dogs causing disturbances to wildlife, impact on services (capacity of drinking water and waste water treatment) on water bodies or part of water bodies, and detraction of heritage assets (architectural, archaeological and landscape).</li> </ul>
<ul style="list-style-type: none"> <li>▲ The relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans and programmes linked to waste management or water protection).</li> <li>▲ Will the plan assist in roll out of other environment legislation e.g. RBMP or RWMP?</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. <i>Dublin City Development Plan 2016–2022</i> is relevant for the implementation of European Union legislation on the environment. The development plan must include, inter-alia, the following objectives:</li> <li>▲ for the conservation and protection of the environment including objectives related to the Habitats Directive, the promotion of compliance with environmental standards and objectives established for bodies of surface water and groundwater, which standards and objectives are included in river basin management plans (European Communities Regulations 2003/9/10).</li> </ul>
<p><b>Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:</b></p>	
<ul style="list-style-type: none"> <li>▲ The probability, duration, frequency and reversibility of the effects <ul style="list-style-type: none"> <li>▼ Describe whether the extent, duration, or frequency is similar to existing baseline conditions.</li> <li>▼ What are the sources and pathways for impact?</li> <li>▼ What is the likelihood and significance of impacts?</li> <li>▼ Describe nature of the effects [ref <b>Appendix E</b> for terminology to describe effects].</li> <li>▼ Describe possibilities for mitigation through avoidance or reduction.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The probability that the <i>Transport Strategy for the Greater Dublin Area 2011–2030</i> will result in significant environmental effects is high. It is expected that the effects will be largely positive (i.e. contribute to reduced urban sprawl, increase use of sustainable transport modes, reduce emissions from transport) and of a long-term nature with the Strategy-life extending to 2030 but also looking past this towards 2050. There may also be negative effects associated with the construction of new transport infrastructure. It is likely that some of the effects will not be reversible.</li> </ul>

<ul style="list-style-type: none"> <li>▲ The cumulative nature of the effects             <ul style="list-style-type: none"> <li>▼ Consider the addition of many minor or significant effects within or between P/P.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. Given the timeframes required to develop transport infrastructure and influence travel demand / behaviour it is considered that the effects of the <i>Transport Strategy for the Greater Dublin Area 2011–2030</i> will be long-term and cumulative in nature. The interaction between transport and land use in terms of location and type of development will be central to the Strategy and will have cumulative effects. These effects are likely to be widespread (acting beyond the region).</li> </ul>
<ul style="list-style-type: none"> <li>▲ The transboundary nature of the effects.</li> <li>▲ This is particularly relevant in the context of P/P which can impact on water, air, climatic factors etc. as these environmental factors easily cross boundaries. Some plans will also need to consider highly mobile species e.g. marine mammals.             <ul style="list-style-type: none"> <li>▼ Indicate the spatial extent of the transboundary effects – minor or more significant effects on some or all of the transboundary jurisdiction.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The <i>GNI Gas Network Development Plan</i> is an all-island capacity statement which outlines system demands for Republic of Ireland (ROI), Northern Ireland (NI) and Isle of Man (IOM). The Gas Networks Ireland transmission network includes onshore Scotland, interconnectors and the onshore (ROI) network. The interconnector sub-system comprises of two subsea interconnectors between ROI and Scotland. Future network development may therefore include transboundary impacts with a number of Member States.</li> </ul>
<ul style="list-style-type: none"> <li>▲ The risks to human health or the environment (e.g. due to accidents)             <ul style="list-style-type: none"> <li>▼ Could the P/P result in accidental spillages or emissions to air or water that could lead to risk to human health?</li> <li>▼ Are there potential effects of floods on sites with sensitive plants e.g. Seveso sites that would require further assessment e.g. Seveso Assessment or Flood Risk Assessment?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The <i>County Clare Local Economic and Community Plan</i> is not identified as giving rise to effects that would present as risks to human health or the environment given its consistency with the objectives contained in the Clare CDP 2011–2017 as varied and CDP 2017–2023.</li> </ul>
<ul style="list-style-type: none"> <li>▲ The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected)             <ul style="list-style-type: none"> <li>▼ Clarify the size and scale of the effects.</li> <li>▼ Is a large population affected by the effects e.g. a large urban area or a smaller defined LAP area?</li> <li>▼ What are the receptors which will be affected, what is their sensitivity and significance?</li> <li>▼ This criterion may not be relevant to all P/P as many strategic P/P lack geographic specificity.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The draft <i>Barnhill Local Area Plan</i> notes that the effects are considered localised only i.e. the subject land and immediate downstream environs. The lands themselves consist of approximately 45 hectares but the actual area identified for development is significantly less than this. The population most likely to be affected are those already living within the plan lands. As there are only nine houses within the lands the population is small. Development is on-going in the lands to the north, separated by the railway line, and it may be that there is a new population living on those lands prior to development taking place on the Barnhill lands. Best practice measures in line with environmental health legislation will ensure that the effects on this population will be limited.</li> </ul>

<ul style="list-style-type: none"> <li>▲ The value and vulnerability of the area likely to be affected due to:             <ol style="list-style-type: none"> <li>a. special natural characteristics or cultural heritage,</li> <li>b. exceeded environmental quality standards or limit values,</li> </ol> </li> <li>▲ intensive land-use,             <ul style="list-style-type: none"> <li>▼ This criterion may not be relevant to all P/P as many strategic P/P lack geographic specificity.</li> </ul> </li> <li>▲ Where information is available on location specific measures details should be provided including where environmental quality is already under pressure e.g. breaches of air emission limits or water quality standards.</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The <i>National Air Pollution Programme 2021</i> identifies measures from other sectoral plans and programmes which will reduce air pollution emissions in Ireland. The effect of these measures should be beneficial on the environment nationally, but specific geographical areas are not identified.</li> </ul>
<ul style="list-style-type: none"> <li>▲ The effects on areas or landscapes which have a recognised national, European Union or international protection status.</li> <li>▲ This would include areas recognised for:             <ul style="list-style-type: none"> <li>▼ nature conservation,</li> <li>▼ built heritage,</li> <li>▼ archaeology and</li> <li>▼ landscape.</li> </ul> </li> <li>▲ Note it does not limit consideration to designated areas but rather those recognised and could therefore include specific locations e.g. a designated SAC or more general landscapes e.g. the Burren.</li> </ul>	<ul style="list-style-type: none"> <li>▲ e.g. The proposed update of the <i>Sustainable urban housing: design standards for new apartments – guidelines for planning authorities</i> (March, 2018) lack geographic specificity and therefore it is not possible to predict either the effects or the area likely to be affected. While it is recognised that these types of development are more likely to be located in urban areas and cities in particular, it is principally a matter for local planning authorities to identify areas that may be suitable for different types of residential development and the guidelines are not sufficiently specific to characterise the effects and the area likely to be affected in this regard. The presumption against shared accommodation/co-living developments is not likely to remove the likelihood of other types of development at the same locations and this will be addressed by the relevant development standards and local planning policy.</li> </ul>

## Section 5: Summary and Conclusion

This section should provide a summary of the key issues identified from the assessment criteria and a clear indication of the draft determination. This should include reasons for the proposed determination. ***Where it is intended to screen out, these reasons must be clear and robust.***

## Section 6: Statutory Consultation

This section should initially outline who will be consulted. Following the consultation, this section should be updated to summarise the issues raised by those consulted and how this has influenced the final screening determination.

Currently, the SEA Environmental Authorities for the purposes of S.I. 435/2004, as amended are:

- ▲ Environmental Protection Agency
- ▲ Minister for Agriculture, Food and the Marine
- ▲ Minister for Housing, Local Government and Heritage
- ▲ Development Applications Unit of the Department of Housing, Local Government and Heritage
- ▲ Minister for Environment, Climate and Communications

## Section 7: Final Determination

This section should include a clear determination as follows [*delete those that are not relevant*]: Screening for SEA under S.I. 435/2004, as amended, has been undertaken. With reference to the foregoing information and stakeholder feedback it has been determined that:

### SEA Required

- ▲ The P/P satisfies the conditions for mandatory SEA under S.I. 435/2004, as amended.  
or
- ▲ With reference to Article 9(2), 9(3) or 9(4) of S.I. 435/2004, as amended, the P/P has been shown to have significant effects on the environment with reference to the criteria laid out in Schedule 1 and therefore has been determined to require SEA.

### SEA Not Required

- ▲ The P/P does not satisfy the conditions for mandatory SEA under S.I. 435/2004, as amended.  
and
- ▲ With reference to Article 9(2), 9(3) or 9(4) of S.I. 435/2004, as amended, the P/P has not been shown to have significant effects on the environment with reference to the criteria laid out in Schedule 1 and therefore SEA is not required.

### 6.3 SCREENING DETERMINATION TEMPLATE 3

**Screening Determination for Strategic Environmental Assessment  
under SEA Directive 2001/42/EC  
as transposed into Irish law under S.I. 435/2004, as amended**

***Concerning the proposed [Insert P/P name].***

[Insert Competent Authority Name] as the Competent Authority for the [Name of P/P] has undertaken screening for SEA under Directive 2001/42/EC. The screening assessment was carried out using the criteria for determining the likely significance of effects as set out in Schedule 1 of S.I. 435/2004, as amended.

Following assessment of the criteria and having regard to the nature of the P/P and the potential for likely significant environmental effects from implementation of the P/P, [Insert Competent Authority Name] has determined that the P/P *will / will not* give rise to likely significant effects on the environment.

This determination has been made following consideration of the information contained in the SEA Screening Report (attached to this determination), the criteria set out in Schedule 1 to S.I. 435/2004 as amended, and consultation feedback from [insert organisations which provided feedback], as statutory Environmental Authorities for SEA.

The principal reasons the P/P [does/does not require an SEA] are as follows:

- ▲ Provide reasons in bullet

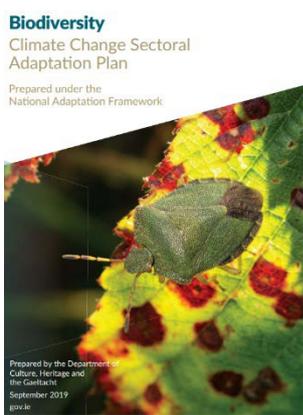
***Signed on behalf of [insert CA name]:***

***Dated:***

Attached:

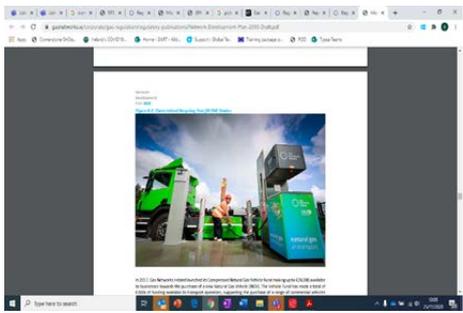
- ▲ Outline P/P or modification under consideration
- ▲ SEA Screening Report dated [insert date]
- ▲ Correspondence from statutory consultees [as appendix to Screening Report]

## APPENDIX A: CASE STUDIES

CASE STUDY No. 1	
<b>Name of the Plan:</b>	Biodiversity Sectoral Climate Change Adaptation Plan [2019] <sup>19</sup>
<b>Competent Authority for the Plan:</b>	Minister for the Department of Culture, Heritage and the Gaeltacht (prepared by NPWS)
<b>Relevant National Regulation:</b>	S.I. 435/2004, as amended by S.I. 200/2011
<p><b>The background...</b></p> <p>The Climate Action and Low Carbon Development Act, 2015 provides for the preparation and approval of plans by Government in relation to climate change mitigation and adaptation. A National Adaptation Framework (NAF) was published in 2018 and this identified Biodiversity as a priority sector requiring a climate adaptation plan for the sector. A Biodiversity Sectoral Adaptation Plan was prepared by the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht (whose functions have since been transferred to DHLGH).</p>	
<p><b>Best Practice / Lessons Learned...</b></p> <ul style="list-style-type: none"> <li>▲ Use of decision tree.</li> <li>▲ Applicability step was concise, providing clear information on the nature of the authority, the requirement for the plan and its role in terms of future development management.</li> </ul>	

<sup>19</sup> <https://www.npws.ie/sites/default/files/publications/pdf/Biodiversity-Climate-Change-Sectoral-Adaptation-Plan.pdf>

## CASE STUDY No. 2

<b>Name of the Plan:</b>	Ten Year Network Development Plan 2018 and 2019
<b>Competent Authority for the Plan:</b>	Gas Networks Ireland (GNI)
<b>Relevant National Regulation:</b>	S.I. 435/2004, as amended by S.I. 200/2011
<p><b>The background...</b></p> <p>Gas Networks Ireland is required to submit an annual statement to Commission for Regulation of Utilities (CRU) outlining its ten-year capacity and demand forecasts in accordance with Article 22 of EU Directive 2009/73/EC and Article 11 of the EC (Internal Market in Natural Gas and Electricity) (Amendment) Regulations 2015. Gas Networks Ireland is also obliged to submit a long-term development statement to the CRU in accordance with condition 11 of its Transmission System Operator (TSO) licence. The publication of the NDP also satisfies the requirements of Section 19 of the Gas (Interim) (Regulations) Act 2002, as amended by the European Communities (Security of Natural Gas Supply) Regulations 2007 (S.I. 697/2007). This requires the CRU to monitor and publish a report outlining gas supply and demand in Ireland over seven years.</p> <p>The Plan provides a view of how the gas network in Ireland may develop over a ten-year period. It is based on current supply and demand for gas, as well as projections for growth in gas consumption and development of infrastructure. The NDP outlines a number of capital projects which will be delivered over the coming years, including future proposed large capital projects and proposed new technologies.</p>	 <p>Clean Ireland Recycling Fast-fill CNG Station [Source: GNI National Development Plan 2018]</p>

**Best Practice / Lessons Learned...**

- ▲ Initial discussions in relation to the SEA Screening of the 2018 plan involved proactive and participatory discussions to understand the nature of the plan to inform the SEA Screening as this was the first time the Plan had been subject to SEA Screening.
- ▲ The initial Applicability step for the 2018 plan could not clearly determine that the capital projects and technologies mentioned would not set a framework for future development consent of projects listed in Annexes I and II and therefore on a precautionary basis the screening moved forward to detailed consideration of the criteria in Schedule 1.
- ▲ An AA Screening was undertaken in parallel to inform the SEA Screening under Art. 9(1) (b).
- ▲ SEA Screening has been repeated for updated version in 2019 to ensure no changes to the overall conclusions. A specific consideration of the potential for any infrastructure / technologies mentioned to set a framework for future development consent has been included as part of the Applicability step, as greater certainty in the scope and remit of the plan is achieved.

**CASE STUDY No. 3**

<b>Name of the Plan:</b>	Cliffs of Moher Heritage Plan [Jan 2020]
<b>Competent Authority for the Plan:</b>	Clare County Council
<b>Relevant National Regulation:</b>	S.I. 435/2004, as amended by S.I. 200/2011
<p><b>The background...</b></p> <p>Clare County Council initiated the preparation of the Cliffs of Moher Strategy 2040 to inform a Tourism Strategy, Hinterland and Site Masterplan for the Cliffs for the next 20 years. The strategy states that it seeks to deliver a world class visitor experience utilising best practice visitor management and environmental management principles to ensure the future of the natural assets is safeguarded and conserved as well as minimising any adverse effects on the quality of life for those who live in the area. The site has become Ireland's most visited natural attraction, with over 1.5 million visitors.</p> <p>Since 2011, the Cliffs have formed a part of the Burren and Cliffs of Moher UNESCO-designated Geopark. The Cliffs of Moher are a Special Protection Area (SPA Site Code No.: 004005) under Irish and European Union legislation. The environmentally sensitive nature of the site means that visitor numbers, visitor facilities and visitor flow need to be carefully managed including overspill of visitors onto the nearby coastal path which is not designed to accommodate significant visitor numbers. The Inagh River Estuary Special Area of Conservation (SAC Site Code No.: 000036) is also located in the area.</p>	

**Best Practice / Lessons Learned...**

- ▲ It was considered that the Strategy was not clearly identified as a plan or programme requiring a mandatory SEA, but ultimately it was determined that the Strategy fell within the definition of a plan or programme under Article 3 of the SEA Directive and Article 9(1)(b) of S.I. 435/2004, as amended.
- ▲ It was noted that the strategy related to a small area and in accordance with the Directive, as transposed, assessment of significance of effects was required.
- ▲ The screening report represents a good example of utilising the criteria in Schedule 1 of S.I. 435/2004, as amended, setting out the reasoning for determining the significance of environmental effects which are outlined in a clear fashion.
- ▲ The use of the criteria in Schedule 1 also clarified that the strategy would set the framework for future development, and also stated that the degree to which it would set the framework, as well as influence other land use plans in a hierarchy, would be significant.
- ▲ Good use of aerial photography and mapping to support the description of the area.

**CASE STUDY No. 4**

<b>Name of the Plan:</b>	Dún Laoghaire Harbour Master Plan [2011]
<b>Competent Authority for the Plan:</b>	Dún Laoghaire Harbour Company
<b>Relevant National Regulation:</b>	S.I. 435/2004, as amended by S.I. 200/2011
<p><b>The background...</b></p> <p>The area of the Master Plan included the entire Dún Laoghaire harbour area, defined by the East and West Piers, and “The Gut”, lying just outside the West Pier and falling under the statutory remit of the Harbour Company. At that time, as per the Dún Laoghaire Rathdown County Development Plan (2010–2016), an Urban Framework Plan (UFP) for the Dún Laoghaire Town Centre was to be converted into a statutory Local Area Plan (LAP) by 2016.</p> <p>The objectives for the Master Plan were to have due regard to CDP objectives for the UFP/LAP. These included facilitating the continued development of the Harbour in accordance with the Harbour Master Plan, which itself would have to adhere to the overall zonings, policies and objectives of the CDP. Development of and improved access to The Gut was to be encouraged, as well as improved access to the harbour and adjacent lands.</p> <p>Redevelopment of some of the pier structure was to be encouraged, and to provide for accessibility and permeability, as well as bring cultural, social, recreational and economic benefits to Dún Laoghaire Rathdown. The redevelopment was to integrate with the surrounding built environment, with linkages to the town centre and should commemorate the unique heritage and history of the Pier and the surrounding area. Another objective was to develop an enhancement scheme for the area between the East Pier and Sandycove. This objective required any scheme to also provide adequate sea defences and take into consideration the various environmental sensitivities in the area.</p>	 <p>Dún Laoghaire Harbour Master Plan</p> <p>Dún Laoghaire Harbour Company October 2011</p>

**Best Practice / Lessons Learned...**

- ▲ While the Master Plan was not covered by legislative procedures and was not considered to be specifically “required by legislative, regulatory or administrative provisions”, it did form an input into the LAP being prepared by Dún Laoghaire Rathdown County Council, which set the framework for future development consents. It was also considered that the Master Plan itself could also set the framework for development consents issued under the Strategic Infrastructure Act 2006.
- ▲ Consideration was also given to whether the Harbour Company fell within the definition of an “authority at national, regional or local level” under the Directive. While the Harbour Company is a semi-state company, it was not specifically covered by S.I. 436/2004, as amended, but could be defined as a competent authority under the Directive and S.I. 435/2004, as amended.
- ▲ The screening report also laid out the significance of effects as per Schedule 1 of S.I. 435/2004, as amended, noting for instance the particular environmental sensitivities of the West Pier/Gut areas which are within/adjacent to European sites.
- ▲ The Master Plan covered a clearly spatially-defined area with location-specific development objectives.

**CASE STUDY No. 5**

<b>Name of the Plan:</b>	Revised Wind Energy Development Guidelines <sup>20</sup>
<b>Competent Authority for the Plan:</b>	Department of Housing, Planning and Local Government
<b>Relevant National Regulation:</b>	S.I. 435/2004, as amended by S.I. 200/2011

**The background...**

The DHPLG undertook a review of the Wind Energy Development Guidelines (WEDG) 2006 with the intention to reflect technological developments in the wind energy sector and to strike a balance between the concerns of local communities and the need to invest in indigenous energy projects which support Ireland's renewable energy targets.

The Guidelines include specific measurements and limits associated with generation of Noise/Sound (including maximum noise limit permitted, day or night), Visual Amenity Setback (mandatory minimum setback of 500 metres) and Shadow Flicker (eradicate the occurrence of shadow flicker). Consultation obligations and community dividends were also to be addressed in the review.

A number of technical appendices were also developed to assist planning authorities in relation to noise assessment, monitoring and the setting of planning conditions. The review provided an opportunity to update the Guidelines in relation to safety aspects, developments in relation to EIA requirements and compliance, Renewable Energy and Climate Change. The review also involved a general textual and references update of the 2006 Guidelines.

**Best Practice / Lessons Learned...**

- ▲ Use of Applicability check to determine if the proposed revised WEDG were considered to be a plan/ programme under the administrative provisions criteria of Article 9 of the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations (S.I. 435/2004 as amended).
- ▲ Use of EPA decision tree.
- ▲ Clear response in relation to Art. 9 criteria notably that the proposed WEDG are planning guidance prepared for the energy sector and may include mandatory specific requirements which could contribute towards the framework for development consent for "Installations for the harnessing of wind power for energy production (wind farms)" as listed in Annex II of the Environmental Impact Assessment Directive 2011/92/EU.
- ▲ Acknowledgement of Section 28 status of the guidelines once issued including specific planning policy requirements.
- ▲ Recognition of evolving Case Law from ECJ notably C-290/15 *Patrice D'Oultremont and others v Region Wallonne* (see Case Law 1 in Appendix B).

<sup>20</sup> Not yet adopted – Oct 2021

## APPENDIX B: CASE LAW

The case law presented below has been informed by legal review and consideration. However, the Guidance Note cannot be relied upon as containing, or as a substitute for, legal advice. Legal or other professional advice on specific issues may be required in any particular case.

Ref. No.	Case Law Reference	Key SEA Principles
1	D'Oultremont v Région Wallonne (Case C-290/15) <sup>21</sup>	Interpretation of the meaning of "plans and programmes". Interpretation of "framework for development consent". Relevance of SEA Directive for application to regulatory orders setting requirements for the operation and installation of wind turbines.
2	Terre Wallonne ASBL & Inter-Environnement Wallonne ASBL (Joined Cases C-105/09 and C-110/09) <sup>22</sup>	Interpretation of the meaning of "plans and programmes" in the context of a nitrates action programme.
3	Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale (Case C-567/10) <sup>23</sup>	Meaning of "required" in Article 2(a) of the SEA Directive. Whether plans and programmes which were not mandatory were still within the scope of the SEA Directive. Relevance of SEA Directive to repeal of plans and programmes.
4	Nomarchiaki Aftodioikisi Aitoloakarnanias v Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon (Case C-43/10) <sup>24</sup>	Interpretation of the meaning of "plans and programmes" in the context of a project for the partial diversion of the waters of a river.
5	Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale (Case C-671/16) <sup>25</sup>	Interpretation of "plans and programmes" as it related to Belgian town planning regulations. Interpretation of "framework for future development consent".
6	Terre Wallonne ASBL v Region Wallonne (Case C-321/18) <sup>26</sup>	Interpretation of "future development consent" as it related to setting of conservation objectives for European sites.

21 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=184892&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18569709> (27 October 2016)

22 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=83020&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=16809811> (28 February 2012)

23 <https://curia.europa.eu/juris/document/document.jsf?text=&docid=120781&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18568839> (22 March 2012)

24 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=126642&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18568952> (11 September 2012)

25 <https://curia.europa.eu/juris/document/document.jsf?text=&docid=202637&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18570196> (7 June 2018)

26 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=214887&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18572322> (12 June 2019)

Ref. No.	Case Law Reference	Key SEA Principles
7	A and Others v Gewestelijke stedenbouwkundige ambtenaar van het departement Ruimte Vlaanderen, afdeling Oost-Vlaanderen (C-24/19) <sup>27</sup>	<p>Interpretation of “plans and programmes”.</p> <p>Meaning of “required”.</p> <p>Consequences if no SEA is carried out both for the plan or programme itself and for any projects that were permitted under it.</p>

A useful reference is the EC published booklet *Environmental Assessments of Plans, Programmes and Projects – Rulings of the Court of Justice of the European Union* (Last updated October 2020). This booklet provides a summary of CJEU case law and the most important excerpts from those cases as they pertain to different aspects and interpretations of the EIA Directive and SEA Directive.<sup>28</sup>

<sup>27</sup> <https://curia.europa.eu/juris/document/document.jsf?text=&docid=230249&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=22649843>

<sup>28</sup> [https://ec.europa.eu/environment/eia/pdf/EIA\\_rulings\\_web.pdf](https://ec.europa.eu/environment/eia/pdf/EIA_rulings_web.pdf)

## CASE LAW No. 1

**Reference:** D’Oultremont v Région Wallonne (Case C-290/15)<sup>29</sup> concerned the interpretation of the meaning of “plans and programmes” and its application to a regulatory order setting requirements for the operation and installation of wind turbines.

**The facts:** This case concerned a regulatory order which set requirements for the operation and installation of wind turbines with a total power greater than or equal to 0.5MW (the Order). The Order contained detailed rules on shadow flicker, noise, and the distance between the wind turbine and houses. The Order was challenged by a number of citizens, who sought its annulment due to the fact that it was adopted without an environmental assessment and public hearing under the SEA Directive. The Court was asked to consider whether Articles 2(a) and 3(2)(a) of the SEA Directive should be interpreted as having the effect that a regulatory order (which in this case contained various provisions on the installation of wind turbines and which set a framework for the grant of administrative consent allowing a developer to install and operate such installations) must be considered to be a “plan or programme”.

**CJEU ruling:** The Court found that it must, i.e. Articles 2(a) and 3(2)(a) of the SEA Directive must be interpreted as meaning that this Order was a plan or programme requiring SEA, for the following reasons:

Although the Order did not lay down a complete framework (i.e. a set of coordinated measures governing the operation of wind farms with a view to protecting the environment), it did establish criteria and detailed rules for the development of wind power installations and subjected the implementation of an unspecified number of wind power projects to rules and procedures for scrutiny. The Order contained various provisions that needed to be complied with when the administrative consent was given.<sup>30</sup>

The cumulative conditions in Article 2(a) of the SEA Directive had also been satisfied in this context i.e. (i) the Order was prepared and/or adopted by an authority at national, regional or local level or prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and (ii) the Order was required by legislative, regulatory or administrative provisions.<sup>31</sup>

A question was raised as to whether or not a plan or programme had to be area specific since the measure in question must be concerned with the development of “the land”. The Court noted that whilst it is true that a plan or programme must cover a specific area, the fact nonetheless remains that it is not apparent from the wording of either Article 2(a) or Article 3(2)(a) of the Directive that those plans or programmes must concern planning for a given area. It follows from the wording of those provisions that they cover, in the wider sense, regional and district planning in general. The Order in relation to wind energy therefore came within the definition of “plans and programmes” provided by the Directive.

**Key principle:** The Court reaffirmed that a broad, purposive interpretation must be adopted to defining the boundaries of “plans and programmes”. It noted that any such interpretation must be made with regard to the specific objective laid down in Article 1 of the SEA Directive, namely to subject plans and programmes which are likely to have significant effects on the environment to an environmental assessment. It also emphasised the need for Member States to avoid strategies which circumvent the obligations of the SEA Directive. Even if a plan or programme does not establish a complete framework, it may still qualify as a plan or programme where criteria and detailed rules are established which need to be complied with. Restricting the application of the SEA Directive to measures embodying a comprehensive and coherent approach would encourage authorities to circumvent the obligation to carry out an assessment by engaging in project splitting, i.e. by splitting measures into a number of part measures each of which, considered in isolation, would not be comprehensive and would not therefore require an assessment.

29 <https://curia.europa.eu/juris/document/document.jsf?text=&docid=184892&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18569709> (27 October 2016)

30 The Order concerned the entire Walloon Region and technical standards, operating conditions (particularly shadow flicker), the prevention of accidents and fires (inter alia, the stopping of the wind turbine), noise level standards, restoration and financial collateral for wind turbines. Such standards were deemed to have a sufficiently significant importance and scope in the determination of the conditions applicable to the sector concerned and the choices, in particular related to the environment, available under those standards must determine the conditions under which actual projects for the installation and operation of wind turbine sites may be authorised in the future.

31 Para 41 of this judgment.

## CASE LAW No. 2

**Reference:** Terre Wallonne ASBL & Inter-Environnement Wallonne ASBL (Joined Cases C-105/09 and C-110/09)<sup>32</sup> concerned the interpretation of the meaning of “plans and programmes” in the context of a nitrates action programme.

**The facts:** The Walloon Government passed an order which established conditions for the management of nitrogen in agriculture throughout the region of Wallonia in Belgium. The applicants applied for an annulment of that order, arguing that an SEA had not been carried out when it should have been. The action programme was aimed at controlling the disposal of manure generated by agricultural activity so as to ensure against over-fertilisation and the consequential pollution of water. The Walloon Government argued that its Nitrates Directive action programme was not a plan which required SEA.

**CJEU ruling:** The Court held that, as a result both of the characteristics they displayed and the actual intention of the European Union legislature, the Walloon Government’s nitrates action programmes were “plans and programmes” within the meaning of the SEA Directive.

Since the action plan was adopted by the Walloon Government and required by the Nitrates Directive, the provisions of Article 2(a) of the SEA Directive were engaged.<sup>33</sup> The Court then assessed whether or not it could be said that the action plan “set the framework for future development consent of projects” in the terms of Article 3(2)(a). It found that it did.

In order to establish whether the nitrate action programmes set the framework for future development consent of projects, the Court examined the content and purpose of those programmes. It found that these action plans put in place a specific and organised system which provided practical and coordinated arrangements for the reduction and prevention of pollution caused by nitrates from agricultural sources. In this case, the content of these programmes contained specific, mandatory measures that covered periods during which the spreading of certain types of fertiliser was prohibited, the capacity of storage vessels for livestock manure, spreading methods and the maximum quantity of livestock manure containing nitrogen which could be spread.

As a result, the CJEU concluded that a nitrates action programme was, in principle, a plan or programme covered by Article 3(2)(a) of the SEA Directive and contained measures which required compliance to secure a development consent for carrying out projects listed in Annexes I and II to the EIA Directive.

**Key principle:** In assessing whether a plan or programme sets a framework for future development consent of projects, it is necessary to examine their content and purpose, and assess the extent to which they contain a specific and organised system which provides practical and coordinated arrangements. If the plan or programme contains a specific and organised system, it is more likely to require SEA (assuming that the other prerequisites are satisfied).

<sup>32</sup> <https://curia.europa.eu/juris/document/document.jsf?text=&docid=83020&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=16809811> (28 February 2012)

<sup>33</sup> The Court did note however that whilst not every legislative measure concerning the protection of water from nitrate pollution from agricultural sources constitutes a plan or a programme within the meaning of the SEA Directive, the mere fact that such a measure is adopted by legislative means does not exclude it from the Directive’s scope, assuming that it satisfied specific characteristics under the Nitrates Directive.

## CASE LAW No. 3

**Reference:** Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale (Case C-567/10)<sup>34</sup> concerned whether repeal of plans was covered by the SEA Directive, the interpretation of the meaning of “required” in Article 2(a) of the SEA Directive and whether plans and programmes which were not mandatory were still within the scope of the SEA Directive.

**The facts:** Three non-profit organisations brought proceedings against the Brussels Capital Region to annul certain provisions in an order that amended the Brussels Town and Country Planning Code (CoBAT). CoBAT provided a procedure for repealing specific land use plans, which did not require an environmental report to be drawn up for the total or partial repeal of a specific land use plan. The applicants argued that this was incompatible with the SEA Directive. It was argued that Article 2(a) of the SEA Directive must also apply to the repeal of plans (even though this was not formally provided for in the language of this provision of the Directive), and not just their adoption and modification. The applicants argued that repeal of a specific land use plan modified the context in which planning permissions were issued and was liable to amend the framework for consents issued for future projects, which meant that such repeals must also be subject to SEA.

**CJEU ruling:** The CJEU agreed with the applicants’ argument. Although Article 2(a) of the SEA Directive only specifically mentions the preparation, adoption and modification of plans and programmes, the CJEU accepted that the partial or total repeal of a plan or programme is likely to have a significant effect on the environment, since it may modify what is envisaged in the areas that the plan covers.<sup>35</sup> If the partial or total repeal of plans was excluded from the scope of SEA, it would undermine the Directive’s effectiveness and compromise its practical effect.

However, the CJEU noted that where a repealed measure fell within the hierarchy of town and country planning measures which already laid down sufficiently precise rules governing land use and had themselves been the subject of an assessment of their environmental effects, then the interests of the SEA Directive would already have been served and in such cases, no SEA would be required.

The Court considered the meaning of “required” as part of Article 2(a) of the SEA Directive.<sup>36</sup> It adopted a broad interpretation of this word, as meaning “plans and programmes whose adoption is regulated by national legislative or regulatory provisions, which determine the competent authorities for adopting them and the procedure for preparing them”. In other words, the important factor was not that there was a legal obligation to produce the plans or programmes but that their production was regulated by law. The Governments of Belgium, United Kingdom and Czech Republic argued for a much narrower definition, contending that the EU legislature did not intend to make administrative and legislative measures that are not required by rules of law subject to the SEA Directive’s environmental assessment procedure.

The Court rejected this argument for fear that such a narrow interpretation would considerably restrict the scope of scrutiny of the environmental effects of plans and programmes concerning Member States’ town and country planning. It found that this narrow interpretation would run counter to the Directive’s aim of establishing a procedure for scrutinising measures likely to have significant effects on the environment, which define the criteria and the detailed rules for the development of land and normally concern a multiplicity of projects whose implementation is subject to compliance with the rules and procedures provided for by those measures. As a result, even where plans or programmes are not strictly “required” by national legislation or regulatory acts but are rather voluntary plans or programmes, SEA may still be required where the adoption of such plans is regulated by national legislative provisions.

**Key principle:** This a good example of the broad and purposive approach adopted by the Court to the interpretation of SEA. It chose to interpret “required” in a manner which ensures that SEA covers plans and programmes that are subject to formal approval procedures, not only those where there is a specific legal requirement for these to be developed and adopted. Although Article 2(a) of the SEA Directive only specifically mentions the preparation, adoption and modification of plans and programmes, the CJEU accepted that the partial or total repeal of a plan or programme is likely to have a significant effect on the environment, since it may modify what is envisaged in the areas that the plan covers. If the partial or total repeal of plans was excluded from the scope of SEA, it would undermine the Directive’s effectiveness and compromise its practical effect.

34 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=120781&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18568839> (22 March 2012).

35 Para 38 of this judgment.

36 “required by legislative, regulatory or administrative provisions”.

## CASE LAW No. 4

**Reference:** *Nomarchiaki Aftodioikisi Aitolokarnanias v Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon* (Case C-43/10)<sup>37</sup> concerned whether or not a project for the partial diversion of the waters of a river was a “plan and programme” for the purposes of the SEA Directive. SEA formed a much smaller part of this case, which revolved primarily around Member States’ obligations under the Water Framework Directive.

**The facts:** This case concerned a long-standing project to divert the upper waters of the River Acheleos in Western Greece to the east of the country<sup>38</sup> for the purpose of providing water for irrigation, electricity production and a water supply to urban areas. Environmental organisations sought annulments of the ministerial decrees which approved successive versions of the project. Of the many issues which were referred to the CJEU, one was whether or not this project for the partial diversion of the waters of a river was a “plan and programme” for the purposes of the SEA Directive.

**CJEU ruling:** The CJEU noted that under Article 2(a) of the SEA Directive, only plans and programmes required by legislative, regulatory or administrative provisions are to be regarded as “plans and programmes”. The Court found that on the facts of this case, it was not evident that the project concerned constituted a measure which defined criteria and detailed rules for the development of land and which subjected the implementation of one or more projects to rules and procedures for scrutiny. As a result, it held that this partial diversion of the river’s water could not be regarded as a plan or programme falling within the scope of the Directive.<sup>39</sup>

**Key principle:** Article 2(a) of the SEA Directive establishes two cumulative conditions which plans and programmes must satisfy in order for the SEA Directive to be applicable to them: (a) they must have been prepared and/or adopted by an authority at national, regional or local level or prepared by an authority for adoption, through a legislative procedure, by a parliament or government; and (b) they must be required by legislative, regulatory or administrative provisions. If these conditions are not satisfied, the measure cannot be regarded as a plan or project which comes within the scope of the SEA Directive.

<sup>37</sup> <http://curia.europa.eu/juris/document/document.jsf?text=&docid=126642&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18568952> (11 September 2012)

<sup>38</sup> To the River Pineios in Thessaly.

<sup>39</sup> Para 96 of this judgment.

## CASE LAW No. 5

**Reference:** Inter-Environnement Bruxelles ASBL v Région de Bruxelles-Capitale (Case C-671/16)<sup>40</sup> concerned the interpretation of “plans and programmes” as it related to Belgian town planning regulations.

**The facts:** In this case, the applicants challenged the validity of a Government decree which approved regional zoned town planning regulations. The plan in question related to the development of the “European Quarter” of Brussels. The CJEU was asked to determine whether these regional town planning regulations (which lay down certain requirements for the completion of building projects) fell within the definition of plans and programmes. The Government of the Brussels Capital Region contended that they constituted neither a plan nor a programme for the purpose of the SEA Directive and that, consequently, the procedural obligations set out in that directive did not apply to these town planning regulations.

**CJEU ruling:** The Court found that these town planning regulations fell within the definition of “plans and programmes” and therefore an SEA was required. In doing so, it applied the standard test to assess whether plans and programmes fell within the ambit of the SEA Directive, namely that they must satisfy the two cumulative conditions set out in Article 2(a), which they did, i.e. they were (i) adopted by a regional authority (ii) on the basis of CoBAT, which was Belgium’s law transposing the SEA Directive.

The Court considered whether these regulations triggered the requirement under Article 3(2)(a) and found they did.<sup>41</sup> This was because the wording of Article 3(2)(a) of the SEA Directive covers “town and country planning or land use”. The Court noted that the regulations concerned “buildings and their surroundings in terms of highways, preservation, safety, salubrity, energy, acoustics, waste management, and aesthetics” and therefore such measures fell within the category of “town and country planning or land use” for the purpose of Article 3(2)(a) of the SEA Directive.<sup>42</sup>

As to whether these regulations set the framework for future development consent of projects listed in Annexes I and II to the EIA Directive, the Court noted that it was necessary to examine the content and purpose of those regulations. It found that they did set such a framework. They contained rules applicable to all buildings, whatever their nature, and to all their surroundings, including “areas of open space” and “areas on which building is permissible”, whether public or private.<sup>43</sup> The objective of the regulations was the “redevelopment of the whole of the European Quarter” and as part of that objective, it had laid down substantive rules to be applied when permission is granted for this area, and also the procedural rules relating to the composition of applications for urban planning permission and certificates. As a consequence, the Court found that the decree (which had been passed on foot of these regulations) contributed, by both its content and its purpose, to the implementation of projects listed in the annex of the EIA Directive. A significant body of criteria and detailed rules had been established for the grant and implementation of one or more projects likely to have significant effects on the environment.

**Key principle:** In engaging with the concept of “a significant body of criteria and detailed rules”, the Court clarified that this must be construed qualitatively and not quantitatively.

40 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=202637&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18570196> (7 June 2018)

41 Article 3(2)(a) of the SEA Directive provides that an environmental assessment must be carried out for all plans and programmes which are prepared for certain sectors and which set the framework for future development consent of projects listed in Annexes I and II to the EIA Directive.

42 Paras 44 and 45 of this judgment.

43 More specifically, it also contained provisions concerning “the number, location, height and surface area of buildings; construction-free spaces, including flower beds and vegetable patches in those spaces; rainwater collection, including the construction of stormwater collection tanks and storage tanks; the designing of buildings in line with their potential use, how long they will be used for and their eventual dismantling; the biotope coefficient, namely the relationship between areas that can be developed ecologically and total surface area; converting roofs with a view to, inter alia, landscape integration and greening”.

## CASE LAW No. 6

**Reference:** In *Terre Wallonne ASBL v Region Wallonne* (Case C-321/18),<sup>44</sup> the CJEU found that setting conservation objectives for European sites under the requirements of the Habitats Directive did not set the framework for future development consents.

**The facts:** The applicant NGO, Terre Wallonne ASBL, brought proceedings against a regional Belgian government<sup>45</sup> concerning a decree that established conservation objectives for its Natura 2000 network (the Decree). The applicant sought to annul the Decree on the basis that an SEA should have been carried out before the Decree was adopted. In particular, the applicant argued that the Decree came within the scope of the definition of “plans and programmes” that are either subject to either an SEA under the SEA Directive or appropriate assessment under the Habitats Directive. The applicant argued that the definition of “plans and programmes” applied not only to plans and programmes likely to be harmful to the environment, but also to those potentially beneficial to the environment.

In response, the Government of the Walloon Region contended first that the Decree was directly linked or necessary to the management of the Natura 2000 sites and, therefore, it did not come within the scope of Article 6(3) the Habitats Directive (and so require an appropriate assessment). Secondly, since the Decree was exempt from an appropriate assessment, it ought also to be exempt from an assessment of its effects under Article 3(2)(b) of the SEA Directive which refers to Articles 6 and 7 of the Habitats Directive.

The CJEU was asked to determine whether a decree, such as that at issue which establishes conservation objectives at a regional level for its Natura 2000 network, was one of the plans and programmes for which an SEA is mandatory.

**CJEU ruling:** The CJEU found that a decree, such as that at issue<sup>46</sup>, was not one of the “plans and programmes” for which an environmental impact assessment is mandatory under the SEA Directive. The Decree did not set out conservation objectives for specific sites but summarised them for the Walloon region as a whole and had indicative value only. The Decree was directly connected to the management of all sites in the Walloon region. It did not concern a particular site, for the purposes of Article 6(3) of the Habitats Directive and, accordingly, was not captured by the need for an environmental assessment pursuant to Article 3(2)(b) of the SEA Directive. That being said, however, the Court found that a measure such as the one in question was not necessarily exempt from SEA obligations, because such a measure could enact rules which led to it being placed on the same footing as a plan or programme for which an SEA or appropriate assessment may be mandatory.<sup>47</sup>

The CJEU rejected arguments that the provisions of Article 3(2)(b) of the SEA Directive and Article 6(3) of the Habitats Directive excluded an obligation to conduct an assessment of effects on the environment for the management of Natura 2000 sites in every case. The fact that projects could have beneficial effects is not relevant in determining whether it is necessary to make those projects subject to an assessment of their environmental impact.

However, in this case, the Decree did not set the framework for future development consent of projects and it did not establish a significant body of criteria and detailed rules for the grant and implementation of one or more projects likely to have significant effects on the environment. As a result, the Decree did not come within the scope of of Article 3(2)(a) or Article 3(4) of the SEA Directive<sup>48</sup> and therefore no SEA was required.

**Key principle:** The obligation to carry out an environmental assessment in Article 3(4), as with the requirement under Article 3(2)(a), is dependent on whether the plan or programme in question sets the framework for future development consent of projects. A decree by which a body of a Member State established the conservation objectives for the Natura 2000 network, but not for individual Natura 2000 sites, and did not thus lay down any requirements for development consent of projects, was not a plan or programme within the meaning of the SEA Directive.

44 <https://curia.europa.eu/juris/document/document.jsf?text=&docid=214887&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18572322> (12 June 2019)

45 The Government of the Walloon Region.

46 i.e. one which established conservation objectives with an indicative value at a regional level for its Natura 2000 network, as opposed to conservation objectives at site level which have a statutory value.

47 Para 31 of this judgment.

48 *Article 3(4) of the SEA Directive: Member States shall determine whether plans and programmes, other than those referred to in paragraph 2, which set the framework for future development consent of projects, are likely to have significant environmental effects.*

## CASE LAW No. 7

**Reference:** A and Others (C-24/19)<sup>49</sup> concerned the interpretation of plans and programmes, a request to revisit the meaning of “required” and also the consequences if no SEA is carried out before the plan/programme is adopted, for both for the plan/programme itself and any projects that were permitted under it.

**The facts:** In November 2016, the Flanders Department of Land Planning in Belgium granted permission for the installation and operation of five wind turbines. The consent was subject to compliance with certain conditions laid down by (i) an order of the Flemish Government (the Order), and (ii) a circular on the “Assessment framework and conditions for the installation of wind turbines” (the Circular). A and others (the Applicants), residents who lived near the wind farm project, challenged this permission and sought its annulment. They claimed that the Order and the Circular, based on which the consent was granted, infringed Article 2(a) and Article 3(2)(a) of the SEA Directive because these national instruments were not subject to an SEA. The Applicants argued that a national regulatory act containing various provisions relating to the installation of wind turbines, which must be complied with in the context of granting administrative authorisations on the installation and operation of such installations, was covered by the concept of “plans and programmes”, and therefore was required to be subject to an environmental assessment. The CJEU was also asked to reconsider its case-law in relation to “required by legislative, regulatory or administrative provisions” in Article 2(a) of the SEA Directive, such that a narrower interpretation and more restrictive scope would be applied to this provision.

**CJEU ruling:** The Court found that the Order and Circular satisfied the two cumulative conditions of Article 2(a) of the SEA Directive for these to be classified as “plans and programmes”, because they were adopted by the Flemish government, which is a regional authority, under Belgian law. The Court found that the Order and the Circular established conditions in relation to the installation and operation of wind energy. Although these conditions did not appear to constitute a complete set of standards, the Court reiterated that the concept of “a significant body of criteria and detailed rules” must be construed qualitatively and not quantitatively. On this basis, the Court was satisfied that the Order and the Circular fell within the concept of “plans and programmes” that needed to be subject to an SEA.

The Court refused to reconsider its previous case law on the meaning of “required” (as outlined in Case 2 above), confirming that it was not necessary for an authority to be legally required to adopt the plan/programme in question, as long as it had the power to do so. It maintained its existing interpretation (i.e. even where plans or programmes are not strictly “required” by national legislation or regulatory acts but are rather voluntary plans or programmes, SEA may still be required where the adoption of such plans is regulated by national legislative provisions), having regard to the purpose and objectives of the SEA Directive and the diversity of situations that arise or the wide-ranging practices of national authorities. The Court noted that if Article 2(a) of the SEA Directive covered only those plans or programmes whose adoption was compulsory, the objectives of the Directive would be compromised. The Court refused to change its interpretation of “required” for fear that a narrow interpretation of this word would render the scope of Article 2(a) marginal and limit its effectiveness.

The CJEU considered what should happen if SEA is not carried out, when it should have been. It first repeated the long-standing doctrine that (a) Member States must “take all necessary measures to eliminate the unlawful consequences of a breach of EU law”<sup>50</sup> and (b) only the CJEU may, in exceptional cases, temporarily suspend the application of EU law.<sup>51</sup> The Court held that the consequence of the strict application of this rule is that if there is no SEA, the domestic court will have to annul the project consents which were granted in breach of SEA obligations.<sup>52</sup> In this specific case, it appeared that construction of the wind farm had not yet commenced and it was therefore clear to the CJEU that the project consent must be annulled. However, the Court found that even if the wind farm project had commenced or been completed, an annulment of the permission should still be ordered. The Court recalled the limited exceptions based on which national judges may maintain some effects of the plans/programmes and, therefore, also permits granted based on that plan/programme, until the missing SEA is carried out.

49 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=227726&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=18572712> (25 June 2020)

50 Para 83 of this judgment.

51 Para 84 of this judgment.

52 Para 88 of this judgment.

**CASE LAW No. 7**

The first possible exception applies where annulling the plan/programme would create a legal vacuum which harms the environment. This exception was established in relation to a nitrate action programme, i.e. a programme that is intended to progressively improve the environment by reducing nitrate pollution. It referenced *Inter-Environnement Wallonne and Terre Wallonne*, C41/11 in that regard. In that case, the Court held that it would be contradictory to annul that programme awaiting the SEA, given that this would be more detrimental to the environment, and would ultimately have the opposite effect to what the SEA Directive intended to achieve. In the present case, the Court found that, even though wind farm development supports the increased production of renewable energy and thus protects the environment, annulment of consents for a number of wind turbines does not suffice to fulfil the requirements of the first exception.

Secondly, the Court recognised that the security of a Member State's electricity supply was also an overriding consideration only if annulment or suspension would cause a genuine and serious threat of disruption to the electricity supply of that country and no alternatives could remedy this. In the present case, the Court held that the cessation of activity of a limited number of wind turbines would likely not have significant implications for the supply of electricity for the whole of Belgium.

---

**Key principle:** The Court reaffirmed the meaning of "required" (as outlined in more detail in Case 2 above). It is also clear that SEA may apply to circulars which are capable of producing compulsory legal effects for third parties, rather than being of purely indicative value.

---



## APPENDIX D: LIST OF TYPICAL AUTHORITIES TO WHICH SEA MAY APPLY

### Non-Exhaustive List – These and similar should consider if their P/P fall under SEA<sup>53</sup>

An Bord Pleanála
Board or Body established by or under statute
Bord Gáis / Gas Networks Ireland
Bord Iascaigh Mhara
Bord Na Móna
Coillte
Commission for the Regulation of Utilities
Commissioners of Public Works in Ireland
Companies in which all the shares are held by/on behalf/jointly with a Minister of Government or by directors appointed by a Minister of Government
Dublin Airport Authority
Dublin Docklands Development Authority
EirGrid
Electricity Supply Board
Environmental Protection Agency
Fáilte Ireland
Geological Survey of Ireland
Harbour Authority / Harbour Company
Health Service Executive
Health and Safety Authority
Inland Fisheries Ireland
Land Development Agency
Local Authorities
Marine Institute
Minister of Government or Government Department
National Asset Management Agency
Planning Authority
Port and Harbour Authorities including Port Companies
Radiological Protection Institute of Ireland
Regional Authority
Statutory Undertakers
Teagasc
Transport Infrastructure Ireland
Waterways Ireland
Note: Private developers may also consider the benefits of SEA when preparing non-statutory masterplans to encourage sustainable development.

<sup>53</sup> For full and up-to-date lists of public authorities see the Register of Public Sector Bodies in Ireland at [cso.ie](http://cso.ie) and [gov.ie](http://gov.ie)

# APPENDIX E: IMPACT DESCRIPTION TERMINOLOGY – BASED ON EPA DRAFT GUIDELINES ON INFORMATION TO BE CONTAINED IN EIAR

## DESCRIPTION OF EFFECTS

<p><b>Quality of Effects</b></p> <p>It is important to inform the non-specialist reader whether an effect is positive, negative or neutral</p>	<p><b>Positive Effects</b></p> <p>A change which improves the quality of the environment (for example, by increasing species diversity, or the improving reproductive capacity of an ecosystem, or by removing nuisances or improving amenities).</p>
	<p><b>Negative/Adverse</b></p> <p>Effects a change which reduces the quality of the environment (for example, lessening species diversity or diminishing the reproductive capacity of an ecosystem; or damaging health or property or causing nuisance).</p>
<p><b>Describing the Significance of Effects</b></p> <p>“Significance” is a concept that can have different meanings for different topics – in the absence of specific definitions for different topics the following definitions may be useful (also see Determining Significance below).</p>	<p><b>Imperceptible</b></p> <p>An effect capable of measurement but without significant consequences.</p>
	<p><b>Not Significant</b></p> <p>An effect which causes noticeable changes in the character of the environment but without significant consequences.</p>
	<p><b>Slight</b></p> <p>An effect which causes noticeable changes in the character of the environment without affecting its sensitivities.</p>
	<p><b>Moderate</b></p> <p>An effect that alters the character of the environment in a manner that is consistent with existing and emerging baseline trends.</p>
	<p><b>Significant</b></p> <p>An effect which, by its character, magnitude, duration or intensity alters a sensitive aspect of the environment.</p>
	<p><b>Very Significant</b></p> <p>An effect which, by its character, magnitude, duration or intensity significantly alters most of a sensitive aspect of the environment.</p>
	<p><b>Profound</b></p> <p>An effect which obliterates sensitive characteristics.</p>
<p><b>Describing the Extent and Context of Effects</b></p> <p>Context can affect the perception of significance. It is important to establish if the effect is unique or, perhaps, commonly or increasingly experienced.</p>	<p><b>Extent</b></p> <p>Describe the size of the area, the number of sites, and the proportion of a population affected by an effect.</p>
	<p><b>Context</b></p> <p>Describe whether the extent, duration, or frequency will conform or contrast with established (baseline) conditions (is it the biggest, longest effect ever?).</p>

<p><b>Describing the Types of Effects</b></p>	<p><b>Indirect Effects (aka Secondary Effects)</b> Impacts on the environment, which are not a direct result of the project, often produced away from the project site or because of a complex pathway.</p>
	<p><b>Cumulative Effects</b> The addition of many minor or significant effects, including effects of other projects, to create larger, more significant effects.</p>
	<p><b>“Do-Nothing Effects”</b> The environment as it would be in the future should the subject project not be carried out.</p>
	<p><b>“Worst Case” Effects</b> The effects arising from a project in the case where mitigation measures substantially fail.</p>
	<p><b>Indeterminable Effects</b> When the full consequences of a change in the environment cannot be described.</p>
	<p><b>Irreversible Effects</b> When the character, distinctiveness, diversity or reproductive capacity of an environment is permanently lost.</p>
	<p><b>Residual Effects</b> The degree of environmental change that will occur after the proposed mitigation measures have taken effect.</p>
	<p><b>Synergistic Effects</b> Where the resultant effect is of greater significance than the sum of its constituents (e.g. combination of SO<sub>x</sub> and NO<sub>x</sub> to produce smog).</p>
	<p><b>Describing the Probability of Effects</b> Descriptions of effects should establish how likely it is that the predicted effects will occur so that the CA can take a view of the balance of risk over advantage when making a decision.</p>
	<p><b>Unlikely Effects</b> The effects that can reasonably be expected not to occur because of the planned project if all mitigation measures are properly implemented.</p>

<p><b>Describing the Duration and Frequency of Effects</b></p> <p>“Duration” is a concept that can have different meanings for different topics – in the absence of specific definitions for different topics the following definitions may be useful.</p>	<p><b>Momentary Effects</b></p> <p>Effects lasting from seconds to minutes</p>
	<p><b>Brief Effects</b></p> <p>Effects lasting less than a day</p>
	<p><b>Temporary Effects</b></p> <p>Effects lasting less than a year</p>
	<p><b>Short-term Effects</b></p> <p>Effects lasting one to seven years</p>
	<p><b>Medium-term Effects</b></p> <p>Effects lasting seven to fifteen years</p>
	<p><b>Long-term Effects</b></p> <p>Effects lasting fifteen to sixty years</p>
	<p><b>Permanent Effects</b></p> <p>Effects lasting over sixty years</p>
	<p><b>Reversible Effects</b></p> <p>Effects that can be undone, for example through remediation or restoration</p>
	<p><b>Frequency of Effects</b></p> <p>How often the effect will occur. (rarely, occasionally, frequently, constantly – or hourly, daily, weekly, monthly, annually)</p>



# AN GHNÍOMHAIREACTH UM CHAOMHNÚ COMHSHAOL

Tá an GCC freagrach as an gcomhshaol a chosaint agus a fheabhsú, mar shócmhainn luachmhar do mhuintir na hÉireann. Táimid tiomanta do dhaoine agus don chomhshaol a chosaint ar thionchar díobhálach na radaíochta agus an truailleithe.

## Is féidir obair na Gníomhaireachta a roinnt ina trí phríomhréimse:

**Rialáil:** *Rialáil agus córais chomhlíonta comhshaoil éifeachtacha a chur i bhfeidhm, chun dea-thorthaí comhshaoil a bhaint amach agus díriú orthu siúd nach mbíonn ag cloí leo.*

**Eolas:** *Sonraí, eolas agus measúnú ardchaighdeán, spriocdhírthe agus tráthúil a chur ar fáil i leith an chomhshaoil chun bonn eolais a chur faoin gcinnteoireacht.*

**Abhcóideacht:** *Ag obair le daoine eile ar son timpeallachta glaine, táirgiúla agus dea-chosanta agus ar son cleachtas inbhuanaithe i dtaobh an chomhshaoil.*

## I measc ár gcuid freagrachtaí tá:

### Ceadúnú

- Gníomhaíochtaí tionscail, dramhaíola agus stórála peitрил ar scála mór;
- Sceitheadh fuíolluisce uirbigh;
- Úsáid shrianta agus scaoileadh rialaithe Orgánach Géinmhodhnaithe;
- Foinsí radaíochta ianúcháin;
- Astaíochtaí gás ceaptha teasa ó thionscal agus ón eitlíocht trí Scéim an AE um Thrádáil Astaíochtaí.

### Forfheidhmiú Náisiúnta i leith Cúrsaí Comhshaoil

- Iníúchadh agus cigireacht ar shaoráidí a bhfuil ceadúnas acu ón GCC;
- Cur i bhfeidhm an dea-chleachtais a stiúradh i ngníomhaíochtaí agus i saoráidí rialáilte;
- Maoirseacht a dhéanamh ar fhreagrachtaí an údaráis áitiúil as cosaint an chomhshaoil;
- Caighdeán an uisce óil poiblí a rialáil agus údaruithe um sceitheadh fuíolluisce uirbigh a fhorfheidhmiú
- Caighdeán an uisce óil poiblí agus phríobháidigh a mheasúnú agus tuairisciú air;
- Comhordú a dhéanamh ar líonra d'eagraíochtaí seirbhíse poiblí chun tacú le gníomhú i gcoinne coireachta comhshaoil;
- An dlí a chur orthu siúd a bhriseann dlí an chomhshaoil agus a dhéanann dochar don chomhshaol.

### Bainistíocht Dramhaíola agus Ceimiceáin sa Chomhshaol

- Rialacháin dramhaíola a chur i bhfeidhm agus a fhorfheidhmiú lena n-áirítear saincheisteanna forfheidhmithe náisiúnta;

- Staitisticí dramhaíola náisiúnta a ullmhú agus a fhoilsiú chomh maith leis an bPlean Náisiúnta um Bainistíocht Dramhaíola Guaisí;
- An Clár Náisiúnta um Chosc Dramhaíola a fhorbairt agus a chur i bhfeidhm;
- Reachtaíocht ar rialú ceimiceán sa timpeallacht a chur i bhfeidhm agus tuairisciú ar an reachtaíocht sin.

### Bainistíocht Uisce

- Plé le struchtúir náisiúnta agus réigiúnacha rialachais agus oibriúcháin chun an Chreat-treoir Uisce a chur i bhfeidhm;
- Monatóireacht, measúnú agus tuairisciú a dhéanamh ar chaighdeán aibhneacha, lochanna, uisce idirchreasa agus cósta, uiscí snámha agus screamhuisce chomh maith le tomhas ar leibhéil uisce agus sreabhadh abhann.

### Eolaíocht Aeráide & Athrú Aeráide

- Fardail agus réamh-mheastacháin a fhoilsiú um astaíochtaí gás ceaptha teasa na hÉireann;
- Rúnaíocht a chur ar fáil don Chomhairle Chomhairleach ar Athrú Aeráide agus tacaíocht a thabhairt don Idirphlé Náisiúnta ar Gníomhú ar son na hAeráide;
- Tacú le gníomhaíochtaí forbartha Náisiúnta, AE agus NA um Eolaíocht agus Beartas Aeráide.

### Monatóireacht & Measúnú ar an gComhshaol

- Córais náisiúnta um monatóireacht an chomhshaoil a cheapadh agus a chur i bhfeidhm: teicneolaíocht, bainistíocht sonraí, anailís agus réamhaisnéisiú;
- Tuairiscí ar Staid Thimpeallacht na hÉireann agus ar Tháscairí a chur ar fáil;
- Monatóireacht a dhéanamh ar chaighdeán an aeir agus Treoir an AE i leith Aeir Ghlain don Eoraip a chur i bhfeidhm chomh maith leis an gCoinbhinsiún ar Aerthruailliú Fadraoin Trasteorann, agus an Treoir i leith na Teorann Náisiúnta Astaíochtaí;
- Maoirseacht a dhéanamh ar chur i bhfeidhm na Treorach i leith Torainn Timpeallachta;
- Measúnú a dhéanamh ar thionchar pleananna agus clár beartaithe ar chomhshaol na hÉireann.
- Taighde agus Forbairt Comhshaoil
- Comhordú a dhéanamh ar ghníomhaíochtaí taighde comhshaoil agus iad a mhaoiniú chun brú a aithint, bonn eolais a chur faoin mbeartas agus réitigh a chur ar fáil;
- Comhoibriú le gníomhaíocht náisiúnta agus AE um thaighde comhshaoil.

### Cosaint Raideolaíoch

- Monatóireacht a dhéanamh ar leibhéil radaíochta agus nochtadh an phobail do radaíocht ianúcháin agus do réimsí leictreamaighnéadacha a mheas;
- Cabhrú le pleananna náisiúnta a fhorbairt le haghaidh éigeandálaí ag eascairt as tairmí núicléacha;
- Monatóireacht a dhéanamh ar fhorbairtí thar lear a bhaineann le saoráidí núicléacha agus leis an tsábháilteacht raideolaíochta;
- Sainseirbhísí um chosaint ar an radaíocht a sholáthar, nó maoirsiú a dhéanamh ar sholáthar na seirbhísí sin.

### Treoir, Ardú Feasachta agus Faisnéis Inrochtana

- Tuairisciú, comhairle agus treoir neamhspleách, fianaise-bhunaithe a chur ar fáil don Rialtas, don tionscal agus don phobal ar ábhair maidir le cosaint comhshaoil agus raideolaíoch;
- An nasc idir sláinte agus folláine, an geilleagar agus timpeallacht ghlan a chur chun cinn;
- Feasacht comhshaoil a chur chun cinn lena n-áirítear tacú le hiompraíocht um éifeachtúlacht acmhainní agus aistriú aeráide;
- Tástáil radóin a chur chun cinn i dtithe agus in ionaid oibre agus feabhsúchán a mholadh áit is gá.

### Comhpháirtíocht agus líonrú

- Oibriú le gníomhaireachtaí idirnáisiúnta agus náisiúnta, údarais réigiúnacha agus áitiúla, eagraíochtaí neamhrialtais, comhlachtaí ionadaíochta agus ranna rialtais chun cosaint comhshaoil agus raideolaíoch a chur ar fáil, chomh maith le taighde, comhordú agus cinnteoireacht bunaithe ar an eolaíocht.

### Bainistíocht agus struchtúr na Gníomhaireachta um Chaomhnú Comhshaoil

Tá an GCC á bainistiú ag Bord lánaímseartha, ar a bhfuil Ard-Stiúrthóir agus cúigear Stiúrthóir. Déantar an obair ar fud cúig cinn d'Oifigí:

- An Oifig um Inbhuanaitheacht i leith Cúrsaí Comhshaoil
- An Oifig Forfheidhmithe i leith Cúrsaí Comhshaoil
- An Oifig um Fhianaise agus Measúnú
- An Oifig um Chosaint ar Radaíocht agus Monatóireacht Comhshaoil
- An Oifig Cumarsáide agus Seirbhísí Corparáideacha

Tugann coistí comhairleacha cabhair don Gníomhaireacht agus tagann siad le chéile go rialta le plé a dhéanamh ar ábhair imní agus le comhairle a chur ar an mBord.



Environmental Protection Agency  
*An Ghníomhaíocht um Chaomhnú Comhshaoil*

### **Headquarters**

**PO Box 3000,  
Johnstown Castle Estate  
County Wexford, Ireland**

**T: +353 53 916 0600**

**F: +353 53 916 0699**

**E: [info@epa.ie](mailto:info@epa.ie)**

**W: [www.epa.ie](http://www.epa.ie)**

**LoCall: 818 335599**

### **Regional Inspectorate**

McCumiskey House,  
Richview, Clonskeagh Road,  
Dublin 14, Ireland

T: +353 1 268 0100

F: +353 1 268 0199

### **Regional Inspectorate**

Inniscarra, County Cork,  
Ireland

T: +353 21 487 5540

F: +353 21 487 5545

### **Regional Inspectorate**

Seville Lodge, Callan Road,  
Kilkenny, Ireland

T +353 56 779 6700

F +353 56 779 6798

### **Regional Inspectorate**

John Moore Road, Castlebar  
County Mayo, Ireland

T +353 94 904 8400

F +353 94 902 1934

### **Regional Inspectorate**

The Glen, Monaghan, Ireland

T +353 47 77600

F +353 47 84987

### **Regional Offices**

The Civic Centre  
Church St., Athlone  
Co. Westmeath, Ireland  
T +353 906 475722

Room 3, Raheen Conference Centre,  
Pearse House, Pearse Road  
Raheen Business Park, Limerick,  
Ireland  
T +353 61 224764

