



**TRANSPORT  
SCOTLAND**  
CÒMHDHAIL ALBA

# **Environmental Impact Assessment Guidance**

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## Introduction

### Transport Scotland

Transport Scotland is the national transport agency for Scotland. It is responsible for maintaining, upgrading and monitoring the trunk road network. The protection and enhancement of the environment is an important aspect of all its projects.

### Purpose of this document

This Guidance Note provides Transport Scotland's advice on the key statutory requirements for environmental impact assessment (EIA) for road projects. This is not intended to be a complete guide to EIA, but provides the principal stages where Transport Scotland has statutory obligations. It also provides some advice on non-statutory environmental assessments.

This Guidance Note provides advice on all types of road intervention type projects and replaces any previous guidance.

A checklist for the EIA process is included in [Appendix A](#).

### Legal Requirements

The legal requirements regarding EIAs for roads projects in Scotland are contained in the Roads (Scotland) Act 1984. This Act was amended by the Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 in order to transpose into Scottish law Directive 2014/52/EU, which amends the EIA Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. These transposition Regulations came into force on 16 May 2017.

This Guidance Note also incorporates the requirements of the Habitats Directive (92/43/EEC) which was transposed into Scottish law by The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended).

## Screening Process

### Identification of projects that require statutory EIA

The requirements and procedures set out in this document shall be followed for screening a project to determine whether it requires an EIA and the subsequent publication of an Environmental Impact Assessment Report (EIAR). The process for identifying the requirement for EIA is known as determination. The Scottish Ministers, acting through their agency Transport Scotland, have statutory responsibility to undertake a screening determination if they have under consideration either construction of a new road, or improvement of a road, for which the Scottish Ministers are roads authority. The screening determination must be carried out before details of the project are published.

The EIA Directive has three annexes which are key to identifying the requirement for EIA. These are:

- Annex I – list of projects always requiring EIA
- Annex II – list of projects that may require EIA, and require screening to ascertain if they do
- Annex III – criteria to be used in screening projects for EIA (see [Appendix B](#) for these criteria)

Annex I projects in relation to roads are defined as:

- Construction of motorways and express roads.
- Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 km or more in continuous length.

Annex II list of projects in relation to roads are:

- The construction of roads, harbours and port installations, including fishing harbours (projects not included in Annex I)

An EIA is always required for Annex I projects and although screening is not a statutory requirement, Transport Scotland require a [Record of Determination](#) to be prepared which highlights the likely significant effects on the environment from the proposed project. This helps to inform the scoping exercise, which is the next step.

Annex II projects which meet thresholds require screening to determine if they require EIA. The thresholds are that the completed works, including construction

works and any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other such facilities or stores required during the construction period:

- Exceed 1ha in area; or
- Are situated in whole or in part in a sensitive area ([Appendix C](#)).

At this stage, if they meet either criteria, they are referred to as ‘relevant projects’ and require the next stage of screening.

A hierarchy of road interventions showing example projects and possible EIA requirements are shown below. These are examples of each type of project and are not intended as a legal interpretation. Further guidance is available in the Design Manual for Roads and Bridges (DMRB), [LA102 Screening Projects for Environmental Impact Assessment](#).

## Types of road projects and possible EIA requirements

### Major projects (Annex I)

- New trunk roads
- Bypasses
- Additional carriageways
- New bridges
- Widening schemes resulting in four lanes or more

As there is high potential for significant effects, EIA is almost always required.

### Minor improvement projects (Annex II)

- Minor widening schemes
- Road geometry improvements
- Small bridge replacements
- Junction improvements

There is potential for significant effects and therefore screening is required to identify if EIA required.

## Structural maintenance schemes (Annex II)

- Pavement reconstruction
- Resurfacing works
- Drainage improvements
- Structural bridge maintenance
- Works affecting banks of rivers or lochs

There is potential for significant effects and therefore screening is required to identify if EIA required.

## Routine and cyclic maintenance

- Gully emptying
- Surface patching and overlays
- Vegetation management
- Minor signing and lighting
- Grass cutting
- Lighting maintenance

Environmental effects are possible but are unlikely to be significant and should be managed through good practice site procedures.

The project is screened using the criteria set out in Annex III of the Directive, which identifies three broad criteria as follows:

- The characteristics of the development
- The location of the project
- The type and characteristics of the potential impact

Where review of these criteria indicates the likelihood of one or more significant environmental effects, then the project will require EIA. However, mitigation measures can be taken into account which are envisaged to avoid or prevent significant adverse effects on the environment.

The criteria for EIA screening are intended to be used for sifting purposes, rather than as absolute thresholds requiring an EIA to be done. In addition, not every road project in or affecting the areas identified in Annex III will require an EIA. It will be necessary to review the likely significance of impact of that particular project and location.

In certain cases statutory and non-statutory designations which are not included in the definition of 'sensitive area', but which are nonetheless environmentally sensitive, may also be relevant in determining whether EIA is required.

It is also possible that a project may have a significant impact on an area of the environment not identified in Annex III. In such cases, the potential for impact will be identified and a determination made as to whether EIA is required.

## Completing a Record of Determination

For Annex I projects and projects that are deemed 'relevant' under Annex II and require further screening to determine if an EIA is required, the following information shall be collated in a Record of Determination (RoD). The RoD template can be obtained from Transport Scotland Environmental Advisors. In summary, the following is required:

- The name and location of the project, including a plan.
- A description of the project (including any demolition works).
- A description of the local environment (baseline).
- A description of main environmental impacts of the project (including impacts resulting from expected residues and emissions and the production of waste, and the use of natural resources, in particular soil, land, water and biodiversity), and proposed mitigation.
- The extent of environmental assessment work undertaken to date and details of discussion with statutory bodies / interested parties.
- A statement of case in support of a determination that an EIA is/is not required. If the determination is that an EIA is not required, this statement must state any features of the project which are envisaged to avoid or prevent significant adverse effects on the environment.

In practice the RoD will usually be supported by an appropriate report, usually an Environmental Screening Report, which sets out the appraisal which has been undertaken to ascertain whether or not significant environmental effects are likely, and therefore whether more detailed work and the EIA process needs to be followed (or not).

All RoDs are submitted to Transport Scotland, preferably at least four weeks prior to the works starting on site for negative determinations. The RoD procedure is described below:



1. RoD prepared by Operating Company (OC) or Consultant and submitted to TS Environmental Adviser
2. RoD reviewed and signed by TS Environmental Adviser
3. RoD passed to TS Project Manager for review and TS Director for sign-off
4. RoD passed to TS Administration Team for publishing on TS website

The RoD is a critical document since it forms the basis of Transport Scotland's position with respect to EIA on each scheme and is used for the public notice of the determination which must be advertised in the press. It is very important that, where the requirement for EIA is being screened out, the assessment of 'no significant effects' is robust and defensible.

## Process for projects not requiring EIA

Where projects or maintenance schemes do not fall under Annex I, are not 'relevant' projects under Annex II and will not affect Natura 2000 sites and therefore not require a RoD or EIA, they must still be assessed for their potential environmental effects.

The following approach is suggested, however precise detail on assessment is not included here to allow the Operating Companies flexibility in approach and also to reflect the wide variation in size and complexity of maintenance schemes.

- A desktop review to identify other nearby potential environmentally sensitive areas using in-house and online sources such as [NatureScot SiteLink](#), [Historic Environment Scotland's \(HES\) Pastmap](#), [Scotland's Environment Web](#) and Scottish Environment Protection Agency (SEPA) [Water Classification Hub](#) and [Flood Maps](#).
- If required, a site visit can be undertaken to identify any sensitive receptors near to the proposed works. These may include: habitats (e.g. woodland), specific land uses (e.g. agricultural), water courses (e.g. burns, rivers, groundwater, wetlands) and protected species (e.g. badgers, bats).
- An assessment can then be made if the proposed works, including the siting of welfare, plant, machinery and storage, may have likely significant effects on the environment.
- Where potential environmental effects have been identified, mitigation measures should be planned and implemented to avoid or reduce those effects.

Where the works are deemed to have little or no environmental effects, a formal report is not required, however environmental best practices must always be followed.

Where potential environmental effects and associated mitigations have been identified, it is suggested that a report be prepared for recording purposes, and also for communicating the requirements to site personnel and other interested parties.

## Scoping Process

### Production of a Scoping Report

Transport Scotland require a Scoping Report to be prepared for an EIA project. It may be produced for a non-EIA project as it may be beneficial to the project. For non-EIA projects the advice of the relevant Environmental Advisor should be taken.

Scoping can be undertaken at a number of stages in the project development. Typically, these are at/near the start of:

- Initial scheme identification
- Option identification
- Preliminary design of the preferred option

### Information to be included in a Scoping Report

Scoping shall:

- Provide justification, supported by evidence, for scoping in/out environmental topics (or any elements) from further environmental assessment
- Define what level of environmental assessment (DMRB 'simple' or 'detailed') shall be undertaken for those environmental topics (or any elements) scoped in
- Specify the environmental assessment methodology and further data collection and survey requirements
- Identify the study area for those environmental topics (or any elements) scoped in
- Identify initial mitigation measures and environmental enhancements

Consultation with statutory consultation bodies, as defined in section 151(1) of the Roads (Scotland) Act 1984 and set out in the [consultation section](#), is required on the draft Scoping Report.

All Scoping Reports shall be submitted to Transport Scotland. The Scoping Report shall be signed off by the relevant Environmental Advisor, preferably prior to the EIA starting.

# EIA Report

## Use of competent experts

There is a statutory requirement that EIARs are prepared by 'competent experts'. Transport Scotland take this to mean that experts involved with the preparation of EIARs, in particular Environmental Coordinators and Environmental Topic Leads, demonstrate that:

- They have relevant qualifications, for example a degree or above in a related topic, and
- They can demonstrate their competence, for example they have relevant professional membership and/or are Registered EIA Practitioners, and
- They have sufficient knowledge and experience in their relevant topic

Evidence of the competence of those experts involved in the preparation of the EIA shall be provided in the EIAR.

## Topics to include

The EIAR must include the following:

- A description of the project comprising information on the site, design, size and other relevant features of the project
- A description of the likely significant effects of the project on the environment
- A description of mitigation measures
- A description of reasonable alternatives studied, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment
- A non-technical summary of the information above (as a separate document)
- Any other information specified in schedule 1A of the Roads (Scotland) Act 1984

The EIA must identify, describe and assess in an appropriate manner, the direct and indirect significant effects of the proposed project on the factors below:

- Population and human health
- Biodiversity, and in particular species and habitats protected under the Birds and Habitats Directives
- Land, soil, water, air and climate, and
- Material assets, cultural heritage and the landscape

The effects to be identified above, include the expected effects deriving from the vulnerability of the project to risks, so far as relevant to the project, of major accidents and disasters.

The EIA must identify the likely significant effects of the project on the environment before a decision to proceed with the project is made.

All EIARs shall be submitted to Transport Scotland. The EIAR shall be signed off by the relevant Environmental Advisor prior to publication.

DMRB should be used as guidance on all environmental topics. Some topics are newer than others and therefore do not currently have a consolidated methodology and the approach to these topics is therefore discussed in [Appendix D](#).

## Environmental baseline

The environmental baseline must include a description of the relevant aspects of the current state of the environment and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort, on the basis of the availability of environmental information and scientific knowledge.

Projects should therefore take account of readily available information to provide a description of natural changes in the local environment over an appropriate timescale that the dataset supports.

## Consideration of alternatives

A description of the reasonable alternatives studied by the project team, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment, is required.

## Mitigation

Mitigation measures should be predicated on the principle that prevention of adverse impacts is preferable to corrective measures after the event. Accordingly, mitigation is intended to avoid, reduce and where possible, remedy/offset significant adverse effects or enhance environmental benefits. The offsetting of adverse impacts may also include compensatory measures where possible and of a relevant nature.

Mitigation should be incorporated into the design of the project as it develops. The full range of mitigation measures employed on a project should be identified in the EIAR. This could include, for example, early decisions such as the choice of route

and changes to the horizontal or vertical alignment in relation to environmental sensitivities in the area.

Consideration should be given as to how the mitigation measures are to be secured. A Schedule of Environmental Commitments shall be included in EIARs to provide a summary of the project's mitigation measures and to identify their purpose.

The Schedule of Environmental Commitments is then worked-up into an Environmental Management Plan (EMP) prior to construction to give clear guidance to the designer and construction contractor on the mitigation actions required.

A suitable Environmental Management System (EMS) is required on site to demonstrate the implementation of mitigation measures (including the EMP) and to monitor their effectiveness.

## **Monitoring requirements**

Projects shall determine and implement the procedures for monitoring of significant adverse residual effects on the environment. The parameters to be monitored and the duration of the monitoring shall be proportionate to the nature, location and size of the project and the significance of its effects on the environment.

Monitoring requirements shall initially be established through completion of the EIAR particularly the Schedule of Environmental Commitments. Monitoring requirements may be refined over later stages of the project development and recorded via subsequent iterations of the EMP.

Transport Scotland shall be consulted when developing/changing the monitoring requirements.

Existing monitoring arrangements resulting from other legislation may be used if appropriate, with a view to avoiding duplication of monitoring.

## **Objectivity / conflict of interest**

EIARs must be prepared in an objective manner and so as to avoid conflicts of interest.

## **Audit process for EIAR**

EIARs for Major Projects are audited by Transport Scotland to ensure they comply with statutory requirements and are of a consistently robust standard. This is usually carried out on the final draft EIAR prior to publication (along with Orders - the

authority to construct new roads is given by virtue of Scottish Statutory Instruments made under powers in the Roads (Scotland) Act 1984; these are generally referred to as 'road orders'. Draft Orders are published to inform the public about a forthcoming project and to allow objections to be raised. They are called 'Made Orders' once confirmed by the Scottish Minister). A six-week period as a minimum should be allowed in project programs for this audit period. Appropriate time will then be required for consequent amendments, depending on the nature of the changes required.

For non-Major Projects, an audit of EIAR or other environmental assessment reports may be required if the project is likely to be contentious or is a complex project. Advice should be taken from the relevant Environmental Advisor on the requirements for audit.

## Validity of EIAR and surveys over time

There is no set validity period for an EIAR. However, the baseline data may need periodically updating if the development is delayed. For example, many ecological surveys are valid only for two years, and some for less. Historic Environment Records also need updating approximately every 12 months. If the baseline has been found to change, consideration shall be given to re-assessing the project. This may require an Addendum to the EIAR, or, if there are significant changes, a new EIAR.

It is recommended that pre-construction ecological surveys are carried out to update survey information shortly before construction. The outcome of these surveys have potential to affect the proposed mitigation.

## Related statutory environmental procedures

### Other relevant assessments

In the preparation of an EIAR, account should be taken of the available results of other relevant assessments done under other legislation applicable in Scotland to avoid duplication (for example of monitoring effort). These include (amongst others):

- Strategic Environmental Assessments (SEA) Directive, which is transposed in Scottish law through the Environmental Assessment (Scotland) Act 2005
- Conservation (Natural Habitats &co.) Regulations 1994, giving rise to the requirement for Habitats Regulation Assessment (HRA)
- Water Framework Directive (WFD) which is transposed into Scottish law through the Water Environment and Water Services (Scotland) Act 2003

- Marine Works (EIA) (Scotland) Regulations 2017

These shall be considered either in a Policies and Plans chapter, or in a Policies and Plans section within appropriate environmental topic chapters. Some may have a direct impact on the assessment in the EIAR, for example HRA and / or WFD assessments.

Occasionally two EIA regimes may be relevant to road projects, such as those contained in the Roads (Scotland) Act 1984 and the Marine Works (EIA) (Scotland) Regulations 2017. In this case, the two competent authorities shall agree on the EIAR requirements.

## Habitats Regulation Appraisal (HRA)

A development which may affect a Special Protection Area (SPA) or a Special Area of Conservation (SAC) (collectively called Natura 2000 sites) requires an assessment of those effects in accordance with the following legislation:

- The Conservation (Natural Habitats &c.) Regulations 1994

This is called a Habitats Regulation Assessment (HRA).

### When screening is required for HRA

All projects should be considered for possible effects on Natura sites, both alone and in combination with other plans or projects. If there is any likelihood of an effect, then formal HRA screening should be carried out.

Indirect impacts should be considered as well as direct impacts. For example, these may include air quality changes at locations set away from the project location, or hydrological connectivity between the project site and the Natura site. Ecological connectivity should be considered, for example where a SAC exists that includes bats as a qualifying feature, then bat habitat should be considered even if set some distance from a project site. It is therefore recommended that the advice of an ecologist is taken during the HRA screening process.

There is a statutory requirement, under the Roads (Scotland) Act 1984, that if both EIA and HRA are required, that these two processes are coordinated. Therefore, screening for HRA should take place at the same time as screening for EIA, although separate screening reports are produced.

The HRA screening report shall be prepared by the Operating Company or Consultant's suitably qualified Ecologist and shall be submitted to the relevant Environmental Advisor. NatureScot is a statutory consultee with respect to HRA.

An Appropriate Assessment (AA) will be required where there is a possibility of likely significant effects on a Natura site and where there is a risk of undermining the site's conservation objectives. Significant further information on the project and the proposed mitigation will be required. It is therefore recommended that the possibility of this is discussed with the relevant Environmental Advisor as early as possible in the project development.

At the screening stage, mitigation or compensation measures must not be used to support a conclusion of no likely significant effects and therefore the decision to not progress to an AA.

## **Conducting an Appropriate Assessment**

The scope and content of an AA will depend on the nature, location, duration and scale of a proposed project. The AA must be proportionate and sufficient to determine if the project will adversely affect the integrity (defined as the coherence of its ecological structure and function, across its whole area, which enables it to sustain the habitat(s), and/or the levels of populations of the species for which it was designated) of the site.

The AA must consider the direct and indirect effects on the designated features and conservation objectives of the site. This includes cataloguing all habitat types and species for which a site is protected, and identifying and examining the implications of the proposed project on these features. Cumulative effects must also be considered.

Definitive findings and conclusions must be included to ensure that there is no reasonable scientific doubt as to the effects of the project on the site.

Mitigation measures may be used to support a conclusion of no significant effects, however compensation measures may not.

NatureScot must be consulted and agree to the findings and conclusions of the AA. The AA shall be prepared by the Operating Company or Consultant's suitably qualified Ecologist and, along with agreement from NatureScot must be submitted to the Transport Scotland Environmental Advisor

## **Separation of approval functions**

For roads projects, Transport Scotland, on behalf of the Scottish Ministers are the Competent Authority and therefore are required to make a decision on whether the project should proceed based on the conclusions of the HRA.



Although Transport Scotland are not required to separate the functions of the promoter of the scheme and the Directorate acting as the Competent Authority, in the interest of propriety and to ensure a robust promotion of the scheme, a process is in place to separate the approval functions.

A standard document that includes the outcome of the AA is prepared by the Transport Scotland Environmental Advisor and approved by the Director whose Directorate is not involved in the promotion of the project.

## Consultation

### Statutory and non-statutory consultation

Consultation bodies shall be given an opportunity to express an opinion on the project and the EIAR before a decision is made on whether to proceed with the project. The consultation bodies comprise:

- The appropriate planning authority (including National Park authorities if relevant)
- NatureScot
- Scottish Environment Protection Agency (SEPA)
- Historic Environment Scotland (HES)
- Any other public body which Transport Scotland consider is likely to have an interest in the project because of that body's specific environmental responsibilities or local and regional competence

These bodies should be consulted during the course of the project development as well as after publication of the EIAR. Consultation with non-statutory specialist organisations where relevant to the project can also be undertaken.

Each consultation body should be provided with a copy of the EIAR, free of charge. The Roads (Scotland) Act 1984 provides that a decision on whether to proceed with the project cannot be taken within a period of 42 days commencing with the date of the sending of the EIAR to the consultation bodies.

### Public consultation

Members of the public should be given a reasonable opportunity to express an opinion on the project and EIAR prior to a decision being made. This consultation period shall be not less than 42 days (6 weeks) from the date of publication of the notice of the EIAR.

## Publicity and Decisions

### Notice of Determination

Once the need for an EIA has been established, this determination must be made available to the public. Where an EIA is required the Notice of Determination (NoD) will be published in the Edinburgh Gazette and at least one local newspaper.

Where the determination is that an EIA is not required, the NoD shall be published in the Edinburgh Gazette and at least one newspaper local to the area of the project. This should occur in conjunction with the notice of the draft order or scheme, where relevant. The NoD preparation process is described below. The NoD templates are available from the Transport Scotland Environmental Advisor.

1. NoD prepared by TS Environmental Adviser after RoD has been reviewed and signed by TS Director
2. NoD submitted to TS Administration Team for publishing in a local newspaper and the Edinburgh Gazette
3. TS Administration Team notifies TS Environmental Adviser, TS Project Manager and OC / Consultant of the publication dates

Where a project or scheme does not fall under Annex I or Annex II and is not a relevant project, and there is a Compulsory Purchase Order (CPO) required, a RoD must still be prepared and a NoD published. The NoD must be published before the details of the project are published. In practice the NoD and draft orders are published at the same time. Templates for a non-relevant RoD and associated NoD are available from the Transport Scotland Environmental Advisor.

### Publicity of EIAR

The EIAR must be published not later than the date when details of the project are published. Publication of an EIAR will be provided through publication of a notice in the Edinburgh Gazette and in at least one newspaper local to the area of the project.

Where the EIAR accompanies a draft order or scheme, the notices shall be conjoined.

The notice should include details of where to inspect and how to obtain a copy of the EIAR, as follows:

- The EIAR shall be made available for inspection by any person, free of charge, at all reasonable hours in the local area.

- Copies of the EIAR shall be available to be obtained by any person, at a reasonable charge.
- A website shall be used for the purpose of giving information to the public about projects of a category into which the project falls.
- A copy of the EIAR shall be available for inspection at a specified website address.

The notice should also state that:

- Persons who want to make representations about the project and the EIA report may do so in writing to the Scottish Ministers at a specified address within a specified period.
- The Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.

The period for representations set out in the notice is to be at least 42 days from the date of publication of the notice.

A reasonable charge may be made for the supply of an EIAR to a person other than a consultation body, or to a consultation body to which one copy has already been supplied free of charge.

## Publicity of other environmental assessment reports

Where non-statutory environmental assessment reports are prepared, there is no formal requirement for notification and consultation. However, it may be beneficial to publish non-statutory environmental assessment reports for certain projects to enable consultation with affected communities and stakeholders. If considered appropriate, this approach should be agreed with the relevant Environmental Advisor.

## Public Local Inquiry

Upon publication of the EIAR and draft Road Orders, if objections are received from any statutory consultee (e.g. local authorities, navigation authorities, Scottish Water, SEPA, NatureScot, HES) or landowners affected by the scheme and the objections cannot be resolved, a public local inquiry may be held. This is an official process to review the scheme, the objection(s) to it and to review evidence in order to come to a decision as to whether the scheme can progress or whether it must be amended to satisfy the objection(s) received.

## Decision making and publicity of decision (Notice of Decision)

When considering the project, Transport Scotland must take account of the EIAR and the opinions received during the 6-week consultation period from the public and the consultation bodies. The consideration should also include additional environmental commitments made during the course of a Public Local Inquiry (should one be held).

Where Transport Scotland decide to proceed with the project, a decision notice (called a Notice of Decision) must be published. This should confirm that they have taken the above information into account and also sets out information about the decision, any conditions, the reasons for the decision (taking account of public opinions) and measures which will be taken to mitigate adverse effects of the project. It should also include information on how the decision can be challenged.

The formal requirements of the notice are included in Appendix F to this Guidance Note. Templates are available from the Transport Scotland Environmental Advisor.

The notice must be published in the Edinburgh Gazette and at least one local newspaper in the area of the project. In addition, the notice must be published on a website used by the Scottish Government for the purpose of giving information to the public about projects of a category into which the project falls.

This notice is published by the Scottish Government.

The consultation bodies are also notified of the decision.

## Change to the Scheme Design

### Process if scheme changes before EIAR is published

Projects shall be re-screened for EIA where there are material changes and / or where significant time has passed between the preparation of the final EIAR and the proposed promotion date. This is to ensure that the potential impacts from design, legislative and baseline changes are robustly assessed.

Where possible the relevant EIAR chapters shall be reviewed in light of the changes identified and updated as required. The updated chapters shall be submitted to the Environmental Advisor for review.

Where the changes are significant, the updated EIAR chapters may be re-audited.

Where the changes are minor, an environmental review report may be undertaken, with any changes or updates to the EIAR included as an addendum. The environmental review report and addendum shall be submitted to the Environmental Advisor for review.

The advice of the Environmental Advisor is to be obtained in this situation.

### Process if scheme changes after EIAR is published

Projects shall be re-screened for EIA where there are material changes in:

- The physical characteristics and/or location of the project
- The environmental assessment assumptions, e.g. the construction or design year
- The level of understanding of the current state of the environment (baseline scenario)

The requirement for an EIAR Addendum should be considered where there is a proposed change to scheme design or construction assumptions at any stage after promotion of the made Orders. Where there is the potential for significant environmental effects as a result of the change, a RoD (for an addendum) must be completed, agreed and signed off. If the findings of the RoD are that significant effects are predicted, then it is necessary to repeat the public notice procedures for the determination and for the EIAR Addendum publicity and to publicise and consult on the addendum in the same manner as for the original EIAR.

If appropriate, a new EIA will be undertaken and an Addendum to the EIAR prepared. In certain cases, it may be appropriate to produce a new EIAR rather than

an Addendum (for example if the changes are large or there has been a significant time lapse in project development).

The advice of the relevant Environmental Advisor is to be obtained in this situation.

## Transitional provisions for the new Regulations

### The Roads (Scotland) Act 1984 (EIA) Regulations 2017

The changes made to the Roads (Scotland) Act 1984 by the Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 came into force on 16th May 2017. Nevertheless, the previous version of the Roads (Scotland) Act 1984 will continue to apply to projects in the following circumstances.

- Where Transport Scotland made a screening determination under the Roads (Scotland) Act 1984 prior to 16th May 2017 the previous screening requirements in section 20A(2)(b) or section 55A(2)(b) of the Roads (Scotland) Act 1984 continue to apply. After the screening requirements have been completed, the rest of the EIA procedures must be completed in accordance with the Roads (Scotland) Act 1984 as amended.
- If Transport Scotland received a request for a scoping opinion, and/or
- An Environmental Statement was published prior to 16th May 2017, the previous version of the Roads (Scotland) Act 1984 will apply to that project thereafter.

## Other relevant guidance

The key guidance for EIA and non-statutory environmental assessments is the [Design Manual for Roads and Bridges](#) (DMRB).

## Key Contacts

Transport Scotland Environment Branch:

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## Appendix A – EIA Checklist for Projects

The following is a checklist of the key issues to consider in relation to statutory EIA for projects. It should not be considered as exhaustive but indicates the main areas to be addressed. If statutory EIA is not required, some level of non-statutory environmental assessment is likely to be required. This should be agreed with the relevant Transport Scotland Environmental Advisor.

Table 1 – EIA Checklist

	Checklist item/ key question	Yes/ no	Comment
<b>1.</b>	<b>Screening stage - does the project require EIA?</b>		
1a.	Is the project in Annex I of the EIA Directive? (i.e. new motorway or expressway, or 10 km of new or widened road)		If yes, EIA required (go to 2. and continue). If no, go to 1b.
1b.	Is the project a 'relevant project' under Annex II of the EIA Directive? (i.e. do the works exceed 1 ha or are in or partly in a sensitive area (see Appendix C for sensitive areas)?)		If yes, go to 1c. If no, EIA unlikely to be required (go to 1e.)
1c.	Screen for requirement for EIA using the criteria given in Annex III of the EIA Directive (i.e. characteristics of the development, location of project and potential impacts – see Appendix B)		Complete and go to 1d.
1d.	Is the project likely to have significant environmental effects?		If yes, EIA required (go to 1e. and continue). If no, EIA is not required (go to 1e. then finish).
1e.	Has a Record of Determination been completed, agreed, signed off and put on file?		Complete and get sign off from relevant Environmental Advisor and Director. A supporting report is usually required. (Go to 1f.)
1f.	Does the project require EIA?		If yes, go to 2. and continue; If no, go to 2. & 3. then finish.
<b>2.</b>	<b>Notice of Determination</b>		
2a.	Has a Notice of Determination been prepared and published in the Edinburgh Gazette and one local newspaper?		Notice of Determination as to whether an EIA is required is always required for 'relevant projects' regardless of determination outcome.

	Checklist item/ key question	Yes/ no	Comment
			In practice, it is often advertised at the same time as the publicity notice for the EIAR (see 7a.) and/or the notice of the Draft Orders or scheme.
<b>3.</b>	<b>Screening for Habitats Regulation Appraisal (HRA)</b>		
3a.	Has requirement for HRA been considered?		If yes, go to 3b.  If no, record and finish 3. Go to 4 if appropriate.
3b.	If appropriate, carry out HRA screening.		HRA screening should be carried out at the same time as EIA screening, though with separate reports.
3c.	Has HRA screening been signed off by relevant Environmental Advisor?		If yes, go to 4 and continue.
<b>4.</b>	<b>Scoping stage</b>		
4a.	Has a Scoping Report been produced?		A Scoping Report is required for all statutory EIA projects and may be required for other projects. Go to 4b.
4b.	Has the Scoping Report been signed off by the relevant Environmental Advisor?		If yes, go to 5.
<b>5.</b>	<b>Preparation of EIA Report (EIAR)</b>		
5a.	Has a draft EIAR been prepared and reviewed by the relevant Environmental Advisor?		If yes, go to 5b.
5b.	Has the EIAR been coordinated with the HRA (if HRA required)?		If yes, go to 5c.
5c.	Has time been allowed in the design program for audit of the draft EIAR (usually 8 weeks)?		If yes, go to 6.
<b>6.</b>	<b>Audit of EIAR</b>		
6a.	Has the EIAR been passed to Environment Branch for audit?		If yes, go to 6b.
6b.	Has time been allowed for amendments and review following the audit?		If yes, go to 7.
<b>7.</b>	<b>Consultation stage - publication of the EIAR</b>		
7a.	Has a notice for the EIAR been published in the Edinburgh Gazette and one other local newspaper?		If yes, go to 7b.
7b.	Has a copy of the EIAR been uploaded to the website and a copy made available for inspection by the public at Buchanan House and at a location local to the project?		If yes, go to 7c.



	Checklist item/ key question	Yes/ no	Comment
7c.	Has the EIAR been sent to the EIA consultation bodies?		If yes, go to 7d.
7d.	Has at least a 6-week (42 day) period been allowed for consultation?		If yes, go to 8.
<b>8.</b>	<b>Decision making stage</b>		
8a.	Have the opinions of the public and consultation bodies been collated and passed to the decision makers (Scottish Ministers)?		If yes, go to 8b.
8b.	Has a notice of the Scottish Minister's decision (called a Notice of Decision) on whether to proceed with the project been published in the Edinburgh Gazette, one local newspaper and on Transport Scotland's website?  (see Appendix F for content)  (Published by Transport Group)		If yes, go to 8c.
8c.	Have the consultation bodies been informed of the decision?		If yes, go to 9.
<b>9.</b>	<b>After the Made Orders stage</b>		
9a.	Has there been a significant change in scheme design or construction methods?		If yes, go to 9b.  If no, finish.
9b.	Are changes predicted to give rise to significant environmental effects?		If yes, go to 9c.  If no, complete RoD, get sign off and finish.
9c.	Re-screen project, complete RoD, commission EIAR Addendum, publish notice of determination, advertise addendum, and carry out consultation.		Finish.

## Appendix B - Annex III Selection Criteria

The characteristics of projects must be considered, with particular regard to:

- the size and design of the whole project;
- cumulation with other existing and/or approved projects;
- the use of natural resources, in particular land, soil, water and biodiversity;
- the production of waste;
- pollution and nuisances;
- the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
- the risks to human health (for example due to water contamination or air pollution).

The environmental sensitivity of geographical areas likely to be affected by projects must be considered, with particular regard to:

- the existing and approved land use;
- the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
- the absorption capacity of the natural environment, paying particular attention to the following areas:
  - wetlands, riparian areas, river mouths;
  - coastal zones and the marine environment;
  - mountain and forest areas;
  - nature reserves and parks;
  - areas classified or protected under national legislation; Natura 2000 areas designated by Member States pursuant to Directive 92/43/EEC and Directive 2009/147/EC;
  - areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure;
- densely populated areas;
- landscapes and sites of historical, cultural or archaeological significance.

The likely significant effects of projects on the environment must be considered in relation to criteria set out in points 1 and 2 of this Annex, with regard to the impact of the project on the factors specified in Article 3(1), taking into account:

- the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- the nature of the impact;
- the transboundary nature of the impact;
- the intensity and complexity of the impact;
- the probability of the impact;
- the expected onset, duration, frequency and reversibility of the impact;
- the cumulation of the impact with the impact of other existing and/or approved projects;
- the possibility of effectively reducing the impact.

## Appendix C – Definition of Sensitive Areas

“Sensitive area” has the meaning ascribed to that expression in regulation 2(1) of the Environmental Impact Assessment (Scotland) Regulations 1999 as amended by EIA (Scotland) Amendment Regulations 2006, Regulation 2(1). Extract as follows:

- land notified under sections 3(1) or 5(1) (sites of special scientific interest) of the Nature Conservation (Scotland) Act 2004;
- land in respect of which an order has been made under section 23 (nature conservation orders) of the Nature Conservation (Scotland) Act 2004 ;
- a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994;
- a property appearing in the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage;
- a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;
- an area designated as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972;
- an area designated as a National Park by a designation order made by the Scottish Ministers under section 6(1) of the National Parks (Scotland) Act 2000.

## Appendix D – Relationship of EIA to DMRB

DMRB should be used as guidance on all environmental topics. Some topics do not currently have a consolidated methodology and the approach to these topics is therefore discussed below.

### Population and human health

There is no consolidated methodology for this topic. However, the scope of the assessment is considered to be covered by the guidance below:

#### Population:

- LA 112 Population and Human Health

#### Health:

- LA 105 Air quality
- LA 111 Noise and vibration
- LA 113 Road drainage and the water environment
- LA 112 Population and Human Health

Where effects from more than one topic occur, a qualitative description of the overall population/community and human health effects should be provided within the 'Cumulative assessment' chapter.

The scope of the assessment outlined above does not advocate completion of a Health Impact Assessment (HIA) as a requirement of EIA. Instead the outlined approach provides sufficient consideration of 'Population and human health'. If a HIA is requested by stakeholders, advice from Transport Scotland should be taken.

### Land

Whilst there is no consolidated methodology for this topic, the guidance outlined below should be referred to. It is appropriate for project teams to use professional judgement to adapt the illustrative magnitude and significance criteria within LA 104 and present project specific thresholds. Consideration should be given to:

- LA 109 Geology and Soils
- LA 112 Population and Human Health
- LA 104 Environmental Assessment and Monitoring

## Climate

Climate should be presented as a separate chapter using the guidance below:

- LA 114 Climate

In considering these elements of climate, projects should use professional judgement to provide a qualitative description of the nature of impacts. It is appropriate to include a description of the predicted change that the project will introduce in comparison to the baseline. Consideration should be given to advice within:

- [Scottish Transport Analysis Guide](#); and
- Publicly Available Specification (PAS) 2080:2016 Carbon management in infrastructure.

## Appendix E - Required Content of EIAR Notice

“(9) The Scottish Ministers must publish notice of the EIA report so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express an opinion before a decision on whether to proceed with the project is taken, and the Scottish Ministers must not make any such decision without taking into consideration any opinion so expressed to them within a period of 42 days commencing with the date of publication of notice of the EIA report.

(10) Notice under subsection (9) must state -

(a) that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;

(b) the proposed location and nature of the project;

(c) that the project is subject to environmental impact assessment and, where relevant, state that it is likely to have significant effects in another EEA State;

(d) that a copy of the EIA report may be inspected at an address in the area in which the project is proposed to be situated during the period specified under paragraph (i);

(e) the times at which a copy of the EIA report can be so inspected;

(f) an address from which copies of the EIA report may be obtained and from which further information about the project may be requested during the period specified under paragraph (i);

(g) if a charge is to be made for a copy of the EIA report, the amount of the charge;

(h) that the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, and provide the address of the website where a copy of the EIA report will be available for inspection by the public during the period provided for under paragraph (i);

(i) that any person wishing to make any representations about the project and the EIA report may do so in writing to the Scottish Ministers at a specified address within a specified period, being a period of not less than 42 days commencing with the date of publication of the notice; and

(j) that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.”

## Appendix F – Required Content of EIA Decision Notice

Extract from the Roads (Scotland) Act 1984.

“(1B) When the Scottish Ministers have decided whether to proceed with the project in relation to which an environmental impact assessment has been made they shall publish their decision together with a statement confirming they have complied with sub-paragraph (1A) and shall notify the consultation bodies by sending to them copies of, and make available to the public, documents containing—

- (a) a description of the project;
- (b) the terms of the decision;
- (c) the main reasons and considerations on which the decision is based;
- (d) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures;
- (e) a summary of—
  - (i) the environmental information; and
  - (ii) the results of the consultations and information gathered pursuant to section 20C and, where relevant, section 20F, and how those results, in particular comments received from another EEA State pursuant to consultation under section 20F, have been incorporated or otherwise addressed;
- (f) if the decision is to proceed with the project—
  - (i) any conditions to which the decision is subject;
  - (ii) the reasoned conclusion referred to in section 20B(1)(d);
  - (iii) a statement that the Scottish Ministers are satisfied that the reasoned conclusion is still up to date;
  - (iv) a description of any features of the project and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment; and
  - (v) a description of any monitoring measures required under section 20G; and



(g) information regarding the right to challenge the validity of the decision and the procedures for doing so.”



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Published by Transport Scotland, July 2022

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