

ENVIRONMENTAL IMPACT ASSESSMENT (EIA) AND THE ENVIRONMENTAL IMPACT STATEMENT (EIS)

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1.0 Background:

The obligations under Irish law in respect of EIA and EIS are derived from obligations incurred as a result of membership of the European Community. Prior to 2000 these rules were contained in various EC directives, brought into force by the European Communities (EIA) Regulations, 1989 and the EC (EIA) (Amendment) Regulations, 1999 and the Local Government (Planning and Development) Regulations, 1999. Such rules have now been largely consolidated within the terms of Part X of the 2000 Act and Part 10 of and Schedules 5, 6, and 7 to the 2001 Regulations. Essentially these rules require an EIA to be conducted by the developer (generally using specialist consultants) before consent is given for projects likely to have significant effects on the environment by reason of their size, nature or location. The results of such EIA are contained in an EIS, which must be submitted to the planning authority with the planning application, and the environmental impact of a development outlined in the EIS could be a reason for refusal of planning permission for the said development. Guidance notes in respect of the preparation of an EIA and EIS are available from the Environmental Protection Agency website at www.epa.ie.

Figure 1 outlines the initial stages in the processing of the EIS

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2.0 Developments requiring preparation of an EIS:

The position on the type of development for which an EIS will be required, has now been clarified and modified by Part X of the 2000 Act and Part 10 of and Schedules 5,

6, and 7 to the 2001 Regulations. Under the terms of the Act, the Minister is empowered to make regulations:

- Identifying development which may have significant effects on the environment, and,
- Specifying the manner in which the likelihood that such development would have significant effects on the environment may be determined.

Schedule five of the regulations lists two categories of development requiring preparation of an EIS. The first pertains to twenty-one types of development, which, by their nature will inevitably impact on the and for which an EIS is always required **(See Table 1 for a list of such developments)**. The second pertains to types of development that may or may not have an impact on the environment. In respect of this second category of development, Schedule five sets out certain thresholds and criteria in respect of various industries, and provides for the determination on a case by case basis in conjunction with the use of such thresholds and criteria, of the developments which are likely to have significant effects on the environment and for which an EIS is therefore required. Moreover, beyond such thresholds, the planning authority has discretion to require an EIS based on the characteristics of any individual development. Finally, under the 2000 Act and the 2001 Regulations, provision is made for the carrying out of an EIA in relation to developments that could have significant effects on the environment in other countries.

In general, through perusal of Schedule five to the 2001 Regulations, it is relatively easy to determine whether an EIS is needed for any particular development. In the event of uncertainty, however, the would-be developer may seek to engage in pre-application consultation with the planning authority on the matter.

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3.0 The contents of an EIS:

Under the terms of the 2001 Regulations an EIS must contain the following:

- A description of the proposed development, including information on its site, design and size,

- A description of measures envisaged in order to reduce, avoid and eliminate any adverse affects of development,
- The data required to identify and asses the main effects that the proposed development is likely to have on the environment,
- An outline of the main alternatives studied by the developer and an indication of the main reasons for his or her choice taking into account the effects on the environment,
- A description of the physical characteristics of the whole proposed development, and the land-use requirements during the construction and operational phases,
- A description of the main characteristics of the production processes including the nature and quantity of the materials used,
- An estimate by type and quantity of the expected residues and emissions (including water, air and soil pollution, noise, vibration, light, heat and radiation) resulting from the operation of the proposed development,
- A description of the aspects of the environment likely to be particularly affected by the proposed development including:
 - i. Human beings, fauna and flora,
 - ii. Soil, water, air, climatic factors and the landscape,
 - iii. Material assets including the architectural, archaeological and cultural heritage,
- A description of the likely significant effects, (direct, indirect, secondary, cumulative, short medium and long term, permanent and temporary, positive and negative) of the proposed development resulting from (a) its existence, (b) the use of natural resources and (c) the emission of pollutants, creation of nuisances and elimination of waste and the forecasting methods used to assess the impact on the environment, and,
- An indication of any difficulties encountered by the developer in compiling the required information.

If an applicant or a person intending to apply for planning permission so requests, a planning authority must give a written opinion (subject to any prescribed

consultations to be carried out by the planning authority in relation to such an opinion) on the contents to be included in an EIS. This is a procedure known as 'scoping'. Developers should note the advisability of engaging in such scoping procedure with the relevant planning authority. Similar provisions are made with regard to the submission of an EIS to An Bord Pleanála. Under Irish law, the planning authority and An Bord Pleanála have exclusive authority to determine both (a) whether the information submitted in an EIS is adequate and also (b) whether on the basis of such information, planning permission should be granted in respect of the development.

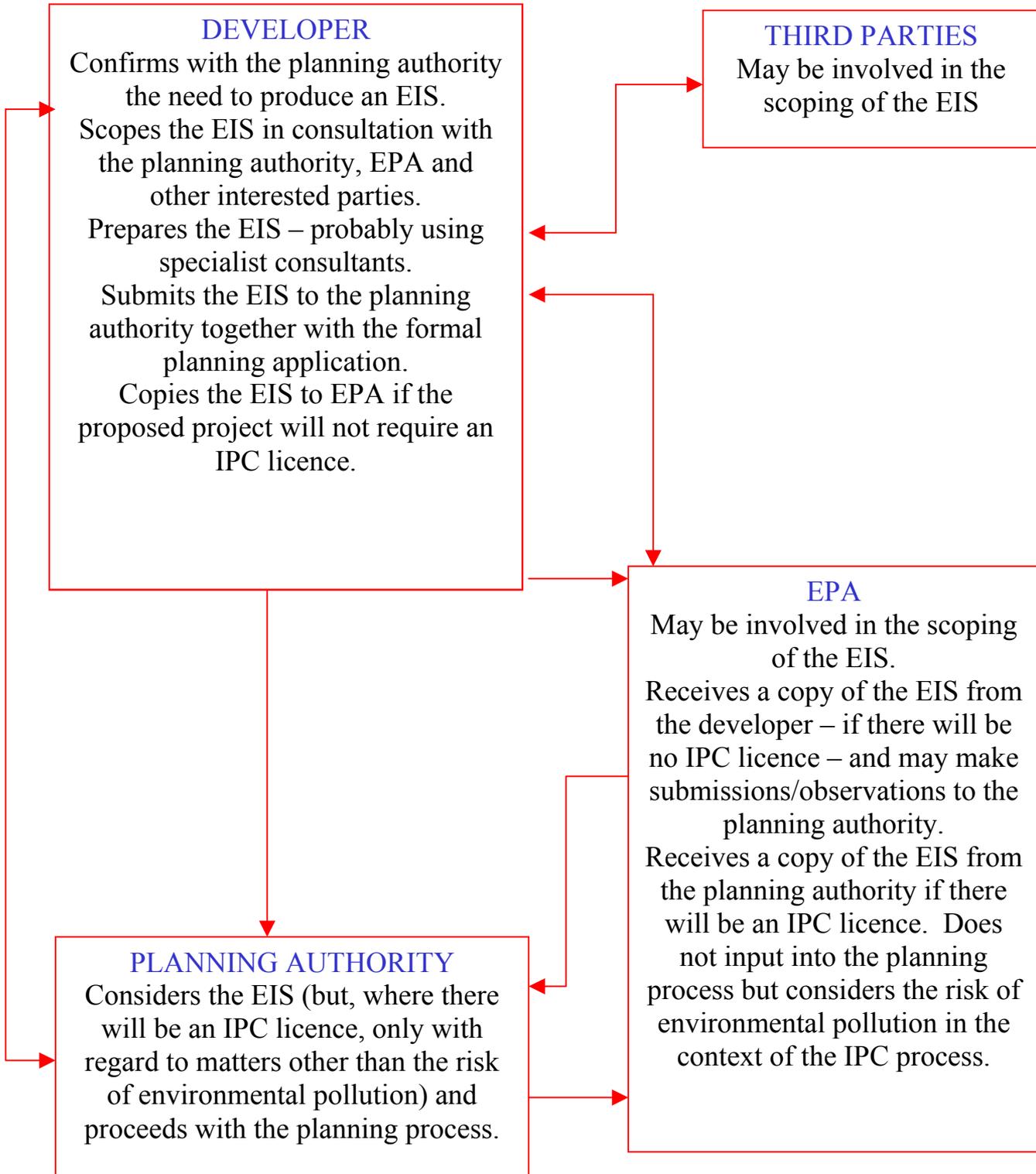
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4.0 Exemption from the requirement to prepare an EIS

An Bord Pleanála can, at the request of the applicant, grant an exemption from the requirement to prepare an EIS, provided both that the planning authority has had an opportunity to furnish observations on the request, and that exceptional circumstances so warrant. No such exemption can be granted if a member state of the EC or a state party to the Transboundary Convention having been informed about the proposed development and its likely effects on the environment of the state has indicated that it intends to furnish views on these effects.

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FIGURE 1. PROCESSING THE EIS



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TABLE 1. DEVELOPMENT FOR WHICH AN EIS IS ALWAYS REQUIRED

No	Category
1	A crude oil refinery (excluding undertakings manufacturing only lubricants from crude oil) or an installation for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day)
2	(a) A Thermal power station or other combustion installation with a heat output of 300 megawatts or more (b) A nuclear power station or other nuclear reactor including the dismantling of such a power station or reactor (except a research installation for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 Kilowatt continuous thermal load).
3	(a) All installations for the reprocessing of irradiated nuclear fuel (b) Installations designed <ul style="list-style-type: none"> - For the production or enrichment of nuclear fuel - For the processing of irradiated nuclear fuel or high level radioactive waste - For the final disposal of irradiated fuel - Solely for the final disposal of radioactive waste - Solely for the storage (planned for more than 10 years) of irradiated fuels or radioactive waste in a different site than the production site
4	(a) Integrated works for the initial smelting of cast iron and steel (b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes
5	An installation for the extraction of asbestos or for the processing and transformation of products containing asbestos- <ul style="list-style-type: none"> (a) In case the installation produces asbestos cement products where the annual production would exceed 20,000 tonnes of finished products (b) In case the installation produces friction material, where the annual production would exceed 50 tonnes of finished products, or (c) In other cases where the installation would utilize more than 200 tonnes of asbestos per year
6	Integrated chemical installations (those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several unites are juxtaposed and are functionally linked to one another and which are: <ul style="list-style-type: none"> (a) For the production of basic organic chemicals (b) For the production of basic inorganic chemicals (c) For the production of phosphorous, nitrogen or potassium based fertilizers (simple or compound fertilizers) (d) For the production of basic plant health products and of biocides (e) For the production of basic pharmaceutical products using a chemical or biological process (f) For the production of explosives
7	A line for long distance railway traffic or an airport with a basic runway length of 2,100 metres or more

8	(a) Inland waterways and ports for inland waterway traffic which permit the passage of vehicles of over 1,350 tonnes (b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers), which can take vessels of over 1,350 tonnes.
9	Waste disposal installations for the incineration, chemical treatment or landfill of hazardous waste
10	Waste disposal installations for the incineration, chemical treatment or landfill of non-hazardous waste with a capacity exceeding 100 tonnes per day
11	Groundwater abstraction or artificial groundwater recharge schemes, where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres
12	(a) Works for the transfer of water resources between river basins, where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year (b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5 per cent of this flow.
13	Waste water treatment plants with a capacity exceeding 150,000 population equivalent
14	Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas
15	Dams and other installations designed for the holding back or permanent storage of water where a new or additional amount of water held back or stored exceeds 10 million cubic metres
16	Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 millimeters and a length of more than 40 Kilometres.
17	Installations for the intensive rearing of poultry or pigs with more than (a) 85,000 places for broilers, 60,000 places for hens (b) 3,000 places for production pigs (over 30 Kilograms) (c) 900 places for sows.
18	Industrial plants for the (a) Production of pulp from timber or similar fibrous materials (b) Production of paper and board with a production capacity exceeding 200 tonnes per day
19	Quarries and open cast mining where the surface of the site exceeds 25 hectares
20	Construction of overhead electrical power lines with a voltage of 220 Kilovolts or more and a length of more than 15 Kilometres
21	Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

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