



Planning Guidance Note 1 (PGN1): Environmental Impact Assessment

**Environmental Planning Department
Falkland Islands Government**

1. INTRODUCTION

What is an Environmental Impact Assessment?

- 1.1 Environmental Impact Assessment (EIA) informs decision-making but is not in itself a decision-making process. It is a process by which information about the environmental effects of a project is collected, assessed and taken into account by the Falkland Islands Government (FIG) in reaching a decision about whether a proposed development should be granted planning permission. As such its purpose is to improve the quality of decision making by identifying potential environmental issues early in the project process.
- 1.2 An Environmental Impact Statement (EIS) is a publicly available document. It sets out the developer's own assessment of the likely environmental effects of their proposed development. It is prepared by the developer and submitted as part of their planning application.

Status of this document

- 1.3 Section 33 of the Planning Ordinance provides a power for the making of Environmental Impact Assessment Regulations. This power has been used to adopt the 2015 Environmental Impact Assessment Regulations. These regulations provide that:
- where the Planning Officer is of the opinion that a proposal which is the subject of a planning application has the potential to have a significant impact on the environment, he or she shall request that the applicant provide an Environmental Impact Statement (EIS);
 - the time period for the determination of an application is paused upon the issuing of such a request and only resumes once an EIS is submitted (to prevent an appeal against non-determination);
 - the applicant can appeal the need for EIA to the Governor;
 - where the Governor agrees that the development has the potential to have a significant impact on the environment an EIS must be submitted;
 - where the Governor does not agree that the development has the potential to have a significant impact on the environment he or she shall instruct the Planning Officer to make a recommendation to committee as to how the application might be determined, in light of the development plan and all relevant material considerations; and
 - where the applicant refuses to submit an EIS or the Planning Officer is of the opinion that a submitted EIS is not fit-for-purpose, the Planning Officer is compelled to refuse the application.
- 1.4 The above regulations clarify that when considering whether a development has the potential to have a significant impact on the environment or whether an EIS is fit-for-purpose, this is to be classed as a 'determination' for the purpose of applying section 25A (Development Plan). Section 25A of the Planning Ordinance States, "Where, in making any determination under this Ordinance, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise".

- 1.5 Therefore when considering whether an EIS is required (or fit-for-purpose) any relevant development plan policies which would inform this should be taken into account (i.e. any development plan policies which indicate in what circumstances an EIS may be required and/or what it should contain).
- 1.6 The above regulations also clarify that when considering whether a development has the potential to have a significant impact on the environment or whether an EIS is fit-for-purpose, regard shall also be had to any circulars, notes or guidance issued under section 35(2) of the Planning Ordinance. This document is a guidance note issued under section 35(2) of the Planning Ordinance.

2.0 SCREENING

- 2.1 When assessing whether a proposal has the potential to have a significant impact on the environment, the factors set out in the table below shall be considered. Proposals which are in broad accordance with a statutory development plan allocation for housing, residential, mobile homes, community facilities, leisure facilities, greenspace (including Stanley Common), retail or office development are unlikely to require an EIS.
- 2.2 Where applicants consider that their proposal may require an EIS, they are encouraged to ask the Planning Officer for an informal screening opinion as to whether one is likely to be required (although such advice is not binding).

Area	Considerations
Characteristics of development	<p>The characteristics of development must be considered having regard, in particular, to:</p> <ul style="list-style-type: none"> (a) the size of the development (including the scale of any built development); (b) the cumulation with other development; (c) the use of natural resources; (d) the production of waste; (e) pollution and nuisances; (f) the risk of accidents, having regard in particular to substances or technologies used.
Location of development	<p>The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to:</p> <ul style="list-style-type: none"> (a) the existing land use; (b) the relative abundance, quality and regenerative capacity of natural resources in the area; and (c) the absorption capacity of the natural environment, paying particular attention to the following areas— <ul style="list-style-type: none"> (i) wetlands; (ii) coastal zones and mountains; (iv) important areas for nature conservation; (v) populated areas; and (vi) landscapes of historical, cultural or archaeological significance.
Characteristics of the potential impact	<p>The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to:</p>

Area	Considerations
	(a) the extent of the impact (geographical area and size of the affected population); (b) the transfrontier nature of the impact; (c) the magnitude and complexity of the impact; (d) the probability of the impact; and (e) the duration, frequency and reversibility of the impact.

2.3 Important areas for nature conservation are those areas of likely importance for nature conservation based on the best available information. Consideration should be given to designated sites (such as National Nature Reserves, National Parks and Ramsar sites), however areas which are not designated or for which detailed information is not available should not be assumed to necessarily be unimportant (in other words absence of evidence is not evidence of absence).

3.0 CONTENT AND FORMAT

Scoping

3.1 The content of an Environmental Impact Statement should include an assessment of the overall impact of the development on the environment. This assessment of the impact on the environment should include consideration of the short, medium and long term impacts on the environment, including population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.

3.2 While the responsibility for preparing the environmental statement lies with the developer, they are expected to consult with FIG and other interested parties (such as Falklands Conservation) who may have relevant information. In particular, prior to the production of an Environmental Impact Statement, applicants are encouraged to ask the Planning Officer for an informal scoping opinion as to any key issues or useful sources of information.

Format

3.3 In assessing whether an EIS is fit for purpose the Planning Officer will consider whether it meets the principles set out below.

- EIS should be presented in an accessible format, with a non-technical summary, and informed by consultation with relevant stakeholders (including the public)
- EIS should contain relevant, factually correct and accurate information (as far as is practicable) and be concise (avoiding the inclusion of unnecessary detail)
- Where significant amounts of technical, map-based, statistical or other supporting information is included this should be placed within appendices, and the key point/conclusions set out in the main report
- Unless agreed with EPD that it is not necessary (given the nature/location of a proposal) public consultation as part of the production of the EIS prior to the submission of any planning application is expected. Details of the engagement undertaken (including methodology, level participation and issues raised) should be provided

Risk Assessment

3.4 Identifying, assessing and mitigating risks is a key part of an EIS. In assessing whether the risk assessment within an EIS is fit for purpose the Planning Officer will consider whether it meets the principles set out below.

- EIS should include a risk assessment which consider the likelihood and severity of each risk and, where there is limited data, the confidence of the assessment
- The risk assessment should provide an assessment of risks on the basis of 'business as usual' including the identification of any mitigation measures which are standard practice and so included in this scenario
- The risk assessment should include identification of additional mitigation measures and the post-mitigation risk score (including the component elements)
- The consideration should include cumulative impact of other development which is: existing; set out in a development plan document (including amendments to the same) which has reached at least the stage of being approved in principle by the Governor in Executive Council (i.e. is at least a "Draft Plan"); for which a formal screening opinion has been requested; and/or with planning permission which has not yet been implemented (or completed)
- Assessment work to produce the Environmental Impact Statement should use suitably qualified and/or experienced staff, and should include details of who has carried out the assessment and how they meet this requirement.