

**IPC Advice Log:**

The IPC is required to keep a written record of advice given about applying for an order granting development consent, or in relation to making representations about a proposed or submitted application (Section 51 (1) Planning Act 2008).

October 1<sup>st</sup> 2009 to February 16<sup>th</sup> 2010

IPC Ref	Date	Enquiry Method	Sector	Caller / Org Name	Query	Advice
09/0001	01/10/09	Telephone	General	Pinsent Masons	Clarification wanted about the transitional arrangements as they relate to community consultation.	Applicants that begin pre application consultation between 1 <sup>st</sup> October 2007 and 1 <sup>st</sup> October 2009 need not prepare a Statement of Community Consultation; however, they must submit a statement with their application for development consent that sets out how they have complied with Regulation 12 of The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (including how they have met the provisions of Regulation 4). In particular that they show how the results of the community consultation affected the submitted application.
09/0002	01/10/09	Telephone	General	Nicole	What are the criteria for submission of an application to the IPC?	The thresholds which define what constitutes a Nationally Significant Infrastructure Proposal are set out in Part 4 of the Planning Act 2008.
09/0003	01/10/09	Telephone	General	Airtricity	Do applicants require legal representation at the examination stage?	There is no requirement for legal representation; it is up to the applicant to decide whether this is necessary.
09/0004	01/10/09	Telephone	Water	Richard Simmonds	Request for guidance on pre-application process.	Sent a copy of the IPC's Guide to Roles and Responsibilities, and a copy of the Guide to pre-application consultation.
09/0005	05/10/09	Telephone	General	Ross Easton	What information is needed to be published with regard to Regulation 4 (h) and (c) of The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.	Regulation 4(h) requires details such as the name, address, telephone number, email and any other method that respondents can use to reply to the notification.
09/0006	05/10/09	Telephone	Energy	Airtricity	Clarification sought in relation to The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 Regulation 4 (h) which states that the notice publicising a proposed application should provide details of how respondents can respond to the publicity.	Promoters should include a name, address, email and any other contact details of where they can send their responses so that they can be collated and considered by the promoter. The promoter should set out clearly all the methods they will use to capture responses including any location(s) where they can be hand delivered.
09/0007	06/10/09	Meeting	Energy	Airtricity	Application currently under preparation for Nant Y Moch windfarm.	<ul style="list-style-type: none"> <li>Under the transitional arrangements the IPC would require a community consultation statement setting out how they have met the requirements of SI 2264 - Regulation 12. Explained that IPC would want to see evidence that they have had regard to the community consultation and</li> </ul>

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					<ul style="list-style-type: none"> <li>• How will pre application consultation undertaken so far be handled under the transitional arrangements?</li> <li>• How will EIA work undertaken so far be fed into the application given the encouragement in the Act for the scope of works to be agreed by IPC prior to submission?</li> <li>• How will the Energy NPS impact upon the application if it is published prior to submission?</li> <li>• How many commissioners will be required?</li> <li>• Query about associated development.</li> </ul>	<p>any correspondence between the Councils and the promoter about the proposal.</p> <ul style="list-style-type: none"> <li>• Explained that it would be extremely helpful to have early sight of the draft EIA scoping report.</li> <li>• Discussed associated development in relation to Wales and how separate applications would have to be made for the proposed substation and connection to the National Grid.</li> <li>• The Energy NPS will have a bearing on the application if it is published before determination; however, it will not be locationally specific in relation to onshore windfarms and will set out a policy context for energy related development.</li> <li>• Asked the promoter to give some thought to Welsh language considerations at the examination.</li> <li>• Advised that the IPC would only be able to determine the number of commissioners required once the scale and nature of the issues are known. Advised that the IPC are aware of the cost implications for promoters, but ultimately it would be the IPC as examining authority that will make this decision.</li> </ul>
09/0008	06/10/09	Telephone	Energy	Scottish and Southern	How detailed should our Statement of Community Consultation (SOCC) be? What should it contain? Should it be a legal type document or a brief overview of how we intend to consult the community?	Consult with the Local Authority at pre-application stage. Should be a digestible document which logically and comprehensively sets out the applicant's consultation methodology.
09/0009	06/10/09	Telephone	Energy	Airtricity / Dulas	Should the SOCC be a legal document or a brief overview of how we intend to consult the community?	<ul style="list-style-type: none"> <li>• A Statement of Community Consultation is a statutory requirement but should not necessarily be drafted as a legal document. Rather it should set out in plain English and in an accessible format how the promoter intends to consult with the community.</li> <li>• A project being taken forward under the transitional matter regulations should comply with Regulation 12 of The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009. This requires the promoter to prepare a report that details any consultation to date and how the promoter has had regard to any responses to that consultation. It should also set out how they have substantially met the requirements of Regulation 4 (SI 2264) relating to how the consultation was publicised. This should be submitted with the application.</li> <li>• Explained that we would want to see evidence that they have had regard</li> </ul>

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						<p>to the community consultation in the scheme design.</p> <ul style="list-style-type: none"> <li>• Explained about associated development in relation to Wales and windfarms.</li> <li>• Asked them to give some thought to Welsh language considerations at the examination.</li> <li>• Advised that we would only be able to determine the number of commissioners required once the scale and nature of the issues are known.</li> </ul>
09/0010	09/10/09	Telephone	General	Unknown	When can a Promoter/Applicant submit and application/development proposal to the IPC for evaluation?	The IPC can officially accept an application as of the 01st March 2010. We are unable to make decisions before this date, however we can offer advice and provide details on Process pre-March 2010.
09/0011	12/10/09	Telephone	Energy	Unknown	Wanted to know details about the thresholds applicable to onshore windfarms.	Advised that the onshore threshold is 50MW and that the information is available at section 15 of the Planning Act 2008.
09/0012	12/10/09	Telephone	Energy	Land Referencing Services LLP	A land referencing company which has been approached by a promoter for an application for a nuclear power station, wanted more guidance on the 'book of reference' under the Planning Act 2008.	The caller was forwarded the Prescribed Forms and Procedure Regulations (particularly reg 7). Also sections 52 and 53 of the Planning Act 2008.
09/0013	12/10/09	Meeting	Energy	Airtricity / Royal Haskoning	<p>Greater Gabbard Offshore Windfarm:</p> <ul style="list-style-type: none"> <li>• When is the Energy NPS due to be published?</li> <li>• What EIA information does the IPC need at this stage?</li> <li>• When does the Preliminary meeting take place and who can attend?</li> <li>• How long will the examination take and when will we get a decision thereafter?</li> <li>• Will the examination be by a single commissioner or a panel?</li> <li>• Should we arrange the</li> </ul>	<ul style="list-style-type: none"> <li>• DECC are responsible for the publication of the Energy NPS and have informed the IPC that it will be designated in 2010. The commissioner must have regard to the NPS regardless of how late in the application process that it is published.</li> <li>• It would be useful for the applicant to send in any EIA scoping statement or report that they have.</li> <li>• The examination period starts from the final day of the preliminary meeting and includes consideration of the written representations and also any oral hearings deemed necessary.</li> <li>• The examination period is 6 months, with a statutory period of 3 months thereafter for the decision to be made if the NPS has been published. If the SoS makes the decision (in the absence of an NPS) this extends the decision deadline by a further 3 months. The examination and decision making period can be shorter than the times specified.</li> <li>• It will be up to the commission to decide on whether the panel or single commissioner procedure will be adopted. This decision will be based upon the scale and nature of the issues raised at the section 56 stage.</li> <li>• The IPC can arrange the venue for the examination and charge the costs back to the promoter; however, promoters are likely to have better local knowledge of the possible venues and will want to control the associated costs. The venue must be appropriate in terms of</li> </ul>

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					<p>venue for the examination?</p> <ul style="list-style-type: none"> <li>Who has the right to be heard at the examination?</li> </ul>	<p>accessibility, facilities and its location. The IPC can advise applicants in this regard.</p> <ul style="list-style-type: none"> <li>Any interested party (those who have made a relevant representation) has the right to be heard at an open floor hearing or a hearing about a specific issue.</li> </ul>
09/0014	13/10/09	Telephone	Water	Richard Simmons	Mr Simmons had previously contacted the IPC to obtain Guidance on the application process. Mr Simmons was now enquiring about whether financial assistance would be available if he intends to submit an application for a freshwater reservoir.	Provided the telephone number of Planning Aid's South West office (0870 850 9807) to advise Mr Simmons on what financial assistance he may be able to obtain.
09/0015	14/10/09	Telephone	Energy	Airtricity	What information do we need to provide in order to officially notify the IPC of the application, to comply with section 46 of the Act?	In order to notify the IPC of the application the applicant should send us a letter asking to notify the IPC, together with any preliminary environmental information that was sent to the section 42 consultees and a map and general description of the proposed development. In addition, the draft SOCC and any response to it from the local authority.
09/0016	15/10/09	Telephone	General	Scott Wilson	Query regarding whether or not an applicant needs to have already obtained any necessary environmental licences (such as the European Protected Species Licence from Natural England) when they submit their application, or whether, as under the existing regime, this can be obtained following the granting of consent.	Caller was advised that applicants will not need to have obtained other consents or licences which are required under other legislation before a Development Consent Order (DCO) application is submitted. However they will need to let us know what these consents are when completing the DCO application. Natural England's views relating to the impact on protected species and habitats would be taken into account by the IPC when examining the DCO application and (as competent authority) we would consider any adverse effects on European sites and whether these could be overcome by imposing requirements. However, the IPC would not impose a mandatory requirement (corresponding to a condition) on the DCO to obtain any of those consents - it would be up to the applicant to obtain any operational consents which might be needed.
09/0017	19/10/09	Telephone	Energy	Airtricity	Do promoters have to put a draft Environmental Statement out for consultation?	Clarified terminology with caller - draft Environmental Statement and preliminary environmental information. Only "preliminary environmental information" forms part of the Section 42 consultation process. However, we advised that we would also encourage consultation on draft Environmental Statement when it has been prepared.
09/0018	19/10/09	Telephone	Energy	Eon	Asked general queries about duties to consult	Clarified who the statutory consultees were. Caller was in possession of the Statutory Instruments and the Act. Caller stated they would be willing to meet and discuss the points in detail.
09/0019	02/10/09	Meeting	General	Planning and Environment Bar Association	<ol style="list-style-type: none"> <li>Main concern is to ensure that issues dealt with in examinations are dealt with properly. Scrutiny is important and the draft legislation</li> </ol>	<ol style="list-style-type: none"> <li>The IPC's position in relation to the drafting of the final legislation; the IPC is independent from government and therefore CLG and the Minister decide the final legislation without any policy influence from IPC.</li> <li>The timetable for publication of the NPSs is very tight. They may not be designated before the next general election. Initially the IPC may</li> </ol>

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					<p>and guidance allows for this.</p> <ol style="list-style-type: none"> <li>2. NPSs should prevent examinations on applications from lasting for years.</li> <li>3. PEBA members' have expectations that Commissioner's use their power to control proceedings in order to make the new system work.</li> <li>4. The local planning system has been problematic because of messages from the top down. It seems IPC's mental and philosophical attitude in this regard therefore PEBA is positive that the new planning regime will work.</li> <li>5. Challenge for IPC is handle complex applications. They will bring in expert evidence that will mean ranks of experts giving opinions.</li> <li>6. Our preference would be for written representations to take the form of a 'case' with reports, as evidential documents and are each traceable for further investigation.</li> </ol>	<p>therefore be recommending to the Secretary of State on different applications.</p> <ol style="list-style-type: none"> <li>3. The IPC welcome attendance and suggestions from PEBA at this stage on the format of pre-examination meetings for applications. We advised PEBA that the IPC must ensure that those who are not as familiar with the process (of planning applications) are demonstrably seen to be and feel that they are able to, 'have their say'.</li> <li>4. A priority is to provide guidance and training to Commissioners so that across the board there is a high – and consistent - level of expertise.</li> <li>5. The difference between evidence and the way a case is put. This element of our work, working in a 'quasi-judicial capacity' has to be dealt with properly.</li> <li>6. This will vary case by case, the IPC may be issuing guidance on these issues.</li> <li>7. Douglas Evans will liaise with IPC colleagues about potential consultation.</li> <li>8. The weight of a draft NPS will have in examinations is an important issue. IPC may create some guidance for Commissioners around this. Weight will be decided by a Commissioner on a case by case basis depending upon the stage reached by a relevant NPS. All advice has to be recorded, and contact with PEBA will be on an equal footing as contact with all other consultees and stakeholders</li> <li>9. Welcomed idea of a forum and will discuss with IPC colleagues, maintaining again that all interaction – training, meetings – between the IPC and lawyers will be on a par as that between the IPC and all other stakeholders. Training for Commissioners must not relate to advising on the merits of a particular application nor advising parties on how to better promote a case. the IPC can give early advice which will be published on the website. The IPC does not give informal advice in the manner suggested as this may fall into the trap of giving advice on the merits of a proposal. The IPC system is front loaded. For the IPC to even receive an application must have completed a good deal of work in consultations.</li> <li>10. There are many implications for the IPC to consider on this subject. The sole objective of the IPC is to make the new system of planning for large infrastructure work, in a way which commands authority and for the IPC</li> </ol>

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					<p>7. We would ask that the IPC opens guidance to a period of consultation before publication, to produce the best guidance document possible.</p> <p>8. PEBA welcomes a practical approach from all parties when assembling evidence and a case for an examination. How can a Commissioner prevent an open hearing or examination from becoming a lengthy discussion on policy when the NPSs have not been designated? With only a draft NPS in a place is it not the case the any party at an open hearing can argue any point? Also advised that Section 104 of the Planning Act can also be used to abuse open hearings and undermine the purpose of the new system.</p> <p>9. A similar model to PINS, the formal programme of stakeholder contact meetings. PEBA had contributed to PINS's training and could offer support to IPC with training for hearings and the examination of written evidence.</p>	<p>to be regarded by all stakeholders as both seen to be and actually be independent. Section 104 does allow the IPC to act independently. The IPC wants to minimise meritorious judicial review of its decisions. People have a right to democratic challenge, avoid through processes all parties feel properly consulted and able to participate on all applications.</p>

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					10. PEBA asked whether the IPC will be retaining lawyers?	
09/0020	27/10/09	Telephone	Energy	Planning Group	Caller will be putting in an application for an on-shore wind farm generating 50MW in the near future. Wanted to know general information about to whom they would have to apply as they couldn't find the relevant information on our website. Likely to be submitted to the IPC in approx 12 months all being well.	The caller was directed to the relevant documentation on the website. The caller was told that due to the capacity of the generating station, it would be within our threshold and therefore an IPC project.
09/0021	20/10/09	Telephone	Ports	Mouchel	Caller wanted to clarify as to whether the threshold for container ships (which are specified as 500,000 TEU) is per ship. The query was raised as the consultant is currently working on a proposed jetty extension.	Caller was advised that the agreed interpretation of 500,000 TEU relates to the total quantity of material per year and not per ship. Caller was contacted to confirm this and to confirm that the threshold for cargo ships is 5million tons per year. Caller indicated that the proposed jetty extension was unlikely to qualify as a NSIP.
09/0022	29/10/09	Email	Energy	National Grid	Correspondent inquired as to whether individual s.52 and s.53 applications under the Planning Act 2008 can relate to land in multiple ownership, and whether access under s.53 can be granted at different times of the year to accommodate different survey requirements.	Applications under s.52 and s.53 of the Act can relate to land in multiple ownerships. The application will relate to the area of land defined in the application. At present the proposed payment in respect of s.52 and s.53 applications are stated in the draft Infrastructure Planning (Fees) Regulations 2010, the consultation for which has now closed. The finalised Fee Regulations and accompanying explanatory note may, when published, provide guidance on how the area of land will be defined in an application but the Commission cannot at present confirm whether or not this will be the case. The Commission would require that evidence is provided by the applicant of the attempts which have been made to obtain the required information under s.52 or the access required under s.53 prior to submitting an application to the Commission. Details of why the s.52 or s.53 request is being made would also be required and, in relation to s.53, details about what specific surveys the applicant intends to carry out, the duration, time and frequency when access is sought would also be required by the Commission. The IPC may publish further guidance on the format for s.52 and s.53 applications which would be made available through the website <a href="http://www.independent.gov.uk/infrastructure">www.independent.gov.uk/infrastructure</a> .
09/0023	27/10/09	Email	Energy	Statnett	Correspondent inquired as to whether an electricity transmission line	Development consent under the 2008 Act is required for development to the extent that the development is or forms part of an Nationally Significant Infrastructure Project (NSIP) (s.31 Planning Act 2008). The definition of

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					(interconnector) between Norway and the UK be dealt with by the IPC?	development as it relates to the 2008 Act is set out in s.32. An NSIP includes a project which consists, inter alia, of "the installation of an electric line above ground" (s.16) but does not include off-shore connecting cables/transmission lines. Therefore the interconnectors in themselves would not constitute an NSIP requiring development consent (leaving aside the argument that they may not constitute development in any event, not being "over land"). The interconnectors may be considered to be associated development. Associated development can include overhead/underground lines for offshore renewable energy installations and could be consented to in relation to an off-shore NSIP, such as an offshore wind farm. However, the IPC's area of control in relation to generating stations only applies within the UK's territorial seas or in a Renewable Energy Zone (except an REZ within the Scottish jurisdiction). We would need to understand where the generating stations and connectors would be to be able to give a definitive view, and would be happy to advise further with more information.
09/0024	28/10/09	Email	General	Member of public	Correspondent had a query in relation to the IPC's powers to grant compulsory acquisition orders: if an applicant were to apply to the IPC for consent to construct a large rail freight terminal, having already entered into a legal agreement about the price for rights over land/property on the proposed site, would the IPC nevertheless support compulsory acquisition on behalf of the applicant, if this meant that they could acquire the land at a lower price than the initial agreement?	<p>The promoter must demonstrate under s122 of the Planning Act 2008 that there is a compelling case in the public interest for the land to be acquired compulsorily. Issues that are relevant to that test are explained in DETR Circular 6/2004 at <a href="http://www.communities.gov.uk/documents/planningandbuilding/pdf/142928.pdf">http://www.communities.gov.uk/documents/planningandbuilding/pdf/142928.pdf</a>. Although CPOs are intended to be a measure of last resort, where attempts to reach private agreement to purchase land have failed, the fact that a purchaser might by the means of a CPO, breach an existing agreement, is not relevant to the question the IPC needs to address under s122.</p> <p>The IPC cannot consider representations into the merits of the CPO that contain material about compensation for compulsory acquisition of land (see s102(4)(e) of the Act). These are issues that should be negotiated with the promoter direct.</p> <p>Advised the correspondent that this is a complex area and as such they should take their own legal advice.</p>
09/0025	23/10/09	Meeting	Energy	RES	<p>Potential Bryn Llywelyn Wind Farm</p> <ul style="list-style-type: none"> <li>• What is the definition of "associated development" and the application to land in Wales?</li> <li>• How is it determined whether a single Commissioner or a</li> </ul>	<p>Definition of "associated development" under the Planning Act 2008 is under s.115(2) and that the extent of the application of associated development to developments in Wales is stated under s.115(4). Referred to the DCLG Guidance on Associated Development "Applications to the Infrastructure Planning Commission" September 2009.</p> <p>Guidance may be issued in due course regarding what considerations will assist the Commission in determining whether a Panel or Single Commissioner is appointed to examine an application. However, the Chair will retain discretion to make the decision in each case.</p>

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					<p>Panel examines an application?</p> <ul style="list-style-type: none"> <li>• What is the definition of a local authority?</li> <li>• What does the consultation report need to contain?</li> <li>• Can the Environmental Statement be produced in accordance with the existing DECC Scoping Report or is a new one required from the IPC?</li> </ul>	<p>Confirmed the consultation procedure with the applicable local authorities on the SoCC and noted that the definition of local authority under s.43 includes adjoining local authorities. Confirmed that RES must have regard to the DCLG pre-application consultation guidance under s.50(3).</p> <p>The consultation report which must be submitted with the application for development consent (s.37(3)(c) and s.37(7)) needs to outline how the relevant groups were consulted, the feedback received and how this feedback has been taken into account. Reference was made to the requirements under s.49 of the Act.</p> <p>Outlined the EIA process and noted that either RES must submit a formal screening request or notify the IPC that the proposed development is an EIA development under Regulation 6 the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("EIA Regulations"). If the IPC is notified it must then notify the statutory consultation bodies under Regulation 9 of the EIA Regulations. RES may ask the IPC to provide a scoping opinion under Regulation 8 of the EIA Regulations however this is not a requirement. It is for RES to decide whether the Environmental Statement is produced in accordance with the DECC Scoping Opinion or to seek a Scoping Opinion from the IPC but should bear in mind the impact it could have on the effectiveness of the consultation and ability to comply with s.49 of the Act.</p>
09/0026	29/10/09	Email	Transport	Trafford Centre	<p>Salford City Council gave planning permission for a multi modal (including rail) freight interchange last summer. Now need to obtain consent to: (a) construct the railway line serving the proposed interchange; (b) construct a new bridge over the Manchester Ship Canal and; (c) carry out alterations to the M60 including the closure of three slip roads - plans provided also refers to improvements at three junctions and "online" improvements along the route of this motorway. Caller wanted to know which, if any, of these projects would come under the remit of the IPC?</p>	<p>The Planning Act 2008 aims to remove the legislative burden on promoters of nationally significant infrastructure projects (NSIP) by allowing them to apply for permission for associated development at the same time as they obtain development consent for an NSIP. The three outstanding elements of the project the correspondent refers to would appear to be development associated with a rail freight depot. However, while the proposed rail freight element of the depot clearly crosses the thresholds of an NSIP, permission was sought and obtained for it before 1 March 2010. Unless you chose to seek development consent for the rail freight interchange after 1 March 2010 the benefits of rolling the multiple consents into the development consent order authorising associated development would not apply. Correspondent was advised on the following in relation to existing consent regimes : (a) construction of a railway line - Section 25 of the Planning Act indicates the conditions when the construction of a railway is in itself an NSIP. The legislation explicitly rules out construction or alteration of a railway line associated with a rail freight interchange as an NSIP that the IPC can determine. Correspondent was informed of possibility of obtaining consent under the Transport and Works Act 1992. (b) new bridge over the Manchester Ship Canal - this could potentially be an NSIP in its own right but only if the Secretary of State were to be the highway authority for the new highway. If the new bridge crossing is to be a private road or a road adopted by Salford City Council, then it would not be an NSIP. Correspondent advised that</p>

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						<p>they would need to apply for consent under one of the current consenting regimes. (c) alterations and improvements to the M60 - Section 22 of the Planning Act states that alterations and improvements to motorways and trunk roads managed by the Highways Agency on behalf of the Secretary of State are NSIPs. The works that the correspondent described would be NSIPs in their own right. It will therefore be necessary to obtain consent from the IPC after 1 March 2010 for these works. If you applied directly to the IPC to obtain consent for these highways alterations, the IPC would need to be satisfied through documentation submitted to us that the alterations were to be carried out on behalf of the Secretary of State. We would usually expect the Highways Agency to be applying for consent to the IPC, as the alterations and improvements are proposed in relation to their highway. The Highways Agency have already indicated that they would be likely to be applying for consent to carry out these alterations. A meeting was proposed to discuss these issues further.</p>
09/0027	5/11/09	Email	Energy	Airtricity	<p>If Airtricity is granted a Development Consent Order ("DCO") for a project consisting of a definite number of wind turbines, could it in fact build fewer turbines specified in the DCO?</p> <p>Following grant of a DCO can the promoter install turbines of a different height or tip capacity?</p>	<p>If Airtricity were to be granted a DCO for a project where 70 turbine bases have been specified in the proposed development description, then Airtricity would be able to build out fewer than 70 turbines without breaching the DCO. This is subject to a restriction, however, if the amended plans were to breach any of the provisions or conditions of the DCO, the amendment would not be lawful (unless the DCO had been amended in the correct manner). In particular, there may be provisions/conditions that relate to phasing or other relevant matters, possibly resulting from the fact that a specified number of turbines are required to achieve a stated purpose (e.g. to provide the least significant impact on environmental receptors). Where such provisions are contained within the DCO, building fewer turbines would not be permitted under the original DCO.</p> <p>Additionally, if Airtricity is granted a DCO for a project and wish to (following the DCO's being issued) install turbines with different height or tip capacity, then the ability to do this will depend on whether the description of the project set out in the DCO allows this level of flexibility. Airtricity, when submitting a draft Order and describing the proposed development in the ES, will need to be satisfied that the description of the project (and assessment in the ES) defining the height, blade tip, number of turbines etc is sufficient to allow any potential deviation that may be desired. There is no statutory provision specifying allowable deviation under the Planning Act 2008. Any flexibility in the description of the scheme would need to be identified in both the draft Order submitted and the ES, and would also need to explain why this flexibility is required. If the deviation is outside the description of the project under the granted DCO or would breach any provision, then a separate development consent application would be required (or a change would have to be made to the DCO). The draft Renewables NPS may provide guidance on the considerations which the IPC may have regard to in relation to flexibility when determining an application.</p> <p>The Commission would advise that it is important to take your own legal advice</p>

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						on the description of specific projects and whether these will allow any flexibility that you may require.
09/0028	06/11/09	Telephone	Transport	Network Rail	<p>How long does the LA have to submit comments on the consultation? Are these submitted directly to the IPC?</p> <p>How is the promoter expected to advertise the statement of community consultation and proposed application?</p>	<p>Caller was referred to s.47 of the Planning Act 2008 which states that Local Authority have 28 days from the date of receipt to submit comments and they will be submitted to the promoter/applicant (not the IPC).</p> <p>The caller was also referred to s.47 (6) which lists the requirements of publishing the statement of community consultation and regulation 4 of the Statutory Instrument 2264 which lists the requirements of publishing the proposed application.</p>
09/0029	09/11/09	Email	Energy	London Tideway Tunnels Delivery Team	Correspondent sought additional guidance about publishing a SOCC. Their current draft is 32 pages long: do they need to publish them all or can they publish a summary?	There is no provision to provide a summary of the statement and the statement must be published in full. It will be the promoter's responsibility (taking legal and other professional advice as appropriate) to decide whether the SOCC to be published provides sufficient information to inform the public about the promoter's consultation plans.
09/0030	09/11/09	Email	Nuclear	Stephen Rees	Fears over flooding of nuclear power plants -has the IPC considered these dangers? The Hinkley and Oldbury sites in particular are located near the Bristol Channel and Severn Estuary.	The new process for determining nationally significant infrastructure projects presents some key opportunities for you to raise your objection in public forums and to decision makers. Firstly, you can raise concerns by responding directly to DECC, the government department responsible for consultation of Draft NPS for Energy. [www.energynpsconsultation.decc.gov.uk.] In addition, for specific proposals you can raise your concerns at the pre-application stage through your local authority and directly with any promoter. If the promoter has consulted with the community in an acceptable format and the proposal has been validated for consideration there will also be an opportunity to make representations to the IPC and become an interested party for the purposes of any hearing or consideration by written representation.
09/0031	10/11/09	Email		Stephen Foster	What mechanism can be used to register an objection to one of the schemes up for consideration by the IPC?	<p><u>Pre-Application stage</u> Under the Planning Act 2008, when a promoter proposes to make an application for an order granting development consent, the promoter has a duty to consult about the proposed application (section 42) and to publicise the proposed application (section 48) and a duty to take account of the responses to this consultation and publicity (section 49).At the Pre-application stage, consultation responses in relation to the proposed application should be sent directly to the promoter. The publication of the proposed application by the promoter will include details of how to respond to the publicity and the deadline for receipt of these comments by the promoter (Regulation 4 of The Infrastructure Planning Applications: Prescribed Forms and Procedure Regulations 2009).</p> <p><u>Application stage</u> When the IPC accepts an application for an order granting development consent the promoter must notify people that the application has been accepted and</p>

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						publicise the application. In response to this notification, representations on the application can be sent directly to the IPC. The IPC will not receive applications until March 2010.
09/0032	11/11/09	Telephone	Waste	Plymouth City Council	Decisions will be made shortly to identify sites for the decommissioning of nuclear submarines. Would an application to carry out such work be the subject of reference to the IPC?	It would not be appropriate for the IPC to give legal advice, so it was suggested that the question be referred to their own lawyers. The caller was made aware of the NSIP thresholds as stated in the Planning Act, and informed that if the type of development proposed is within the categories set out in the Act, then it may fall under the jurisdiction of the IPC, otherwise the existing planning consent system would apply.
09/0033	16/11/09	Email	General	Mr S Coogan	Correspondent had a query in relation to the IPC's compulsory purchase powers. If an applicant were to apply to the IPC for consent to construct a large rail freight terminal, having already entered into a legal agreement about the price for rights over land/property on the proposed site, would the IPC nevertheless support compulsory acquisition on behalf of the applicant, if this meant that they could acquire the land at a lower price than the initial agreement?	The promoter must demonstrate under s122 of the Planning Act 2008 that there is a compelling case in the public interest for the land to be acquired compulsorily. CPOs are intended to be a measure of last resort, where attempts to reach private agreement to purchase land have failed. A representation which relates to compensation is not a 'relevant representation' which the IPC can take into account. Advised the correspondent that this is a complex area on which they should take their own legal advice.
09/0034	17/11/09	Telephone	General	Mr R Ryder	Would an application for a large scale quarry be dealt with by the IPC?	No. Mineral Extraction is not a project which falls within S14 of the Planning Act 2008 therefore the IPC would not be the relevant authority.
09/0035	17/11/09	Telephone	Transport	Arup	Caller was involved at the very preliminary stages of a major inter-modal transport project known as Heathrow Hub. He wanted to know the remit of the IPC, its process stages and how they fit in with new NPS's. He was concerned that the NPSs were not holistic.	The IPC must have regard to any NPS which has effect in relation to the development. Government departments are responsible for the content of these NPSs, which is not a matter for the IPC. Caller referred to website.
09/0036	17/11/09	Email	Water Supply	Tracey Viney/ Portsmouth Water	Request for advice regarding the appropriate interpretation of S27 of the 2008 Planning Act. The enquirer provided basic	From the legislation and the example given, the IPC is likely to consider the whole project, including the volume which cannot be drawn for use, when determining whether the volume of water exceeds the threshold. Enquirer was made aware that our response is on the basis of the limited information supplied

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					information of a reservoir plan and asked if the Act referred to the 'usable' volume of water only or if it included the volume of water which cannot be drawn from the reservoir.	and should not be relied upon as a formal determination of jurisdiction which would depend upon the facts.
09/0037	19/11/09	Phone and Email	General	Robert Orford/ Health Protection Agency (HPA)	Who makes the judgement as to whether or not a proposal could cause harm to people and therefore making the HPA a relevant statutory consultee?	<p>According to S42 of Planning Act 2008, the applicant has a statutory duty to consult such persons as may be prescribed in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The Health Protection Agency is a prescribed body.</p> <p>At the pre-application stage it is the promoter's responsibility to establish which statutory consultees should be consulted and to consult those bodies. Promoter will contact organisations directly to discuss the impacts of the development - for example in the case of your own agency, whether development involves chemicals, poisons or radiation which could potentially cause harm to people - in order to identify the relevant statutory consultees.</p> <p>If an environmental statement is required and the promoter asks the IPC to provide a screening opinion the IPC must also consult "the consultation bodies" before adopting the opinion. In this case, it is the IPC's responsibility to decide which consultation bodies (for example the Health Protection Agency) should be consulted about the information to be included in the environmental statement.</p>
09/0038	19/11/09	Telephone	General	Michael Phillips/ Dulas ReSolutions	Call to clarify whether a notification under s.46 of the Planning Act 2008 can be given in a written letter format and whether this can include notification under Regulation 6(1)(b) of the EIA Regulations 2009	Confirmed that s.46 and Regulation 6(1)(b) notification can be in a written letter format and can be included in the same letter. Clarified that the s.46 notification will need to be accompanied by such information in relation to the proposed application as the applicant would supply to the Commission for the purpose of complying with s.42 under s.46(1). Confirmed that s.46 notification under the PA 2008 must take place on or before commencing consultation under s.42 of the PA 2008 whilst notification under Regulation 6(1)(b) to the IPC must take place before commencing consultation under s.42 of the PA 2008. Confirmed that if transitional consultation provisions under Regulation 12 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 want to be relied upon then the promoter must notify the Commission of the proposed application before any application is submitted under Regulation 12(3).
09/0039	19/11/09	Phone	General	Unknown	Does the IPC get involved with drafting the SOCC at pre-app?	The IPC has no statutory role in drafting the SOCC- this is for the promoter to do and the promoter must consult the relevant local authority about what is to be in the SOCC. We cannot compromise our independence – we cannot comment on the merits of an application when giving advice.
09/0040	20/11/09	Email	General	Mr George Rushbrook	Complaint that consultation within local community has been virtually non-existent; requested details of consultation process, how it interacts with local people	Confirmed that the Planning Act puts duty on scheme promoters to undertake consultation before submitting application for development consent order; that local authority plays key role because the promoter must consult the local authority about what should be in the Statement of Community Consultation, and that in due course the IPC will decide whether to accept an application and take

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					and how to find out about current progress and agreements.	a view on whether promoter has fulfilled consultation obligations. Advised that IPC does not have power to mediate in respect of consultation obligations now, but that the IPC takes promoter obligations seriously. Advised Mr Rushbrook to write to the promoter about consultation concerns and copy in local authority, and that we would keep the complaint on file. Also provided links to Planning Aid and CLG guidance on consultation.
09/0041	24/11/09	Email	General	Gemma Couzens/ RWE Npower Renewables Limited	Query regarded the pre-application consultation process and the suggested timetable to consult with local stakeholders especially in regard to the preliminary environmental information under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.	<p>The statutory requirements allow some flexibility for promoters to determine the most applicable programme by which they will be able to comply most effectively with their duties. The overriding intention of the legislation is to ensure that detailed matters are consulted upon and solutions or mitigation negotiated with the local community, landowners, statutory consultees and local authorities before submission of the application for development consent to the IPC. Where an application will be subject to processes under the EIA Regulations and the Habitats Regulations there will be consultation with statutory environmental bodies, and others with useful local knowledge, to obtain their considered views on the potential environmental impacts of the proposal. It is for promoters to best judge at what stage in the formulation of project proposals to commence formal consultation with those bodies and how that relates to the local community consultation. The following steps set out in summary the IPC's view of the most likely order (some steps will be undertaken in parallel) for various procedural steps:</p> <ol style="list-style-type: none"> <li>1) Notification or request for screening direction from IPC under Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the EIA Regulations"). (<b>NB</b> Reg 6 relates to the procedure for establishing whether an environmental impact assessment is required)</li> <li>2) Submission of material to the IPC, on whether the project is or is not considered likely to have a significant effect on a European site. The applicant will need to consult with statutory environmental bodies (and other relevant authorities where additional consents e.g. in respect of SSSIs may be required) on this issue and the IPC would welcome representations and supporting information from promoters on this matter at a very early stage.</li> <li>3) Request for scoping opinion from the IPC on the required environmental statement under Regulation 8 of the EIA Regulations. This step may occur after notification to the IPC under s46 of the Planning Act 2008</li> <li>4) Send a notification of the proposed application to the IPC accompanied by such documents as required for s42 consultation to be undertaken with local authorities, statutory consultees, landowners and others significantly affected. This step must occur on or before the s42 consultation start date.</li> <li>5) Formal consultation on the proposed application under s42 with local authorities, statutory consultees and landowners. There is nothing laid down in the Planning Act or relevant Regulations that requires preliminary environmental information to be provided at the s42 consultation stage, but it is important to be aware of the matters to be publicised about the application (under s48 and Regulation 4 of The Infrastructure Planning (Applications: Prescribed Forms and</li> </ol>

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						<p>Procedure) Regulations 2009 ("the Application Regulations") and importantly the s49 duty to take account of responses to both the s42 consultation and to the local community consultation. If very little information on the project is provided to local authorities, statutory consultees, landowners and others at the s42 stage, the ability to demonstrate comments have been taken into account in developing the proposal could be hampered.</p> <p>6) S47 duty to first consult the local authority in respect of the Statement of Community Consultation ("SOCC"). The SOCC needs to state whether the proposal is EIA development and how the preliminary environmental information is to be consulted upon (Regulation 10 of the EIA Regulations), and so when an applicant consults a local authority on the SOCC the local authority will need to have the preliminary environmental information so that its response can be an informed one. The consultation with local authorities under s42 and contact with local authorities on the SOCC under s47 can occur in parallel.</p> <p>7) Publicising the application under s48 and Regulation 4 of Applications Regulations. It would be helpful if the published deadlines for receipt of views on the application are as close as possible to deadlines given to landowners and local authorities etc. in the s42 consultation. The IPC intends to produce formal guidance on this pre-application process which will be available via the IPC's website (<a href="http://www.independent.gov.uk/infrastructure">www.independent.gov.uk/infrastructure</a>) and will supplement the CLG Guidance.</p>
09/0042	26/11/09	Email	General	Gemma Couzens/ RWE Npower Renewables Limited	Further clarification sought on whether a Scoping request needs to be submitted to the IPC before or after the promoter engages with local authorities under s.47 to prepare a SoCC and carries out consultation with the local community in accordance with the SoCC	<p>A promoter may submit a scoping request to the IPC under Regulation 8(1) of the EIA Regulations which must include the information set out under Regulation 8(3) of the EIA Regulations, which can be contained within a scoping report produced by the promoter. The IPC will then carry out consultation with the statutory consultees defined in the EIA Regulations which includes local authorities defined under s.43 of the Planning Act 2008 and Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the Applications Regulations"). The IPC will then within the 42 day deadline issue a scoping opinion to the promoter regarding what information in the opinion of the IPC should be provided in an environmental statement.</p> <p>Please note that whilst the promoter can decide to use the scoping report to inform the consultation exercise with the consultees under s.42 (including the Schedule 1 consultees under The Application Regulations) and the separate consultation exercise with the local community under s.47, the scoping report does not form the basis for these consultation exercises which should focus on engaging these consultation groups regarding the proposed application. The scoping exercise undertaken by the IPC will only ask the consultees what information they think should be included in the environmental statement. Please note that the IPC will not engage the consultees during the scoping exercise on the merits of the proposed application.</p>

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						<p>The statutory requirements allow some flexibility for promoters to determine the most applicable programme by which they will be able to comply most effectively with their duties, depending on the number of issues including the complexity of the proposed project. The overriding intention of the legislation is to ensure that detailed matters are consulted upon and solutions or mitigation negotiated with the local community, landowners, statutory consultees and local authorities before submission of the application for development consent to the IPC.</p> <p>As indicated above, there are two separate formal stages of consultation on a proposed application:-</p> <ul style="list-style-type: none"> <li>• under s42 with statutory consultees, local authorities, landowners and significantly affected persons; and</li> <li>• a second with the local community under s.47 (in accordance with the SoCC which the promoter is required to consult with each local authority as defined under s.43(1) in preparation of).</li> </ul> <p>Whilst it is entirely possible that the s42 consultation is carried out first and then some changes to the scheme are made - for example to take account of fundamental environmental issues - before the community consultation is carried out, the order of consultation is a decision that the promoter will need to make.</p> <p>Deciding when to submit a formal s46 notification to the IPC will depend to some extent on how the promoter wishes to carry out its formal consultation. A balance needs to be achieved between providing well developed details which may only be possible after extensive project development work and a less precise definition which can be amended in the light of consultation. The IPC will expect the balance between these issues to be carefully considered, and it may be that an approach to the local authority under s47 prior to publishing the SoCC could seek the local authority's advice on whether an early community consultation would be advisable in the circumstances of the case. Please note that the SoCC prepared under s.47 of the Planning Act will need to state whether or not the development is an EIA development and how the applicant intends to publicise and consult on preliminary environmental information (set out under Part 1 of Schedule 4 of the EIA Regulations) which can be included in a scoping report prepared by a promoter.</p>
09/0043	27/11/09	Phone	General	Anonymous	Caller wanted to if the IPC has produced any guidance on the pre-application process	<p>The IPC intends to produce formal guidance on this pre-application process which will be available via the IPC's website (<a href="http://www.independent.gov.uk/infrastructure">www.independent.gov.uk/infrastructure</a> &lt;file:///www.independent.gov.uk/infrastructure&gt; ) and will supplement the Communities and Local Government "Planning Act 2008: Guidance on the pre-application consultation"</p>

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09/0044	19/11/09 (replied: 26/11/2009)	Email	Energy	Mr Barry Turner, Oldbury-on-Severn Parish Council	Advice requested on procedures and timescales following formal consultation on scoping request for the proposed Oldbury Nuclear Power Station.	Following the closure of consultation period (22nd Dec), the IPC will consider all responses and prepare a formal scoping opinion within 42 days of the receipt of the request, or the receipt of additional information, if requested. Additional information provided on the subsequent consultation and notification procedures throughout the pre-application and formal application process.
09/0045	27/11/09	Email	Energy	Mr Kenchington/ The Severn Navigation Restoration Trust	Working as part of proposed Hydro Electricity Project along River Severn. Provided us with a feasibility study of the project and asked if this project would classify as an NSIP	Referred to s.15 (2) (c) of the Planning Act 2008 which states that if its capacity is more than 50 megawatts, the construction or extension of a generating station in England or Wales (not being an offshore generating station) would fall within Section 14 and be a Nationally Significant Infrastructure Project (NSIP). I noted that from the feasibility study that the combined output of the proposed generators would be less than 50megawatts.
09/0046	27/11/09	Email	General	Fran Sheridan	What minimal requirements do promoters have to fulfil at the pre-application consultation stage?	<p>The promoter's obligations as they relate to the pre application stage are outlined as follows (some steps can be undertaken in parallel):</p> <ol style="list-style-type: none"> <li>1) Consult the relevant local authority on what should be in the promoter's Statement of Community Consultation (SOCC), which will describe how the promoter proposes to consult the local community about the proposals.</li> <li>2)Have regard to the local authority's response to that consultation in preparing the SOCC</li> <li>3)Publish the statement in a locally circulating newspaper and carry out consultation in accordance with the SOCC</li> <li>4) Notify the IPC of the proposed application</li> <li>5)Consult a range of statutory consultees, landowners, affected persons and local authorities</li> <li>6)Set a deadline of at least 28 days by which responses to consultation must be received</li> <li>)</li> <li>7)Publicise the proposed application in accordance with Regulation 4 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</li> <li>8)Have regard to relevant responses to publicity and consultation</li> <li>9) Prepare a consultation report, providing evidence that the above points have been fulfilled, and submit it to the IPC.</li> </ol> <p>Directed enquirer towards Chapter 2 of Planning Act. Assured enquirer that when an application is received by the IPC, we must conclude that the promoter has properly discharged the above duties before we can accept an application. If the consultation is deemed to be inadequate (e.g. if they did not consult with the relevant people or did not comply with their SOCC) the IPC will not accept the application.</p> <p>Further guidance on the pre application has been produced by CLG and is available via their and the IPC's website.</p>
09/0047	30/11/2009	Letter	Energy	Clive Nurton / Welsh	Received a letter about the scoping request for Wylfa	Under the new planning regime set out under the Planning Act 2008 and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009,

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				Assembly	generating station. Wanted to know the context behind this letter and if it is related to obtaining s36 (Electricity Act) consent	<p>where a promoter wishes to apply for an Order granting Development Consent for a Nationally Significant Infrastructure Project (NSIP) and this application needs to be supported by an environmental impact assessment, the applicant may ask the Commission as to the information to be provided in the environmental statement - a scoping opinion.</p> <p>Under the Regulations the IPC cannot adopt a scoping opinion until it has consulted with consultation bodies. The Regulations (Reg 8 (11)) set a 28 day deadline for consultation bodies to respond and the Commission is entitled to assume that the consultation body does not have any comments if a reply is not received within this timescale Reg 8 (11).</p> <p>This new single consent regime aims to avoid the problems associated with obtaining multiple consents under different statutory arrangements. This applies to obtaining consent under S36 of the Electricity Act. Section 33 (1) (h) of the Planning Act 2008 states that when a promoter obtains an Order granting Development Consent for a NSIP, consent under S36 of the Electricity Act is no longer required.</p>
09/0048	30/11/09	email	Energy	Rob Gully/RWE NPower	Request for advice regarding the acceptability of publishing two Statements of Community Consultation (SoCCs), the first providing consultation details for the early options [for substation site locations] and the second, later in the project, once the preferred location for the sub-station is known. Secondly asked for an opinion as to whether the early community consultation (i.e. at the options stage) falls before the remit of a SoCC.	Both the 2008 Planning Act and the government's guidance on pre-application consultation, provide for only one Statement of Community Consultation (SoCC) to be published for each proposed application. Specifically S.47 of the Act places a duty on the applicant to prepare a SoCC, in consultation with the relevant local authority(s) and then publish this before community consultation is carried out. In this case it can make clear that there will be multi stage consultation as the options are worked up. The SoCC can therefore identify those communities in the vicinity of each potential sub-station site who are to be consulted initially and that further consultation will be undertaken once the preferred site is known. This follows the guidance that communities should be able to participate early when proposals and options are being developed - and to do so they need to know (as set out in the SOCC and published) how and when the applicant intends to consult.
09/00049	27/11/09	email	Energy	John Rowlands	I would like to submit my reservations, upon which you may wish to comment, about the process of community consultation currently being undertaken by Horizon Nuclear Power Ltd on Anglesey.	By way of background, pre-application consultation is a key aspect of the new planning regime for Nationally Significant Infrastructure Projects (NSIPs), whereby, scheme promoters are placed at the centre of the process, with local authorities also playing an important role. The 2008 Planning Act places a statutory duty on scheme promoters to consult with local communities, local authorities and those who would be directly affected by proposals, prior to submitting an application to the Infrastructure Planning Commission (IPC). Scheme promoters must first prepare and then publish a 'Statement of Community Consultation' (SOCC), which sets out how they intend to consult the local community about the proposed development. In preparing the SOCC, the promoter must consult with the relevant local authority(s) about what is to be in the SOCC. The promoters must then carry out consultation in accordance with

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						the SOCC (this is a duty under Section 47 of the Planning Act) and submit a consultation report with the application which includes how they have taken into account any responses received. Before it can accept an application, the IPC must be satisfied that the promoter's pre-application consultation has complied with these requirements. In deciding on the adequacy of the pre-application consultation, the IPC will consider any views expressed by the relevant local authority. I can assure you that the IPC takes the promoter's consultation obligations very seriously. If you have any observations about the form of consultation which the promoter should undertake to meet its Section 47 consultation duty (which might influence the way in which the promoter develops the SOCC) or you have concerns about the effectiveness of the Section 47 consultation which takes place I would suggest that you write directly to Horizon Nuclear Power and the Isle of Anglesey County Council with your comments. You could structure your comments with direct reference to the Government's guidance on pre-application.
09/0050	24/11/2009 & 25/11/2009	DECC Consultation Event Peterborough and York	General	The Public	<ul style="list-style-type: none"> <li>• How do the public get involved at the hearings? How is it assessed who gets to speak?</li> <li>• For an application for a port development that falls within the NSIP thresholds, what would be considered as associated development? For example could a housing scheme or regeneration scheme be placed in the same application for a single consent?</li> <li>• How long will it take to make a decision on an application?</li> <li>• If a coal power station received section 36 (of the Town and Country Planning Act), but then the application had changed and was now over the threshold for an NSIP in the Act would the application have to be resubmitted to the IPC?</li> <li>• Would the Yorkshire Forward still be considered</li> </ul>	<ul style="list-style-type: none"> <li>• Once interested parties have registered their interest, the Examining authority will make an initial assessment of the issues and will then hold a preliminary meeting where an invite will be sent to the applicant and each other interested party to make representations about how the application should be examined. <i>Refer to S.88 of the PA 2008.</i></li> </ul> <p>The Examining authority may decide to proceed with hearings about specific issues i.e. noise. Where these are held, each interested party at the hearing is entitled (subject to the Examining authority's power of control over the conduct of the hearing) to speak about the issue. <i>Refer to S.91 of the PA 2008.</i></p> <p>If an interested party requests to be heard at an open floor or acquisition hearing and the Examining authority hold the hearing (open floor or/and acquisition), all interested parties are entitled to speak (subject to the Examining authority's power of control over the conduct of the hearing). <i>Refer to S.92 and 93 of the PA 2008.</i></p> <ul style="list-style-type: none"> <li>• A regeneration scheme or housing development cannot be considered as associated development and would require its own consent. <i>Refer to S.115 of the PA 2008.</i> Associated development is works associated with the scheme which needs development consent.</li> <li>• Approximately 12 months for the IPC to make its recommendation (or decision if the NPS is designated) and then the SofS will make the decision within 3 months starting on the day after it receives the IPC's recommendation.</li> <li>• If the changes to the project were deemed significant enough for a new application and the scheme was considered a NSIP under the Planning Act 2008, then after the 1 March the application would come to the IPC.</li> <li>• A list of statutory consultees can be found in the regulations for application: prescribed forms and procedure, (SI 2264) under schedule 1. This includes</li> </ul>

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					as a statutory consultee? Who would be considered as a statutory consultee for an offshore wind farm? I do not believe that just the statutory consultees are enough for consultation, how would other people be consulted and find out about it, and how will it be monitored? Are the LA expected to send out copies of the SOCC?	the relevant Regional Development Agency (Yorkshire forward).The promoters are advised to think broadly and widely when consulting, particularly for offshore wind farms. The IPC will not validate an application unless satisfied with the pre-application consultation. The local community can find out who and how they will be consulted through the Statement of Community Consultation (SOCC) which the promoter will publish. <i>Refer to S.42, and S.47–S.49 of the PA 2008.</i> The onus is on the promoter to publish the SOCC i.e. in the local newspaper, (requirements set out in SI 2264). The LA is not expected to send out copies of the SOCC.
09/0051	02/12/09	Phone Call	General	Mr Edmunds	What level of detail should be included in the SOCC? Does the IPC have any further guidance? If the local authority is satisfied with the content of the SOCC, does that suggest that the IPC will also be satisfied? How long does the document have to be and does it all need to be published in the newspaper?	View section 47 of the Planning Act 2008 and the CLG guidance on pre-application consultation. The local authority should be consulted as to the content and detail of the SOCC. The IPC intends to publish guidance in relation to pre-application procedures, which will cover amongst other things matters in relation to the SOCC. The IPC are unable to confirm that it would be satisfied with the detail in the SOCC if the local authority is satisfied. The Commissioners and/or the Chair/Deputy Chair ultimately decide if an application will be accepted.
09/0052	03/12/09	Phone Call	General	Newham Council Mr. Chris Gascoigne	A promoter, planning to submit an application for a renewable energy generating station which they believe is an NSIP, has contacted them for pre-application advice.  Newham Council usually apply a fee to any advice they give at a pre-application stage however the promoter is resisting this fee, arguing that the new regime removes the Councils ability to do this.	The Council will need to use powers under other legislation if they wish to charge as indicated, and that other legislation is not something on which we can advice. The Council's own legal service will be able to advice. The powers set out in the Planning Act 2008 do not include the ability for any party to charge pre-application advice but the Planning Act 2008 does not remove powers under other legislation for charging a fee if the Council can satisfy itself that its action falls within those powers.
09/0053	04/12/09	Phone Call	General	Dyson Bircham Bell Solicitors	Discuss the legal interpretation and the scope of Section 22 of the Planning Act 2008. The conversation focused upon the differences between sub-sections 22 (2), (3) and (4) of the Act and the definitions of the	Sub-sections 22 (3) and (4) could be argued, without any comment upon the merit of such a proposition, to have a meaning to the effect that an improvement was always an alteration. However, the important difference in the drafting of sub- paragraphs 22 (3)(c) and (4)(c) should be noted and in any event there could be cases where the purpose of an alteration to a highway may not be an improvement in the sense, for example, increasing of highway capacity, the alteration being required for reasons unrelated to any specific highway

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					words "alteration" and "improvement" in Section 235 of the Act.	improvement objective. Section 22 is wide in scope and would have implications for the way the Highways Agency will have to take forward certain projects in the future. Equally, relevant highway proposals brought forward by developers may also come within the scope of the Section
09/0054	13/11/09	Meeting	General	Natural England Mr. Ian Smith	<p>Prior to the meeting, the possibility of signing a formal Memorandum of Understanding was flagged. It was agreed that this would not be necessary. Vincent Maher had sent some questions to Mr. Smith prior to the meeting. They were answered as follows:</p> <p>(1) Does NE have specific experts on, for example, bats, birds and newts?  (2) To whom should consultation on EIA Scoping requests and habitats matters be sent?  (3) How will NE be organised to respond to proposals that come to the IPC?  (4) Would you like the IPC to brief your regional teams on the process for obtaining development consent?  (5) Who should the IPC contact in relation to forthcoming projects?</p>	<p>(1) The IPC ought to consult specialists at a regional level. Though there is a national team of experts, the first point of contact ought to be specific to the region of the proposed development. Natural England is in the process of compiling a list of contacts for the IPC in each of the nine regions. Mr. Smith also mentioned that there will be some national co-ordination of regional engagement with the IPC to help ensure consistency.</p> <p>(2) As above, the IPC ought, in the first instance at least, to contact the named regional contact. Any urgent requests in the meantime should be sent to Joanna Russell.</p> <p>(3) All engagement with the IPC will be dealt with by the named contact in each region. Project teams will be set up in the regions in response to specific proposals, with one team member taking the lead on each case. Any national support needed will be handled internally, so the IPC will rarely, if ever, need to have contact with the national specialists in relation to specific cases. A national coordinator (yet to be named) will be appointed to oversee all IPC and IPC related engagement. A national panel to advice on major cases will be established. This panel is not yet in place, but will be chaired by an NE Director.</p> <p>(4) NE has done some work in briefing its staff about the role and workings of the IPC. Some future engagement was welcomed, though nothing definite fixed. We may expect a firmer proposal to come out of future meetings (please see below).</p> <p>(5) NE are still in the process of establishing their arrangements for dealing with IPC related matters, so, as a transitional procedure, the IPC ought to contact Joanna Russell. Ms. Russell's details are as follows:</p> <p>Joanna.russell@naturalengland.org.uk, 01747 871679.</p> <p>Other points to come out of the meeting:</p> <p>(6) NE has already been speakers at the IPC's weekly Stakeholder Seminars.</p> <p>The possibility of extending this type of engagement was discussed. In particular, it was decided that it would be useful for NE to share their expertise of Habitats Regulations with the IPC's first group of commissioners as part of Douglas Evans' broader programme of legal guidance for the commissioners. It was also agreed that any such event ought to be held before March 1st 2010 if possible.</p> <p>The nature of any such engagement should not compromise the IPC's</p>

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						<p>independence, nor have the appearance of doing so. To this end, the event's content ought to be restricted to purely procedural matters arising from the Habitats Regulations.</p> <p>(7) Mr. Smith suggested a meeting between Guy Thompson (the IPC's Relationship Director), Douglas Evans and Jonathan Bore. The meeting would be used to discuss, amongst other things, how best to coordinate each organisation's respective processes to ensure a smooth engagement procedure. Douglas agreed, and the meeting will be arranged through Elaine Free and Linda Matthews.</p> <p>(8) Mr Smith mentioned that NE was in the process of compiling their response to the draft national policy statements. NE intends to reply before the select committee deadline in January 2010. In general, NE has some issues relating to the treatment of environmental impacts, Assessments of Sustainability and Habitats Regulations Assessments in the NPSs. Another matter of interest to NE was the treatment of biodiversity in the energy NPSs. NE intends to make representations on this matter in their response.</p> <p>Douglas made the point that the IPC's only input into the draft NPSs will be in regards to how fit for purpose they are to enable the IPC to discharge its duties.</p> <p>(9) Douglas mentioned a discussion he had, had with a colleague in relation to consent for developments on land designated as an SSSI. Consent for such development must be obtained from NE, and remains so even if a development consent order has been granted under the Planning Act 2008. Among other related issues briefly raised, it was agreed that thorough consultation by the applicants with NE at the pre-application stage and sufficient involvement during the examination process would greatly reduce the chances of any divergence in judgment of the different consent regimes.</p>
09/0055	28/11/09	Email	Energy	Dr McGlynn	Complaint: Not being properly consulted by a promoter, concerned that their comments are not being taken into account.	Explained IPC role and process of us giving advice at pre app stage. Also that we will have the power to consider formally whether the consultation report (which is to be submitted with the application) demonstrates that the promoter has fulfilled its duties set out in s.49 of the Act. We advised to contact National Grid setting out the detailed reasons why it has not been possible to give views on the proposal. Also, to write to the local authority in the same terms asking them to take the points into account when reporting to the IPC.
09/0056	09/12/09	Phone and Email	Energy	Mrs Thompson, Local resident to Oldbury Proposal	Mrs Thompson had received a letter from the promoter RE asking for responses to scoping request report. Clarification was needed as to where this fits within the main consultation process. Also wanted to know	<p>Reaffirmed that this consultation on the scoping report does not comprise the community consultation required at the pre-application stage. Chapter 2 (sections 41-50) of the Planning Act 2008 specifies the statutory duties of the promoter during the pre-application stage.</p> <p>In brief, the promoter is required to:-</p> <ul style="list-style-type: none"> <li>Consult the relevant local authority on what should be in the promoter's</li> </ul>

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					the key dates for the main consultation.	<p>Statement of Community Consultation (SOCC), which will describe how the promoter proposes to consult the local community about the application;</p> <ul style="list-style-type: none"> <li>• Have regard to the local authority's response in preparing the SOCC;</li> <li>• Publish the statement in a locally circulating newspaper and carry out consultation in accordance with the SOCC;</li> <li>• Consult with a range of statutory consultees (these are prescribed in schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. This can be found at: <a href="http://infrastructure.independent.gov.uk/wp-content/uploads/2009/08/uksi_20092264_en.pdf">http://infrastructure.independent.gov.uk/wp-content/uploads/2009/08/uksi_20092264_en.pdf</a>);</li> <li>• Set a deadline of at least 28 days by which responses to consultation must be received (this deadline relates to Section 45 of the Planning Act which states that an applicant must notify the person whom they are consulting of a response deadline. This deadline must be a minimum of 28days, beginning the day after the day on which the person receives the consultation document);</li> <li>• Notify the IPC of the proposed application;</li> <li>• Publicise the proposed application in accordance with Regulation 4 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;</li> <li>• Have regard to relevant responses to publicity and consultation; and</li> <li>• Prepare a consultation report, providing evidence that the above points have been fulfilled, and submit it to the IPC.</li> </ul> <p>Advised to contact the promoter directly to obtain key consultation dates.</p>
09/0057	10/12/09	Letter	Energy	David Morris, Marine & Fisheries Agency	Unable to meet the deadline (22 <sup>nd</sup> Dec 2009) on the scoping report consultation for Oldbury Power Station and aim instead to respond by 7th Jan 2010.	<p>The IPC is subject to legislative procedures (Infrastructure Planning (EIA) Regs 2009) stating that if a consultee does not respond within 28 days of being consulted, the IPC is entitled to assume that the consultation body in question does not have any comments on the information to be provided in the Environmental Statement.</p> <p>The IPC is therefore unable to agree an extension to the statutory deadlines. Any responses received after the deadline will be forwarded to the promoter, but will not form part of the IPC's formal scoping opinion. The IPC strongly urges all consultees to respond within the prescribed statutory deadlines.</p>
09/0058	11/12/09	Email	General	Commission for Rural Communities	<p><b>Pre-examination process</b> If a statutory consultee has not made a relevant representation, can they make a written representation at the Examination stage?</p> <p><b>Local Authority Local Impact</b></p>	<p><b>Pre-examination process</b></p> <p>The Draft Infrastructure Planning (Examination Procedures) Rules 2010 state that the examining authority <u>may</u> permit a written representation to be made by any person who is not an interested party (Rule 10 (3)). However, it is strongly advised that all of the opportunities to comment are taken advantage of and that comments are submitted within the deadline. The Examining authority may disregard any request for an open-floor hearing or a compulsory acquisition hearing to be held which is received after the deadline.</p>

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					<p><b>Report</b> Can statutory consultees comment on the Local Impact Report? Who should these comments be sent to?</p>	<p>The promoter has a duty to consult the relevant statutory consultees at the pre-application stage and notify these consultees of the acceptance of the application. Commenting at the pre-application stage is extremely important as the promoter has a duty to take account of all pre-application comments and explain how / why these comments have or have not been taken into account when the application is submitted. The pre-application comments should be sent to the promoter and should be thorough. Once an application has been accepted by the IPC, the promoter will notify the statutory consultees of this and detail how a relevant representation can be made. The IPC will then invite the statutory consultees to the preliminary meeting to discuss the process the IPC will follow to examine the application. At or following this meeting, a deadline will be set for receipt of written representations.</p> <p>If an organisation is not a statutory consultee for a specific project, they should be aware of the publicity that the promoter is required to undertake at both the pre-application and pre-examination stage. For example the promoter must publish a notice with details of the proposal for at least two successive weeks in a local newspaper and once in a national newspaper, this will include details of how to comment.</p> <p>The following documents are subject to change: - Draft Infrastructure Planning (Interested Parties) Regulations 2010 - Draft Infrastructure Planning (Examination Procedures) Rules 2010.</p> <p><b>Local Impact Report</b> The Examining authority will state the period within which an interested party will have the opportunity to make representations on the Local Impact Report. These comments should be sent to the IPC.</p>
09/0059	09/12/09	Telephone & Email	General	Nabarro	<p>Caller wanted to know if an application submitted under one of the existing regimes before 1 March 2010 for a project that would qualify as an NSIP under the Planning Act 2008 would be required to be re-submitted or transferred to the IPC from the 1 March 2010.</p>	<p>If an application is submitted under one of the existing regimes before 1 March 2010, then the promoter would not be required to re-submit the application to the IPC from the 1 March 2010, even if the project would qualify as a Nationally Significant Infrastructure Project (NSIP) under Section 14 of the Planning Act 2008 ("PA 2008") and regardless of where the application is in the planning process i.e. if the planning permission has not been granted or post grant of permission where the permission has not been implemented. This information is based on statements made in paragraphs 36 and 37 in the report of the consultation carried out by Communities and Local Government and issued by CLG in March 2009, "Planning Act 2008: Consulting on Pre-Application Consultation and Application Procedures for NSIP's."</p> <p>The Secretary of State (SoS) has the power to designate projects going through under the existing regime as NSIPs and direct the IPC to handle such</p>

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						applications. This may happen where the SoS considers that the cumulative impact of a number of smaller projects should be considered as a single project by the IPC or an individual project is of national significance. This is set out under section 35 of the Act.
09/0060	09/12/09	Telephone & Email	General	NLP Planning	Call requesting details on reserved matters and the pre-application process.	<p>The procedure for outline and subsequent reserved matter applications (as detailed by s.92 of the Town &amp; Country Planning Act 1990) are not prescribed within the Planning Act 2008 and therefore are not applicable to Infrastructure Planning Commission's (IPC) development consent process. Applications for development consent submitted to the IPC would need to fulfil s.37 of the Planning Act 2008 alongside regulation 5 of the Statutory Instrument No. 2264 The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 which sets out a list of information that needs to be provided with each application.</p> <p>The Commission will decide whether to accept the application under s55 of the Planning Act 2008. In granting development consent under the Planning Act 2008, the IPC may also impose requirements in connection with the development for which consent is granted (in a similar way to conditions imposed on a planning permission).</p> <p>For pre-application consultation guidance, refer to Statutory Instrument 2264 and the DCLG guidance on pre-application consultation which can be accessed via our website under the 'Advice and Guidance' section at <a href="http://infrastructure.independent.gov.uk/?page_id=47">http://infrastructure.independent.gov.uk/?page_id=47</a></p>
09/0061	11/12/09	Telephone & Email	General	Alder King	Call enquiring whether when a Development Consent is issued will this consent run with the applicant or the land? Traditional planning permissions run with the land as opposed to the applicant (assuming that there are no specific matters which might require a personal permission or a condition limiting the consent to the applicant). Would this be the case with Development Consent Orders or would they be limited to the applicant?	<p>In terms of Section 156(1) of the Planning Act 2008 "If an order granting development consent is made in respect of any land, the order has effect for the benefit of the land and all persons for the time being interested." Therefore a DCO does run with the land.</p> <p>A DCO runs with the land. It may be, however, that if a DCO is issued, the IPC would impose provisions requiring either the whole or constituent parts of the development to be carried out by certain specified bodies so there may be situations where DCOs are the equivalent of personal permissions under the TCPA.</p>
09/0062	04/12/09	Letter	Highways	Marrons	We are writing to seek clarification from the IPC with regards to the scope of its jurisdiction, with particular reference to works to highways	Correspondence here can be viewed at the following link: <a href="http://infrastructure.independent.gov.uk/wp-content/uploads/2009/12/DE-response-letter-to-Morag-Thomson-re-NSIPs-Transport-26-Nov-09-txt.pdf">http://infrastructure.independent.gov.uk/wp-content/uploads/2009/12/DE-response-letter-to-Morag-Thomson-re-NSIPs-Transport-26-Nov-09-txt.pdf</a>

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					<p>for which the secretary of state is responsible and which are required in order to facilitate development which is not the type of development which it is intended to come within the jurisdiction of the IPC.</p> <p>(Further details of this letter can be viewed at <a href="http://infrastructure.independent.gov.uk/wp-content/uploads/2009/12/Letter-from-Marrons-to-DE-re-Transport-NSIPs-23-Nov-09.pdf">http://infrastructure.independent.gov.uk/wp-content/uploads/2009/12/Letter-from-Marrons-to-DE-re-Transport-NSIPs-23-Nov-09.pdf</a>)</p>	
09/0063	16/12/09	E-mail	Energy	GVA Grimley	<p>We are looking at submitting an application for an onshore wind energy farm which is in a flood risk area - PPS25 requires a sequential test to take place.</p> <p>However; The best practice guidance published in December 2009 states at paragraph 4.39 that a wind farm development in a flood risk area would not require completion of a sequential test.</p> <p>The document then goes on to say that there will be a further document published in Spring 2010. I have two questions relating to the above:</p> <p>1) Does the best practice guidance to PPS25 (Dec 2009) supersede PPS25 (Dec 2006); and</p> <p>2) Is there an exact date in Spring 2010 for the release of the next document?</p>	<p>Reply to question 1: PPS25 is the statement of Government Policy. The living best practise guidance is subsidiary to PPS 25 and the latter does not supersede the former. Please refer to the Department of Communities and Local Government (CLG) for any further advice on Government Policy.</p> <p>Reply to question 2: We do not have knowledge of when the document to which you refer will be published by CLG and refer you to CLG for further information.</p>
09/0064	18/12/09	Telephone	General	Avon and Somerset Constabulary	<p>Why have Avon and Somerset Police been consulted regarding the Oldbury Proposed New Nuclear Power Station Scoping</p>	<p>Explained that Avon and Somerset police are the relevant police authority under Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and the IPC is required to consult with the authority to request any comments that the authority have regarding what</p>

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					Request and what consultation role do they have?	information it considers should be provided in an environmental statement. The police authority will also be formally consulted by the promoter Horizon Nuclear Power during the pre-application consultation regarding the proposed application and (following an application being accepted by the IPC) during examination of the application.
09/0065	23/12/09	Email	Energy – Generating Stations	Iggesund Paperboard Workington	Proposal for Bio-fuelled power station which is expected to produce 80 t/h of steam and 40MW of electricity, with overall thermal capacity of 130MW - Would this be classified as an NSIP	<p>The Planning Act 2008 states that the construction or extension of a generating station would be considered an NSIP if its capacity exceeds 50MW. If this scheme gives rise to this generation threshold or has the potential to generate above this threshold it would come within our jurisdiction. However, based on the information provided we are unable to provide a definitive ruling.</p> <p>Requested that promoter seeks further clarification we suggest that they submit a full and comprehensive report of the scheme to us in the new year; In any event they should seek you own legal advice.</p>
09/0066	24/12/09	Email	Energy – Generating Stations	RWE Innogy	REW Innogy sought clarification on what statutory consultees they will need to consult in relation to the potential Brechfa wind farm application.	RWE Innogy as a promoter of a potential scheme is required to consult with bodies specified in s.42 of the Planning Act 2008, which includes the prescribed persons listed under Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("Applications Regulations"). When deciding who to consult promoters need to check the circumstances in which bodies should be consulted (these are listed in column 2 of Schedule 1) and in some circumstances (for example when identifying statutory undertakers) to judge whether a body is a "relevant body" ("relevant" is defined in the note to the Applications Regulations). If a proposal is located in Wales it may not be necessary to consult certain bodies such as English Heritage and Natural England because the circumstances in which they must be consulted are in relation to "all proposed applications likely to affect land in England". Nonetheless, for proposals located in Wales it will still be necessary to consider whether the proposed development might also affect land in England and whether English bodies should be consulted.
09/0067	30/12/09	Call	Energy – Generating Stations	Bristol City Council	Call from Bristol City Council to explain that they would be forwarding their response to the proposed new Oldbury Nuclear Power Station to the IPC on 31/12/09.	As Bristol City Council had not responded within the 28 day deadline and the IPC have already produced its Scoping Opinion (dated 29/12/09), they were informed that whilst the IPC would forward their response to the promoter for their consideration, it would not form part of the IPC's scoping opinion.
10/0001	04/01/10	Email	Transport	Highways Agency	Advice requested on whether there is a prescribed format or template for the notification of an application (s46) and for publicising an application (s48).	In relation to s46 (Duty to notify Commission of proposed application), there are no actual prescribed forms or formats relating to the requirements of this section of the Planning Act ("the Act"). The s46 notifications that have so far been submitted to the IPC have included a covering letter along with copies of the same information that is being provided for consultation with statutory consultees under s42 (Duty to consult). The Act allows for flexibility in terms of what

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						<p>information has to be provided to statutory consultees about the proposed application and it is therefore for the promoter to decide on the level of information that is supplied. However, if minimal information is provided at this stage and unless there is a clear iterative consultation process followed and further documentation provided to consultees during the process, the promoter will risk being unable to demonstrate that the scheme was carefully considered in the light of the consultation responses received. The IPC would encourage applicants to provide preliminary environmental information on the proposed scheme at this stage in order to allow consultees to provide considered and informed responses to the consultation.</p> <p>As regards s48 (Duty to publicise), Regulation 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 prescribes the manner in which an applicant must publicise a proposed application including the matters which the notice must include.</p>
10/0002	04/01/10	Email	Energy Generating Stations	Anthony Day	<p>Advice requested on the pre-application process for a proposal at Didcot Power Station and Sutton Courtenay Landfill. In particular, information in relation to the EIA process and requests for Screening/Scoping was sought.</p>	<p>Once you are in a position to request a scoping opinion you will need (in accordance with the EIA Regulations) to provide a plan sufficient to identify the land and a brief description of the nature and purpose of the development and its possible effects on the environment to enable the IPC to reach an opinion on the information which should be provided in the environmental statement. If the proposed project has significantly changed (e.g. it is now a smaller and different scheme) you will need to provide the IPC with the current description of the proposed development and its possible environmental effects to satisfy the requirements of the EIA Regulations.</p> <p>The IPC has recently published guidance on the pre-application procedures and this is available on our website</p> <p><a href="http://infrastructure.independent.gov.uk/?page_id=45">http://infrastructure.independent.gov.uk/?page_id=45</a></p> <p>In relation to the EIA process, paragraph 12 of the IPC Guidance Note 1 is a summary of the likely order of procedural steps and the relationship between consultation with the local authority (in respect of the Statement of Community Consultation) and preparation of the preliminary environmental information.</p>
10/0003	23/11/09	Letter	General	Mr J Green	<ul style="list-style-type: none"> <li>How does the commissioner or commissioners appointed by the IPC, enforce an applicant company seeking planning permission, to fulfill their statutory duty to consult widely, concerning the consequences of the proposal, before submitting the application to the</li> </ul>	<ul style="list-style-type: none"> <li>The Planning Act 2008 requires a promoter to carry out consultation before submitting an application for development consent. Before the IPC can accept an application it must be satisfied that the promoter has complied with this statutory duty (s55). In reaching a view as to whether the promoter has met the duty the IPC will consider the consultation report (prepared by the promoter) and take into account any views expressed by the relevant local authority on the adequacy of the consultation. If the IPC is not satisfied that the promoter has met his consultation duties, the application will not be accepted.</li> </ul>

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					<p>IPC? How will the IPC determine if the applicant company has consulted the public and interested parties effectively?</p> <ul style="list-style-type: none"> <li>• If the application remains contentious, who will pay for the legal challenge from the objectors?</li> <li>• How and who at the IPC will decide between projects that would increase carbon dioxide (or other sustainability impacts) and those that do not - given that climate policy would presumably not allow all higher emitting projects to be consented? Will the full decision be communicated to the public - or will decision be taken in an open public meeting?</li> </ul>	<ul style="list-style-type: none"> <li>• If you would like further information about public funding for legal costs in judicial challenge you should contact the Legal Services Commission - <a href="http://www.legalservices.gov.uk/aboutus.asp">http://www.legalservices.gov.uk/aboutus.asp</a></li> <li>• Each project will be examined and decided by IPC Commissioners on its own merits (rather than judged against other projects) and in reaching a decision the IPC will take into account the guidance provided by the relevant designated National Policy Statements (NPSs). NPSs will be the primary basis for decisions. The current draft Overarching NPS for Energy (EN-1) sets out the Government's policy on the climate change implications of energy infrastructure projects.</li> </ul>
10/0004	06/01/10	Letter	Highways	Amandeep Khroud	<p>Clarification and guidance sought in relation to the circumstances in which highways schemes will or will not require development consent, with particular reference to proposed works to J9 of the M20.</p> <p>View the letter <a href="#">here</a>.</p>	<p>The advice given can be viewed via the following link:  <a href="http://infrastructure.independent.gov.uk/wp-content/uploads/2010/01/scan0049.pdf">http://infrastructure.independent.gov.uk/wp-content/uploads/2010/01/scan0049.pdf</a></p>
10/0005	07/01/10	Phone call	General	David Holmes	<p>Caller's query was whether an application for construction of a pumped hydro-storage facility in Wales would require development consent from the</p>	<p>Advised Mr Holmes that The Planning Act 2008 states that the construction or extension of a generating station would be considered an NSIP if its capacity exceeds 50MW. If the scheme gives rise to this generation threshold or has the potential to generate above this threshold it would come within the IPC's remit.</p>

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					IPC.	However, based on the information provided we are unable to provide a definitive view. The IPC would be happy to receive further details of the scheme, and comment thereon. However, applicants nonetheless rely on their own legal and professional advice to determine whether the proposed scheme is an NSIP
10/0006	07/01/10	Phone Call	General	Catherine Scotcher	Miss Scotcher called in regards to the SoCC and its guidance available on the IPC's website and the CLG's website. She requested if there was any further guidance or literature or best practices on the SoCC.	The IPC's and CLG's website contains all the relevant and available guidance at present relating to the SoCC.
10/0007	05/01/10	Email	Energy – Generating Stations	Covanta	Wanted to clarify whether the Ministry of Defence is a statutory consultation body with which the IPC must consult in accordance with the EIA Regulations 2009.	Confirmed that the Ministry of Defence is not defined as a statutory consultation body under the EIA Regulations 2009.
10/0008	08/01/10	Phone Call	Energy	Scott Wilson	As the National Policy Statements (NPSs) are currently in draft, should promoters refer to Planning Policy Statements (PPSs) instead when preparing their applications?	The NPSs provide the primary basis for decisions on applications for development consent. At this stage the energy and ports NPS have been published for consultation and are in draft form. There may be circumstances as set out in the Planning Act when the IPC does not decide an application in accordance with relevant NPSs, for example if the decision would lead to the UK being in breach of its international obligations also where the IPC is satisfied that the adverse impact of the proposed development would outweigh its benefits.  Section 104 of the Planning Act 2008 lists the factors to be considered by the decision maker when determining an application for development consent. This includes the NPS, any Local Impact Report, matters prescribed and any other matter which the Panel or Council thinks are both important and relevant to its decision. This may or may not include PPSs. Some draft NPSs identify national planning policy as advice which the IPC may refer to (eg para 4.26.14 of EN-1 refers to PPG24)
10/0009	17/12/09	Meeting	Energy	Bedford Borough Council and Central Bedfordshire Council		Click <a href="#">here</a> to download meeting notes.
10/0010	14/01/10	Telephone	Energy	Rachel Western	Wanted to know who to locate the Wylfa scoping opinion on the website. Also wanted to know how to locate the Oldbury Scoping Opinion. Wanted to know if a scoping request had	Directed her to where the scoping opinions for Wylfa and Oldbury are available on the IPC's website. Explained that a scoping request for Hinkley C has not been made by EDF to the IPC. Stated that when a scoping request is made this will be available to view through the IPC's website located in the list of projects.

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					been submitted for Hinkley C.	
10/0011	15/01/2010	E-mail	Energy	Geraint Hughes	Mr Hughes requested information surrounding the National Policy Statements regarding onshore wind farms, in particular, where the most up-to-date information DCLG holds on onshore wind farms – specifically in the North west of England.	<p>In relation to policy regarding onshore wind farms, you may wish to view the draft National Policy Statements (NPS's) produced by the Department of Energy and Climate Change (DECC). I am aware that Jeffrey has already given you a summary of what NPS's are and how they are used by the IPC. For further information please visit DECC's website on the following link <a href="http://www.decc.gov.uk">www.decc.gov.uk</a></p> <p>With regards to the most up to date information that CLG may hold I can advise to contact CLG directly using the following link: <a href="http://www.communities.gov.uk/corporate/contact">http://www.communities.gov.uk/corporate/contact</a></p>
10/0012	02/12/2009	Meeting	Energy	Scottish and Southern Energy (SSE)	<p>1) Clarification required on classification of a Nationally Significant Infrastructure Project (NSIP) for overhead lines.</p> <p>2) Can applications to the IPC be submitted electronically in a similar way to applications to DECC?</p> <p>3) Repair and alteration form the majority of SSE workload, with new construction being occasional. How does this fit into the PA 2008?</p> <p>4) SSE asked when they should start talking to the IPC, statutory consultees and landowners etc.</p> <p>5) SSE asked if wayleaves can be incorporated within the development consent order (DCO) in provisions similar to authorisations to compulsorily purchase land.</p> <p>6) SSE enquired about EIA process.</p> <p>7) SSE enquired about the relevant offices for statutory</p>	<p>1) IPC referred to thresholds set out in S.16 of the Planning Act 2008 (PA 2008). Applications under the thresholds would be submitted under the previous regime.</p> <p>2) The IPC do not have this facility (portal) at present but it is something that the IPC is considering, however this will be different to the Department of Energy and Climate Change (DECC) system.</p> <p>3) A draft Statutory Instrument is currently under consultation by DECC regarding the transfer of S.37 (Electricity Act 1989) exemptions to the IPC. IPC referred to S.16 of the PA 2008 (installation), SSE should seek its own in house legal advice before proceeding.</p> <p>4) The importance of the pre-application process was emphasised and the IPC referred to S.46, 47 and 48 of the PA 2008, SI 2264 and the CLG guidance.</p> <p>5) IPC stated that it may be able to incorporate provisions for wayleaves as ancillary matters but the details have not yet been considered. Also, compulsory acquisition is subject to the Act, there is a need to demonstrate a compelling case in the public interest and that, if in respect of a NSIP a necessary wayleave was sought, the reasons for this would need to be clearly explained to the IPC.</p> <p>6) IPC advised that a scoping opinion should be requested (although this is not mandatory, the IPC do encourage this) then the IPC will consult relevant bodies and adopt a scoping opinion (Refer to SI 2263, EIA regulations). Where a promoter submits a screening request, a decision will be made whether an ES is required and IPC notify the relevant consultation bodies at this stage that they must provide information to the promoter if requested. IPC also referred to the Habitat Regulations – appropriate assessment. If applicable to the scheme, the IPC need to be provided with sufficient information to carry out the required assessment. Under the current draft Infrastructure Planning (Fees) Regulations 2010, requests for screening and scoping opinions are not subject to a fee.</p>

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					<p>bodies, i.e. Natural England (NE) and Environment Agency (EA).</p> <p>8) Discussion of the process including fees.</p>	<p>7) IPC clarified that having spoken with the Environment Agency (EA), they have confirmed they wish to be consulted at their head office whilst Natural England (NE) are looking at setting up a national group to deal with NSIPs.</p> <p>8) IPC explained the requirements for pre-application as set out in the PA 2008, including the need to consult the community and produce a statement of community consultation (SOCC). IPC also explained the requirements for notification of accepted applications. Deadlines emphasised. A fee will not be charged for advice given under section 51 of the PA 2008. The Draft Infrastructure Planning (Fees) Regulations 2010 were discussed and emphasised that as they are draft, they are subject to change.</p> <p>The pre-examination and examination processes were explained, as set out in Chapter 4 of the PA 2008; initial assessment will be made to identify the principal issues and then a preliminary meeting will be held. An invite will be sent to the applicant and each other interested party to make representations about how the application should be examined (S.88). The Examining authority's examination is to take the form of consideration of written representations. The Examining authority may decide to proceed with hearings about specific issues i.e. noise (S.91). The Examining authority will also hold open-floor hearings, should requests to be heard are submitted (S.93).</p> <p>IPC deadlines explained; 28 days to decide whether or not to accept an application, 6 months for the examination and 3 months for the decision. However if the National Policy Statement (NPS) has not been designated, IPC will be making a recommendation to the Secretary of State who will have a further 3 months to make a decision (S.102). Following a decision, there is also a 6 week period where the DCO may be legally challenged by a claim for judicial review (refer to S.118). There is no set deadline between acceptance of the application and the start of the examination, however during this stage the IPC will not be causing any unnecessary delays to the process. Also, if a Commissioner becomes involved with an application (for example by giving advice) at the pre-app stage, they will be exempt from dealing with the application when it is received at the IPC.</p>
10/0013	13/01/2010	Phone	General	R Rutherford	<p>Why haven't National Grid given an option for underground lines? General concerns about how the consultation process is going. Would the IPC decide the case if it were underground?</p>	<p>The IPC cannot comment on the merits of any application during the pre-application stage. We also cannot comment on any alternative proposals. We will examine the application that is submitted to us, and cannot require that National Grid include an underground option as part of their consultation.</p> <p>Any concerns about the adequacy of consultation should be raised with the promoter, and also the relevant local authorities – who will have an opportunity to comment on the Statement of Community Consultation (SoCC) and later on the adequacy of the consultation itself, during the acceptance stage.</p>

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						<p>An application for underground lines would not be a nationally significant infrastructure project and so would not be submitted to the IPC. But if an application for overhead lines, assuming it met the 132kv threshold for an NSIP, proposed some parts of the line underground it would depend on how much of the line was to be underground, and how much above ground.</p> <p>Any such decisions on whether the part underground proposal constituted an NSIP would be made on a case by case basis, and may nevertheless be subject to s35 direction by the Secretary of State.</p>
10/0014	20/01/10	Telephone	Energy	Broadway Malyan	In March will the IPC be open to accept energy from waste proposals?	Yes. For example Rookery South is an energy from waste proposal which we anticipate will be submitted to us after March 1 <sup>st</sup> 2010. Please see website for further details on proposed projects.
10/0015	20/01/2010	Phone	General	DLA Piper	When will the fees regulations be published? Under section 48 of the act (reg 4 of the applications: prescribed forms and procedures regulations) where the applicant must publish a notice for at least 2 weeks in the local newspaper; does the minimum of the 28 day period for receipt start on the first day of the second week that it is in the paper? If not which day does the 28 days start from? Under section 52(2) of the act 'the Commission may authorise the applicant to serve a notice on a person mentioned in subsection (3)'. Under what method will this authorisation occur?	<p>The final version Fees Regulations are due to be published imminently although CLG have not announced a specific date. Regulation 4 (3) (i) provides that the deadline for the consultation period is "not less than 28 days following the date when the notice is last published" - so it is 28 days from the date when the last notice (which if it concerns the local newspaper would be in the second of the two successive weeks) is actually published in the newspaper. The notice must be published in more than one newspaper under Reg 4(2), and the deadline for the consultation period is a minimum of 28 days from the latest of those publication dates.</p> <p>The form of the authorisation will follow the requirements set out in Section 52(4) - it will be in writing, state that the Commission has authorised the applicant to serve the notice, specify the land to which the application or proposed application relates, specify the deadline by which the recipient must give the required information to the applicant and draw attention to the provisions in subsections (6) to (9) (dealing with offences).</p>
10/0016	19/01/2010	Email	Energy	Rob Gully, RWE Npower	Could you please clarify which elements the IPC considers should be submitted as associated development and those that form part of the 100MW+ generating station, specifically whether this should include the main sub-sea export cables from the offshore substation(s) to the landfall, the offshore substation(s) and/or the inter-array cables that connect	<p>The requirements which must be satisfied in order for development to be "associated development" are set out in Section 115, sub-sections (2) and (3) of the Planning Act 2008 (The Act). <a href="#">Guidance on associated development</a> has also been issued by the Department of Communities and Local Government (CLG), September 2009.</p> <p>In this context associated development can include both offshore and onshore elements, as the proposal is in England and in waters adjacent to England. However it is for the applicant when preparing an application for development consent for a Nationally Significant Infrastructure Project (NSIP) to decide whether to include something that could be considered as associated development.</p>

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					the individual turbines to the offshore substation(s)."	<p>On receipt of an application the Infrastructure Planning Commission (IPC) will determine whether, as a matter of fact and degree, those elements of the development are integral to the project, or associated development or neither of these (see s115 of the Act). In reaching its decision, the IPC will have regard to the above guidance. The guidance includes some principles around associated development and also provides examples, in Annex A. However applicants should be aware that these examples are illustrative only and are not intended to be exhaustive, nor prescriptive.</p> <p>In cases such as this factual matters that might be taken into account include, for example, the relevant distances involved and whether substations are to deal exclusively with power from the proposed Nationally Significant Infrastructure Project (NSIP), or other sources.</p> <p>It is understood that the proposed wind farm is to be located some 32Km off the Lincolnshire coast. The applicant would need to be satisfied that the main sub-sea export cables from the offshore substation(s) to the landfall could be treated as associated development depending on whether these cables are necessary for the development and effective operation to the design capacity of the NSIP itself. These cables could comprise associated development but without full details the IPC is unable to give a firm view on this point. In any event we cannot prejudge a question that the Commission will decide at the acceptance stage. With regard to the offshore substation(s) and the inter-array cables that connect the individual turbines to the offshore substation(s) more detail is required before the IPC can give any view.</p> <p>The IPC encourages the submission of draft application documents during the pre-application stage (see <a href="#">IPC guidance note 2 on pre-application stages</a>) in order to be able highlight any issues that should be reconsidered but not concerning the merits of the application. Submission of draft application documents would allow us to consider jurisdiction and procedural matters and give advice when full details are available.</p> <p>Applicants should also be aware that all associated development that is included within an application for development consent, should be the subject of Environmental Impact Assessment (EIA) procedures, as specified in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.</p>
10/0017	22/01/2010	Call	Energy	Richard Marsh (DLA Piper LLP)	Wanted to know if there was a prescribed form to make a s.52 application and if an application could be submitted via email to the IPC.	At present the IPC has not produced a standard form for making a s.52 application but intends to produce a form and guidance shortly which will be made available through the website <a href="http://www.independent.gov.uk/infrastructure">www.independent.gov.uk/infrastructure</a> . The application can be submitted by email but the IPC would expect the application to be made in a letter format attached to an email.

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						The Commission would require that evidence is provided by the applicant of the attempts that have been made to find out the required information first before authorisation is sought from the Commission under the s.52 procedure, including any correspondence which has been sent by the applicant to persons identified under s.52(3) and the outcome of such correspondence. The Commission would also expect to be provided with the full details as to why the s.52 request is being made. For example, does it relate to the applicant's wish to fulfil its s.42 or s.56 duties?
10/0018	22/01/2010	Call	General	Anon	Can an applicant submit an application to the IPC if it is currently the subject of a planning appeal?	Applicants can submit an application to the IPC for development consent if the same proposal is the subject of a planning appeal, at the same time. Applicants should be aware that the Local Authority's reasons for refusal and the appeal decision will be considerations for the commissioner in the determination of the application for an order granting development consent (DCO). Applicants should also be aware of the requirements under Regulation 12 of the Prescribed Forms and Procedures Regulations, as they relate to transitional matters. Applicants are likely to need to consult with many of the statutory bodies (and more) that they previously consulted in relation to the planning application, in order to comply with Section 42 of the 2008 Planning Act. Local Authorities are likely to refer to the planning history of the site in their Local Impact Report.
10/0019	25/01/2010	Call & Email	General	Mr Walker (Hammonds)	Wayleaves. 1) Does the IPC have the power to grant wayleaves? 2) Sch5 of 2008 Planning Act relates to 'keeping' of electricity line above ground. Does this include the installation of a new electricity line in the 1st place? 3) Will the IPC expect a developer to have followed the procedure outlined in Schedule 4 of the Electricity Act 1989 in relation to attempting to obtain a voluntary wayleave before making an application to the IPC? 4) If a landowner wishes to terminate a wayleave for existing elec lines, will this be dealt with by DECC?	1) An order granting development consent can make provisions to ancillary matters to the development. This includes necessary wayleaves. (Please see S120(3) 2008 Planning Act and Schedule 5 list).  2) S141 2008 Planning Act can only authorise "keeping" a new line if development consent for installation of the new line was sought as part of the Order.  3) As part of the pre-application consultation promoters should consult (amongst others) any landowners who may be affected by the proposed NSIP and will have a duty to take account of responses to consultation (s49). The IPC will consider the adequacy of the consultation when deciding whether to accept the application (s55) so it is important for promoters to be able to demonstrate how any objections to the proposed wayleave have been met.  4) The promoter will need to assess what ancillary consents, authorisations (including the modification of agreements or extinguishment of rights) may be required to enable the project to proceed and include the relevant provision within the draft Order for consideration by the IPC. If the termination of a wayleave agreement is ancillary to the NSIP (for which development consent is sought) this could be included in the draft Order.
10/0020	25/01/10	Email	General	Laura Cowie (DECC)	What is meant by 'preliminary environmental information' in IPC Guidance Note 1?	The term 'preliminary environmental information' is defined in the Infrastructure Planning (EIA) Regulations 2009 and so strictly it is that definition to which you should refer. The regulations define preliminary environmental information as information which has been compiled by the applicant and is reasonably required

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						<p>to assess the effects of the development (and any associated development).</p> <p>Preliminary environmental information is not the environmental statement because the latter needs to contain more information, including that set out in Part 2 of Sch 4 of the EIA Regulations, together with any other information required in a scoping opinion. Preliminary environmental information could be the scoping report that is submitted with the request for our scoping opinion as long as it falls within the definition in the Regs. If the IPC were to ask for further information in relation to a scoping request, it could be that the scoping report together with the further information provided could comprise preliminary environment information.</p>
10/0021	19/01/10	Call & Email	Energy/general query	Slough Borough Council	Query regarding whether a project will be classified as a NSIP and clarification required on the role of the Local Authority under the Planning Act 2008.	<p>The local authority and the promoter were advised to view part 3 of the Planning Act 2008. The local authority was asked to advise the promoter to contact the IPC with a view as to whether their project is a NSIP or not. The Local Authority were directed to the relevant page on the IPC website: <a href="http://infrastructure.independent.gov.uk/?page_id=22">http://infrastructure.independent.gov.uk/?page_id=22</a></p> <p>An example of the main roles that local authorities have in the IPC process are as follows:</p> <ol style="list-style-type: none"> <li>1) Working with the promoter on their Statement of Community Consultation (SOCC).</li> <li>2) Responding to the pre-application consultation.</li> <li>3) Providing comments to the IPC regarding the adequacy of pre-application consultation undertaken by the promoter.</li> <li>4) Compiling a Local Impact Report.</li> <li>5) Attending the examination (when/if required) and commenting on written representations issued by other interested parties.</li> <li>6) Negotiating any section 106 agreements.</li> </ol>
10/0022	25/01/10	Call	General	Anon	Wanted to know about the requirements under the 2008 Act particularly where the main differences are when compared to the previous regimes. Also asked about the EIA requirements under the 2008 Act. Do they differ from the previous requirements?	<p>Caller was advised that the 2008 Act does make significant changes to the previous regime. Most notably the changes are with increased levels of consultation and increased number of consultees. The caller was advised that the EIA regulations are available via the website and that there is a requirement for the promoter around screening and a discretionary action with scoping. Caller was also advised to review the requirements under S42, 46, 47 and 48.</p>
10/0023	08/01/10	Meeting	Energy	Steve Webb MP	Meeting purpose: To discuss the new IPC processes and procedures with, in particular highlighting opportunities for public engagement in	<p>Please refer to the meeting notes accessed <a href="#">here</a>.</p> <p>Advice given at the meeting and through a subsequent letter can be viewed <a href="#">here</a>.</p>

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					connection with the proposed nuclear power station at Oldbury-on-Severn.	
10/0024	26/01/10	email	energy	EDF	<p>1. Is it acceptable to the IPC if we were to submit a scoping request in two parts (offshore only followed a number of weeks later by the onshore components)?</p> <p>2. I asked the MFA on their view about including marine stakeholders in the SoCC but was not offered a clear piece of advice. Could the IPC provide this advice? It is unclear to me who if any are covered by "community" in the offshore environment given the absence of residents. We are already engaging with all sectors with which the offshore site interacts (oil and gas, shipping, fishing, recreational navigation, MoD, aviation) but don't know if some or all of this needs to be captured in the SoCC. I also need to have a clearer view on the risks if it weren't but retrospectively determined that it would have been appropriate to have done so.</p>	<p><b>Question 1 - Scoping Opinion</b></p> <p>The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 - Regulation 8 deals with the issue of Scoping Opinions ('SIs'). In summary, a request made to the IPC for a SI, must include sufficient information about the nature of the development and its possible effects on the environment. This will include information about those elements which are integral to the Nationally Significant Infrastructure Project ('NSIP') and any 'associated development'. In addition the cumulative impact of other significant development proposals must also be 'scoped in'. It is clear therefore that your request for a SI should cover both offshore and onshore elements and the information should be contained within a single Scoping Report.</p> <p><b>Question 2 - SoCC definition of 'community' in relation to the offshore environment</b></p> <p>It is for the scheme promoter to decide which communities to consult with, in order to satisfy the requirement under Section 47 of the Planning Act 2008. Promoters are encouraged to view this requirement from a broad perspective and aim to capture the views of those who work in or otherwise use the area, as well as those who live there, having first sought the advice of the relevant local authorities. This information should then be contained within the Statement of Community Consultation ('SoCC').</p>
10/0025	27/01/10	Phone call and email	Energy	Scottish and Southern	Confirmation sought from the IPC that the proposal to install two package boilers at Slough Heat and Power does not qualify as a nationally significant infrastructure project requiring an order granting development consent. This work is required because the existing boilers are coming to the end of their natural life.	The scheme proposed includes some physical alterations to the structures within the existing site which amount to development and it has been confirmed that after those works are carried out the generating capacity of the generating station will not exceed its current generating capacity. The IPC's interpretation of s15 of the Planning Act 2008 is that the extension of the generating station would need to result in an increase in the generating capacity of the existing generating station in order to qualify as a nationally significant infrastructure project. For this reason on the facts provided we consider the proposal would not require development consent. However, we strongly advise promoters to seek their own legal advice on which they could rely, and to satisfy themselves that development consent is not required for the work proposed. The IPC is not able to provide any definitive view on the correct interpretation of the Planning Act 2008; that is a matter that can only be determined by the Courts.

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10/0026	02/02/10	Email	Energy	Norton Rose	For offshore development associated with an onshore generating station, would a DCO give a deemed marine license under the Marine and Coastal Access Act (MCAA), and who would be the appropriate licensing authority? Are there any other sections of the MCAA which also apply?	A marine license may be included within a DCO, so a separate application for such a license need not be made in that case. This power applies where the application is made for development consent within the areas set out within the new s149A(2) of the Planning Act 2008, which will come into force in due course and is set out in Schedule 8, paragraph 4 of the Marine and Coastal Access Act 2009. If the applicant wishes for a provision to be included in a DCO which deems a marine license to be granted, such a provision must be included in the draft order submitted as part of the application submitted to the IPC. The IPC will not be an appropriate licensing authority under s.113 MCAA but the IPC (where it is the decision maker) may deem a marine license to have been granted by the Secretary of State as part of a DCO. Other MCAA matters raised are not relevant to the IPC as it grants consents under the 2008 Planning Act.
10/0027	03/02/10	Call	Energy	Stogursey Parish Council	Is it possible to send a scoping response to the IPC by hard copy in the post?	Confirmed that a letter can be send to the IPC and confirmed the address which is available on the IPC's website. Gave details of the IPC's Enquiry email address and informed the caller that they can also send the response to the email address as well.
10/0028	08/02/10	Call	General	Osborn Clarke	Wanted clarification whether housing developments could qualify as an Nationally Significant Infrastructure Projects	Confirmed that under the Planning Act 2008 housing developments are not within the categories of NSIP. Section 115 of the Planning Act 2008 excludes as associated development construction or extension of one or more dwellings (s.118(2)). Referred the caller to the CLG Guidance on Associated Development available on the Commission's website.
10/0029	27/01/10	Call	Energy	Chris Murray National Grid		Chair of the IPC, Sir Michael Pitt, telephoned and spoke to Chris Murray on Tuesday 26 January 2010 regarding the National Grids consultation exercise in Somerset. Sir Michael drew attention to the strong public reaction, his recent meeting with Council representatives and the need to ensure that the consultation exercise is broadly based and addresses a sufficiently wide range of options.  Sir Michael did not discuss the merits of the prospective application and no information in this regard was communicated to him.
10/0031	05/01/2010	Meeting	Energy	RWE NRL	Meeting for promoter to set out background of anticipated application in relation to Triton Knoll; also asking about consultation process and representations.	IPC referred to S.49(3)(a) –(c) of the Planning Act 2008 which defines what a relevant response is and that it must be received by the deadline imposed. However, timescales should be treated with caution i.e. minimum of 28 days consultation response  It is critical to the acceptance of an application that the promoter consults all those set out in Schedule 1 of the (Applications: Prescribed Forms and Procedure) Regulations 2009 but any extra consultation carried out will be at the discretion of RWE NRL.
10/0032	27/01/	Email	Energy	Scottish and	Confirmation sought from the	The scheme proposed includes some physical alterations to the structures within

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	2010			Southern Energy	IPC that the proposal to install two package boilers at Slough Heat and Power does not qualify as a nationally significant infrastructure project requiring an order granting development consent. This work is required because the existing boilers are coming to the end of their natural life.	the existing site which amount to development and it has been confirmed that after those works are carried out the generating capacity of the generating station will not exceed its current generating capacity. Our interpretation of s15 of the Planning Act 2008 is that the extension of the generating station would need to result in an increase in the generating capacity of the existing generating station in order to qualify as a nationally significant infrastructure project. For this reason on the facts provided we consider the proposal would not require development consent. However, we strongly advise promoters to seek their own legal advice on which they could rely, and to satisfy themselves that development consent is not required for the work proposed. The IPC is not able to provide any definitive view on the correct interpretation of the Planning Act 2008; that is a matter that can only be determined by the Courts.
10/0033	29/01/2010	Phone	Transport	Wragge & Co	Query regarding a proposed rail freight depot. Should the whole development (including the mitigation works) be included in the site area calculation, with regards to the 60 hectare threshold stated in section 26 of the Planning Act 2008 (the Act)? Query regarding associated development and the relationship between the thresholds in section 25 and 26 of the Act.	The IPC advised Wragge &Co to send an email with full details of the scheme to the IPC enquiries inbox and to take their own legal advice. They were further advised to view the transitional matters in The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and also the IPC guidance notes 1 and 2.
10/0034	02/02/10	Meeting	Energy	National Grid	A meeting to discuss progress with National Grid's proposed application for an electricity transmission line in Somerset (Hinkley to Seabank).	<p>Advised National Grid (NG) about the risks of identifying the initial choice of route options and then setting out the case against undergrounding or an undersea route, without explaining fully why (in NG's view) they should not be taken forward. This approach could be seen by other parties as predetermining the choice of a route(s) and cloud the approach of all to any subsequent consultation.</p> <p>Advised that the limited correspondence that the IPC has been copied into so far suggests that substantially more work needs to be done to increase the level of understanding in the respective local communities about the environmental, cost and technical implications of undergrounding the line and / or the undersea route. Advised that NG may wish to consider resolving this issue before embarking upon the second stage of consultation, and identifying the preferred route.</p> <p>Advised that whilst the advice being given was not in any way judgmental on the part of the IPC, the position appeared to be an impasse in relation to the adequacy and appropriateness of the consultation to date. The IPC could not and should not get involved in the merits of the approach taken by NG. However,</p>

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						<p>it would be willing to facilitate, if all parties agreed, a meeting to identify and clarify the extent and nature of concerns and objections by relevant parties and the public to the consultation and approach of NG. It would be for the parties to try and reconcile their apparent differences, the IPC remaining neutral in any meeting.</p> <p>Following the meeting NG may consider that a different approach is appropriate, but this is a matter for NGs discretion.</p>
10/0035	11/02/10	email	General	Thurrock Council	Can a local authority seek to recover the costs associated with the production of a Local Impact Report by way of a Planning Performance Agreement with a promoter?	Although Planning Performance Agreements (PPA) are not mentioned in the Planning Act 2008, there is no reason why the scope of a PPA could not include costs associated with the production of a Local Impact Report. It is a matter of negotiation, of course, between the authority and the applicant. The IPC has no role in respect of PPAs and, if a PPA were in place between an applicant and a local authority, it would have no bearing on the IPC's process.
10/0036	12/01/10	Meeting	Energy	RWE npower renewables (RWE)	Meeting for applicant to brief IPC on the details of the project and discussion of the procedures introduced by the Planning Act 2008.	Click <a href="#">here</a> to download meeting notes.
10/0037	12/01/10	Email	General	Isle of Wight AONB	Confirmation sought on the time period for consultation and comment on proposals.	<p>When formally consulting and publicising an application under section 42, 47 &amp; 48 of The Planning Act 2008 (the Act), the applicant must notify the person of the deadline for their response. This deadline must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the consultation documents.</p> <p>Further information can be found within 'The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009' (<a href="http://infrastructure.independent.gov.uk/wp-content/uploads/2009/08/uksi_20092264_en.pdf">http://infrastructure.independent.gov.uk/wp-content/uploads/2009/08/uksi_20092264_en.pdf</a>). The list of prescribed consultees who must be consulted by the applicant can also be found in these Regulations (Page 9, Schedule 1).</p>
10/0038	12/01/10	Email	General	Facilitating Change/Chris Whitehead	<p>How will the consultation on developments be evaluated to ensure that consultation undertaken is adequate?</p> <p>Will there be an objective test or will it be a subjective judgment made by the commissioner?</p>	<p>In order to undertake adequate pre-application consultation, the applicant must comply with Chapter 2 Part 5 of the Planning Act 2008 (the Act). )</p> <p>Once the application has been submitted, the Commission has 28 days within which to decide whether or not to accept the application. One of the considerations within this time frame is whether the applicant has complied with the required pre-application procedures (section 55(3)(e) of the Act). In order to make this decision, the Commission must have regard to the consultation report, the adequacy of consultation representation received by it from a local authority consultee and the extent to which the applicant has had regard to any relevant issued guidance (section 55(4) of the Act).</p>

IPC Ref	Date	Enquiry Method	Sector	Caller / Org Name	Query	Advice
						<p>IPC Guidance note 1, paragraph 8 advises that:</p> <p><b>"Options for pre-application programme.</b> The statutory requirements allow some flexibility for promoters to determine the most applicable programme by which they will be able to comply most effectively with their duties. The overriding intention of the legislation is to ensure that detailed matters are consulted upon and solutions or mitigation negotiated with the local community, landowners, statutory consultees and local authorities before submission of the application for development consent to the IPC. "</p> <p>Further information can be found within 'The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009' ( <a href="#">click here</a> ) and the following documents:</p> <p>IPC Guidance Note 1 pre-application stages ( <a href="#">click here</a> )</p> <p>IPC Guidance Note 2 on preparation of application documents ( <a href="#">click here</a> )</p> <p>CLG Guidance on pre-application consultation ( <a href="#">click here</a> )</p>
10/0039	12/02/2010	Phone	Transport	Peter Garrood	(1) Would a railway station be considered a NSIP that the IPC will deal with? (2) Will it be solely Network Rail that will be able to apply for such application?	<p>(1) Referred to s.25 of the PA 2008 which sets out the thresholds for what is considered a NSIP; there is no mention of a railway station being a NSIP in its own right however the CLG guidance on associated development identifies construction, improvements and alterations to railway stations as being development which is associated with a NSIP.</p> <p>(2) As mentioned in s.25 of the PA 2008, applications for railway lines which are considered NSIPs can only be applied for by an approved operator. Definition of an approved operator is set out in the 'Railways designation order 2010' (SI 124) and refers to it being - Network Rail Ltd and Network Rail (CTRC) Ltd.</p>
10/0040	02/12/09	Meeting	Energy	Covanta Energy Ltd	Meeting to discuss proposed NSIP application for a Resource Recovery Facility project nr Stewartby in Bedfordshire	Discussion of the procedures and roles relevant to this NSIP. Notes of this meeting including advice given can be accessed by clicking <a href="#">here</a> .