

Aebhin Cawley, Cenv

**The Preparation of an
Appropriate Assessment
– practical applications**

Appropriate Assessment

Coherence

Special Protection Area

Best Available Scientific Data

“In Combination” Effects

Qualifying Interests

Screening Exercise

Beyond Reasonable Scientific Doubt

Compensatory Measures

Site Integrity

FONSE

Priority Habitats

Conservation Objectives

Natura 2000

Habitats Regulations Assessment

Alternative Solutions

Structure and Function

Precautionary Principle

Alternative Solutions

Plans and Projects

Habitats Directive Assessment

IROPI

Special Area of Conservation

European Sites

SO WHAT'S ALL THE FUSS ABOUT?

European Pressure: ECJ ruling against Ireland (Case 418/04 EC Commission V Ireland) and the ruling of the Waddenzee Case (C-127/02) regarding cockle fishing activities in Netherlands.

Plans and projects can only be permitted having ascertained beyond reasonable scientific doubt that there is **no adverse effect on the integrity of Natura 2000 sites**. Plans and projects may still, however, be permitted if there are **no alternatives**, and there are **imperative reasons of overriding public interest** as to why they should go ahead. In such cases **compensatory measures** will be necessary to ensure the overall coherence of the Natura 2000 network is maintained.

Appropriate Assessment determines the fate of Plans and Projects

Habitats Directive Article 6 (3)

Any **plan or project** not directly connected with or necessary to the management of the site but **likely to have a significant effect** thereon, either **individually or in combination with other plans or projects**, shall be subject to **appropriate assessment** of its **implications for the site in view of the site's conservation objectives**. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will **not adversely affect the integrity of the site** concerned and, if appropriate, after having obtained **the opinion of the general public**.

115 (50) Words

Habitats Directive Article 6 (3)

Habitats Directive Article 6 (4)

If, in spite of a negative assessment of the implications for the site and **in the absence of alternative solutions**, a plan or project must nevertheless be carried out for **imperative reasons of overriding public interest**, including those of a social or economic nature, the Member State shall take **all compensatory measures necessary** to ensure that the **overall coherence of Natura 2000 is protected**. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a **priority natural habitat type and/or a priority species**, the only considerations which may be raised are those relating to **human health or public safety, to beneficial consequences of primary importance for the environment** or, further to an opinion from the Commission, to other **imperative reasons of overriding public interest**.

129(43) Words

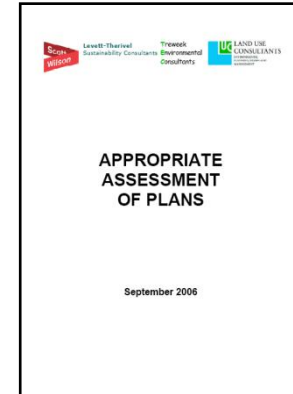
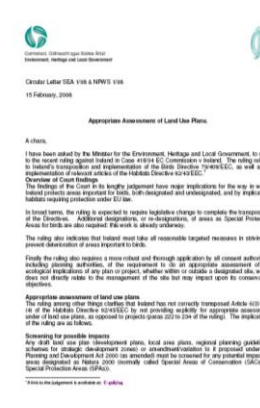
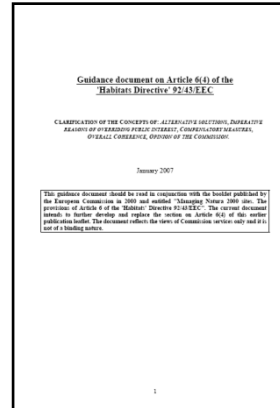
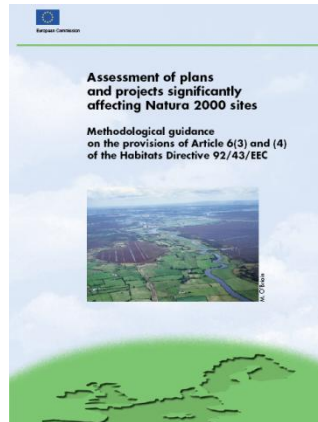
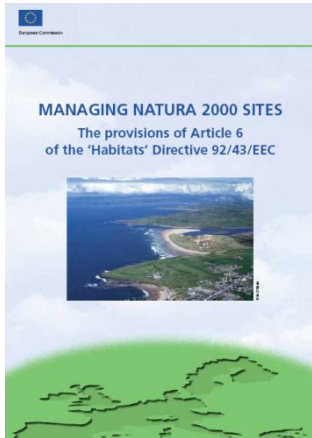
Appropriate Assessment

Assessment focused on appropriate issues - impacts on Natura 2000 sites rather than on other environmental issues.

Appropriate ***Assessment***

***Focus on the Assessment
PROCESS rather than on the report
(though this is also important)***

Guidance on Appropriate Assessment



DoEHLG Circulars PD 2/07 & NPWS 1/07 and SEA 1/08 & NPWS 1/08 - adds AA to the range of assessment tools for planners.

Managing Natura 2000 Sites. (European Commission, 2000)

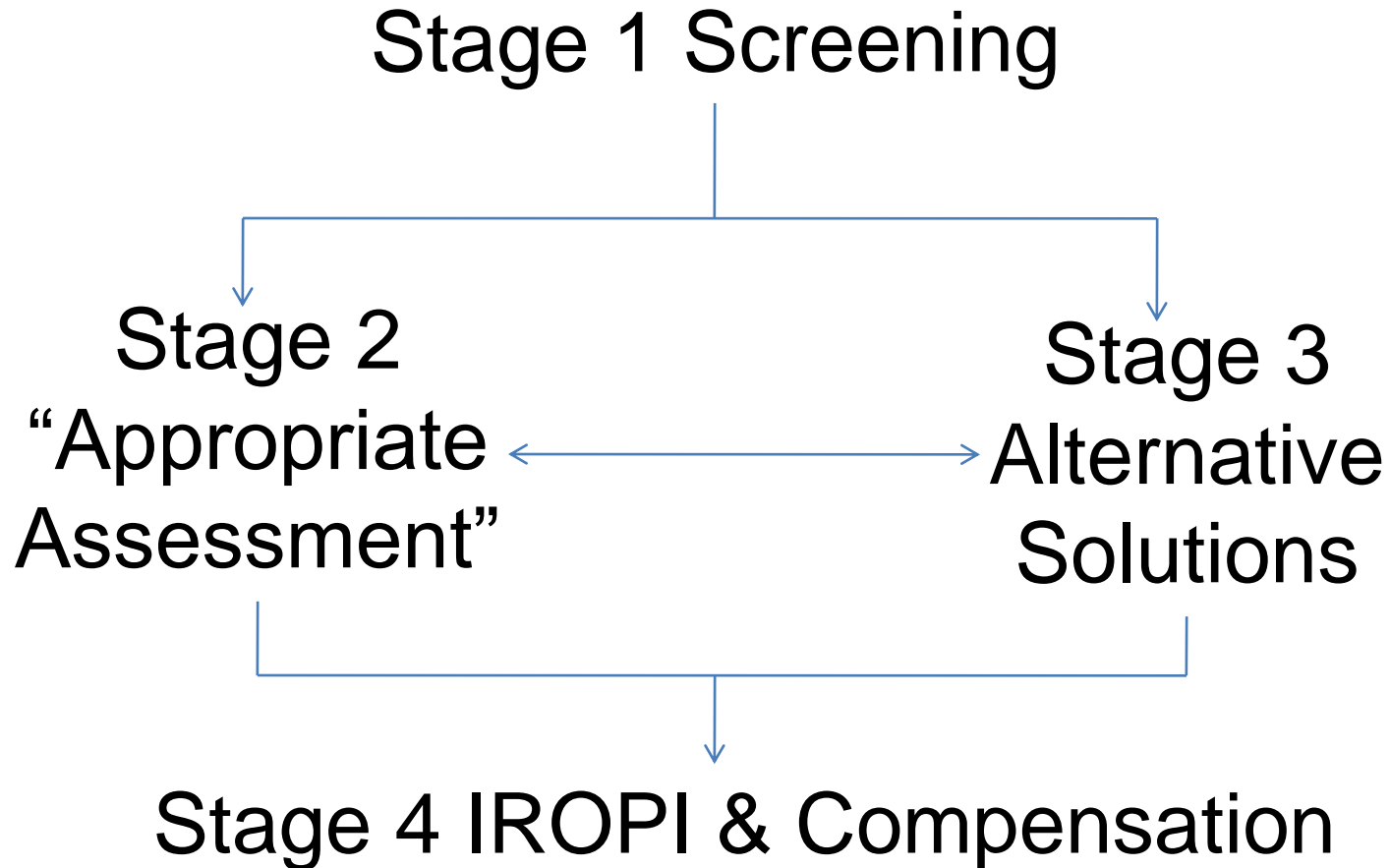
Assessment of plans and projects significantly affecting Natura 2000 sites. (European Commission, 2001)

Guidance Document on Article 6(4) of the 'Habitats Directive' 92/43/EEC: Clarification of the Concepts of Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the Commission (European Commission, 2007)

Appropriate Assessment of Plans. (Scott Wilson, Levett-Therivel Sustainability Consultants, Treweek Environmental Consultants and Land Use Consultants, 2006).

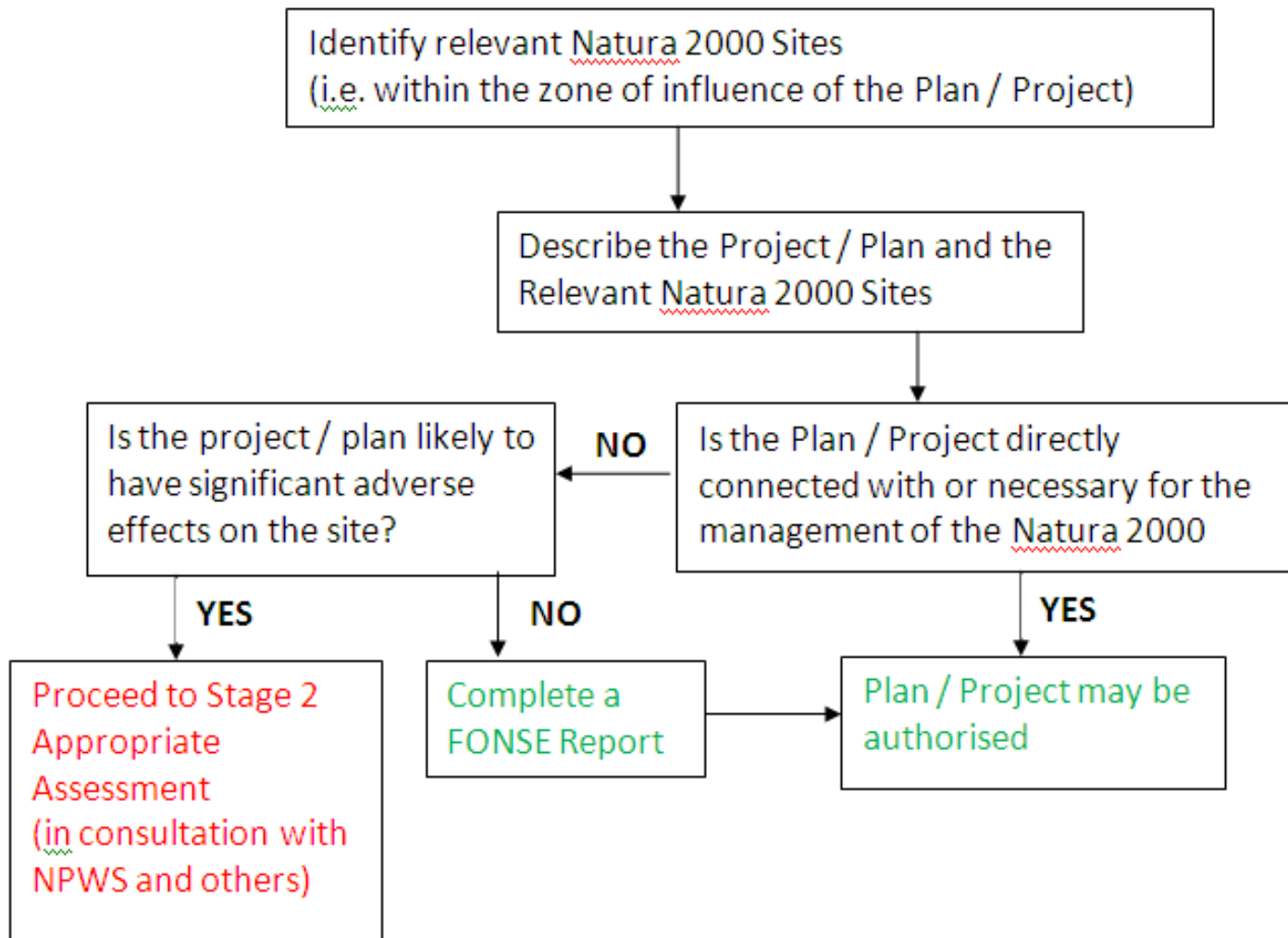
Forthcoming guidance from the Department of Environment, Heritage and Local Government and Birdwatch Ireland.

Appropriate Assessment Process

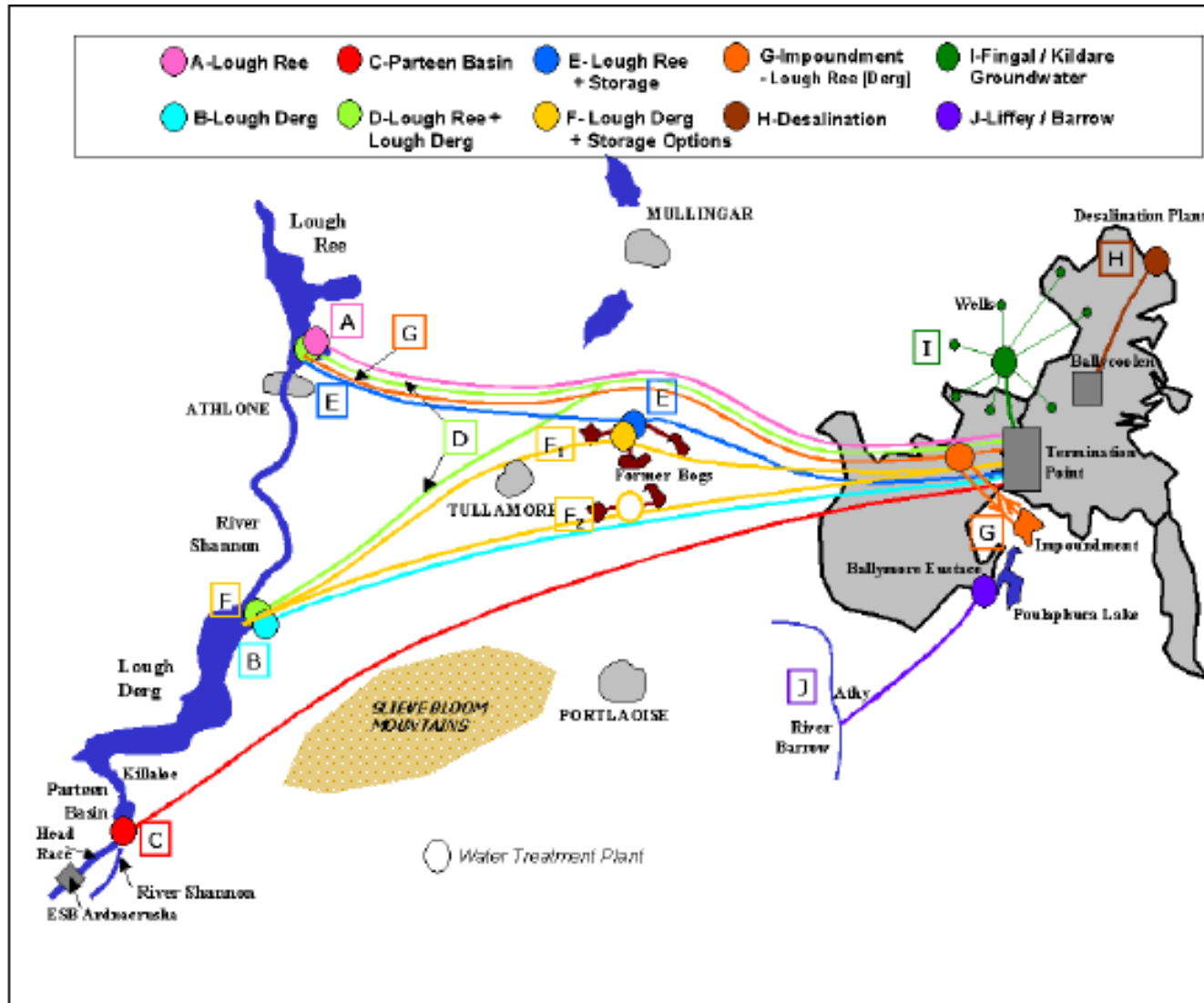


Stage 1 - Screening

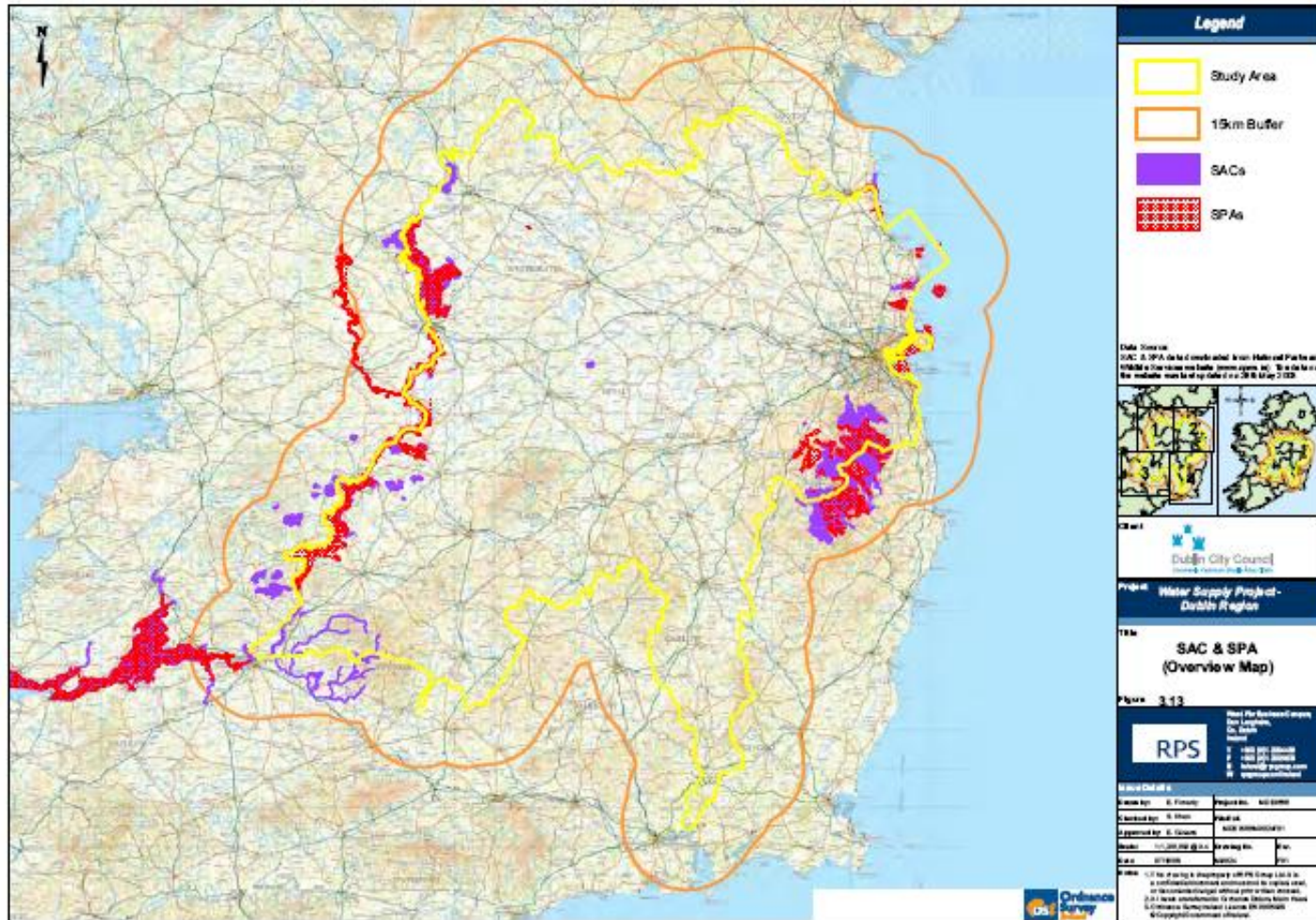
Stage 1 Screening



Stage 1 – Screening Dublin Water Supply Project



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'in combination' plans / projects:

- National Development Plan
- National Spatial Strategy
- National Climate Change Strategy
2007 – 2012
- River Basin Management Plans
- Regional Planning Guidelines
- Flood Risk Management Plans (e.g.
River Dodder)
- Greater Dublin Strategic Drainage
Strategy

- Regional Waste Management Plans
- Groundwater Protection Schemes
- County Development Plans (25
plan areas!)
- Local Area Plans / Area Action
Plans
- Heritage / Biodiversity Plans
- Project EISs / Planning Permissions
(e.g. Shannon-Erne Waterway)
- Discharge Licences
- IPPC Licences

Stage 1 - Screening

‘Screening’ should not involve changing policies and objectives in plans to mitigate against impacts.

Why?

- **This is what Stage 2 (AA) is meant to be doing.**
- **It may require analysis to prove the mitigation measures will protect the site integrity e.g. groundwater.**
- **There may be alternative methods of mitigation that need to be compared.**

Stage 1 - Screening

The Test Is:

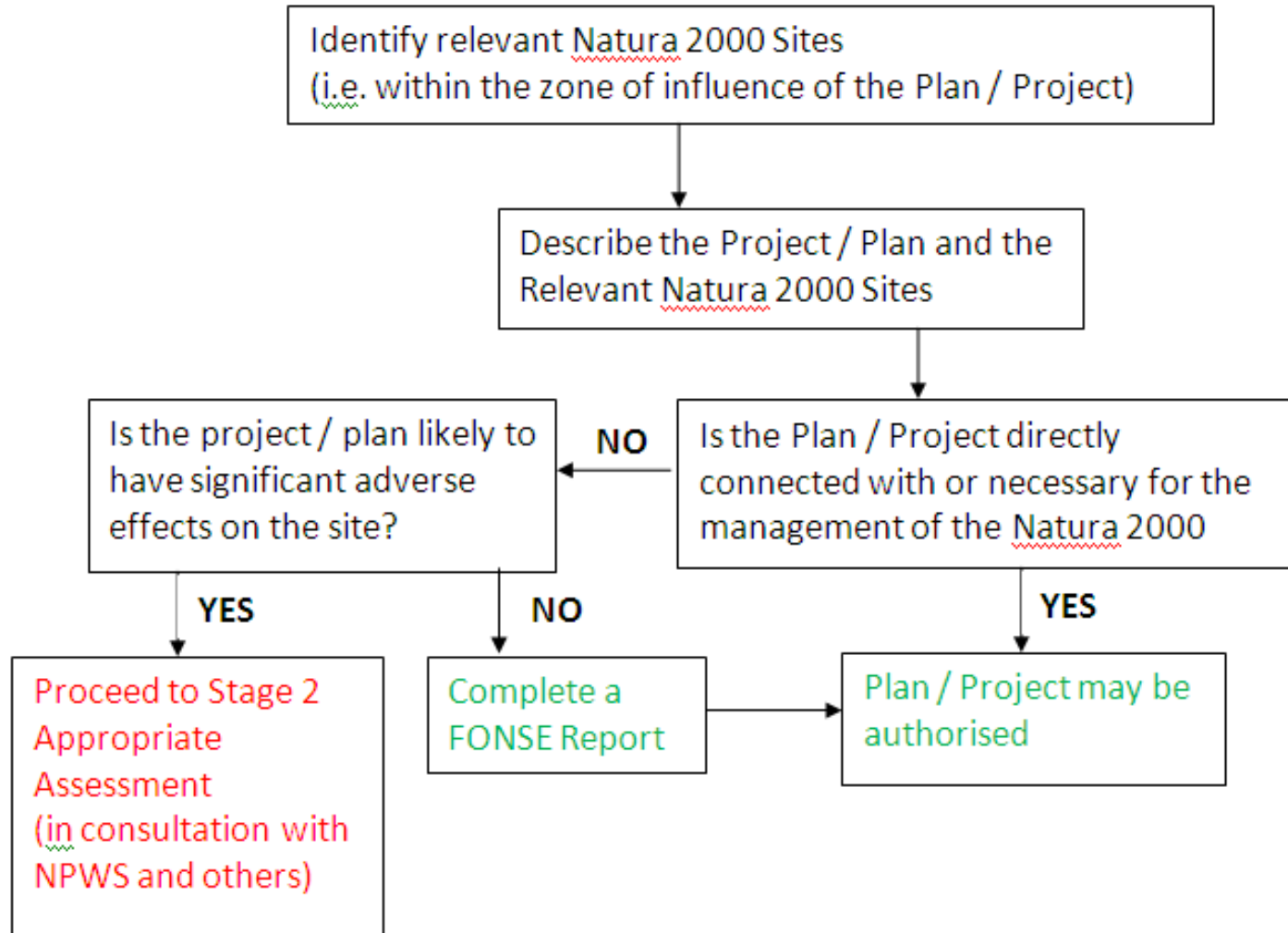
Can it be ruled out that the Plan / Project will NOT have any significant adverse effects on any Natura 2000 site?

Key Issues:

- Where does Screening stop and Stage 2 start?
- Defining the zone of influence of the plan / project.
- Dealing with 'in combination' plans / projects.
- Screening out to avoid triggering SEA?

Stage 1 - Screening

Stage 1 Screening



Stage 1 - Screening

FONSE (Finding of No Significant Effects) Report

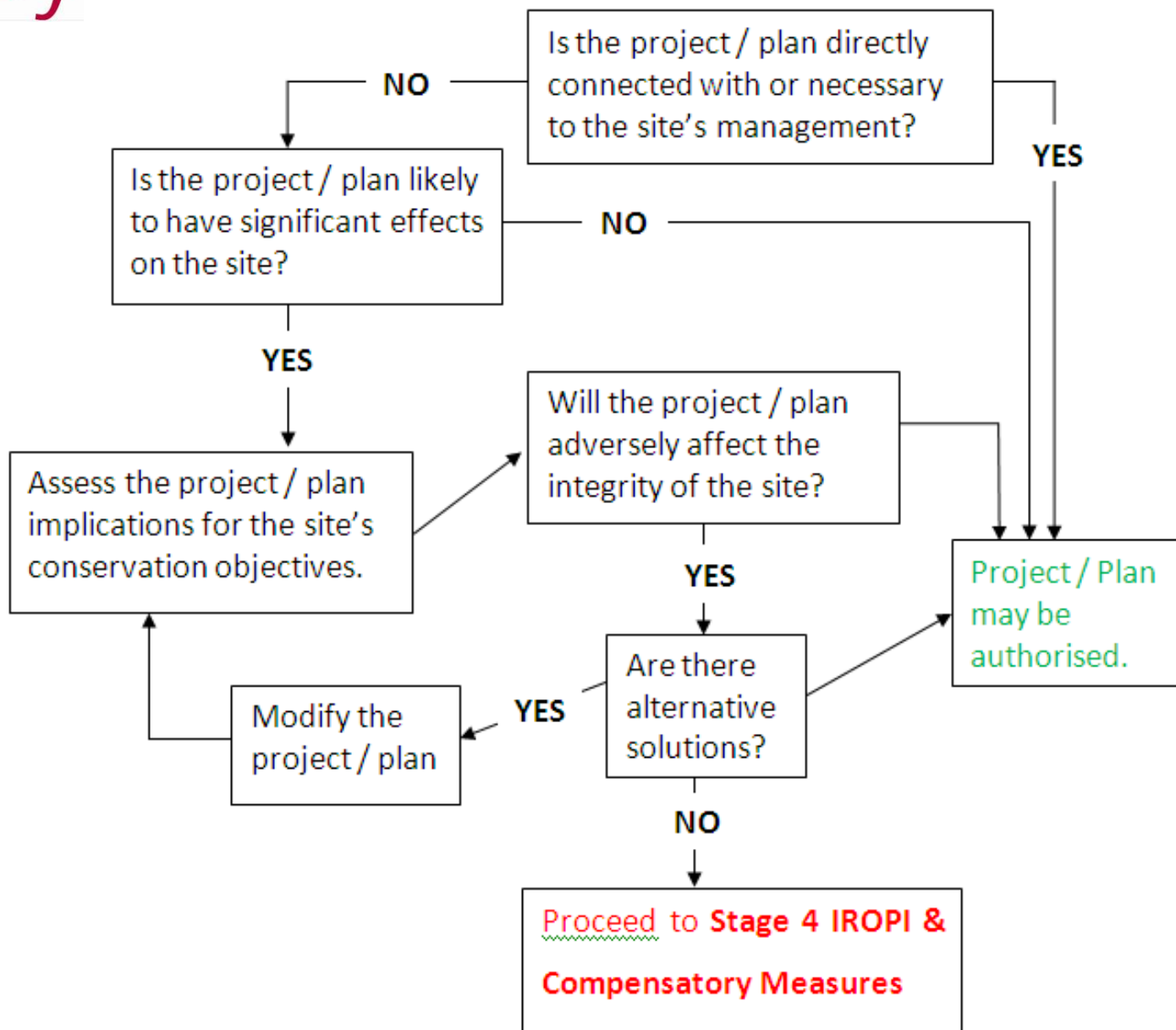


Ensures transparency: FONSE report should be made public.

Format set down in MN 2000 and in new NRA guidelines for roads projects.

If FONSE is not possible or if getting to a FONSE is only possible through work on the plan/project then AA is likely to be required.

Stage 2 of the Appropriate Assessment Process



Stage 2 of the Appropriate Assessment Process

Steps Involved:

1. Information Collection
2. Analysis of Plan / Project
3. In Combination Effects - Other Plans / Projects
4. Mitigation and Examination of Alternatives
5. Appropriate Assessment Report (HDR / HAR)

Stage 2 of the Appropriate Assessment Process

1. Information Collection

The integrity of a site is the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and / or populations of species for which the site is or will be classified'

(MN 2000)

1. Information Collection

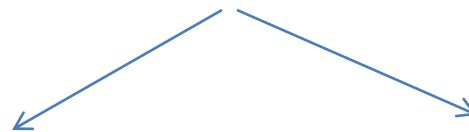
*The integrity of a site is the coherence of the site's **ecological structure and function**, across its whole area, or the habitats, complex of habitats and / or populations of species for which the site is or will be classified'*

(MN 2000)

Site's Qualifying Interests i.e. primary reasons for the site's designation



Natura 2000 Data Form



The site's conservation objectives i.e. The requirements to maintain the habitats and / or species for which the site was selected in favourable condition.



Conservation Management Plans (where they exist!)

Example of generic conservation objective

To maintain the Annex I habitats and Annex II species for which the Natura 2000 site has been selected at favourable conservation status

Example of specific conservation objective

To maintain the extent, species richness and biodiversity of the entire site.

2. Analysis of the Plan / Project

- Identify potential impacts (direct, indirect)
- Are they likely to be significant i.e. are they likely to pose a threat to the site's integrity or meeting conservation objectives?
- “In combination” effects – the straw that broke the camel's back?



3. Mitigation Measures and Alternative Solutions

Dos:

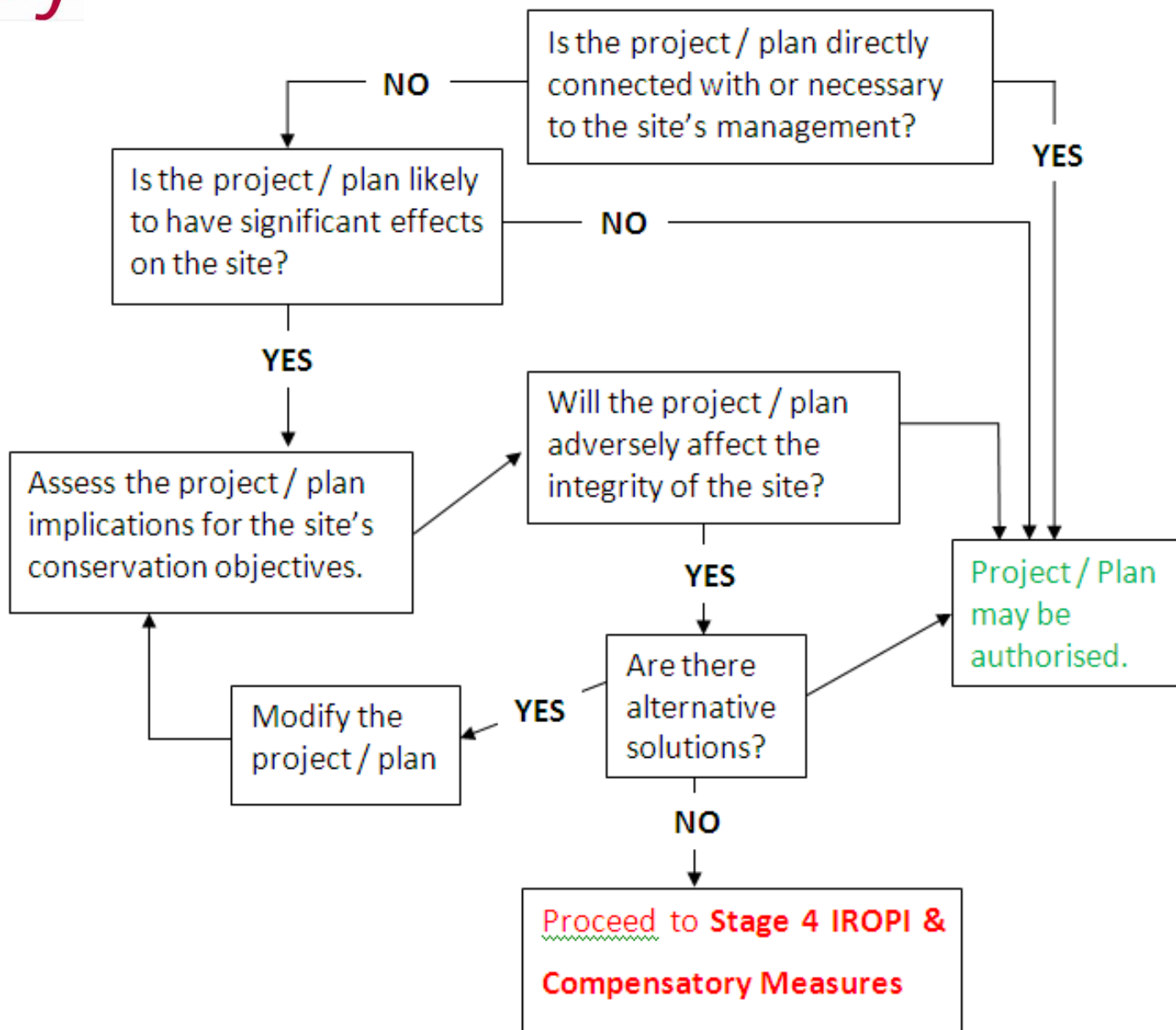
- Specify land use zoning and permitted uses (e.g. amenity / open space uses only, green space / buffer zones from developments to watercourses etc.)
- Identify specific nature conservation objectives / policies e.g. retain / protect specific features e.g. network of hedgerows used by bats.
- Define / restrict development / activity types in specific areas e.g. no high rise developments near coastal wintering bird sites
- Specify objectives for specific development types e.g. no unattenuated surface water discharge from housing developments to Natura 2000 sites.
- Collect baseline ecological data where it is lacking
- Consider alternative solutions outside of the plan / project area.

3. Mitigation Measures and Alternative Solutions

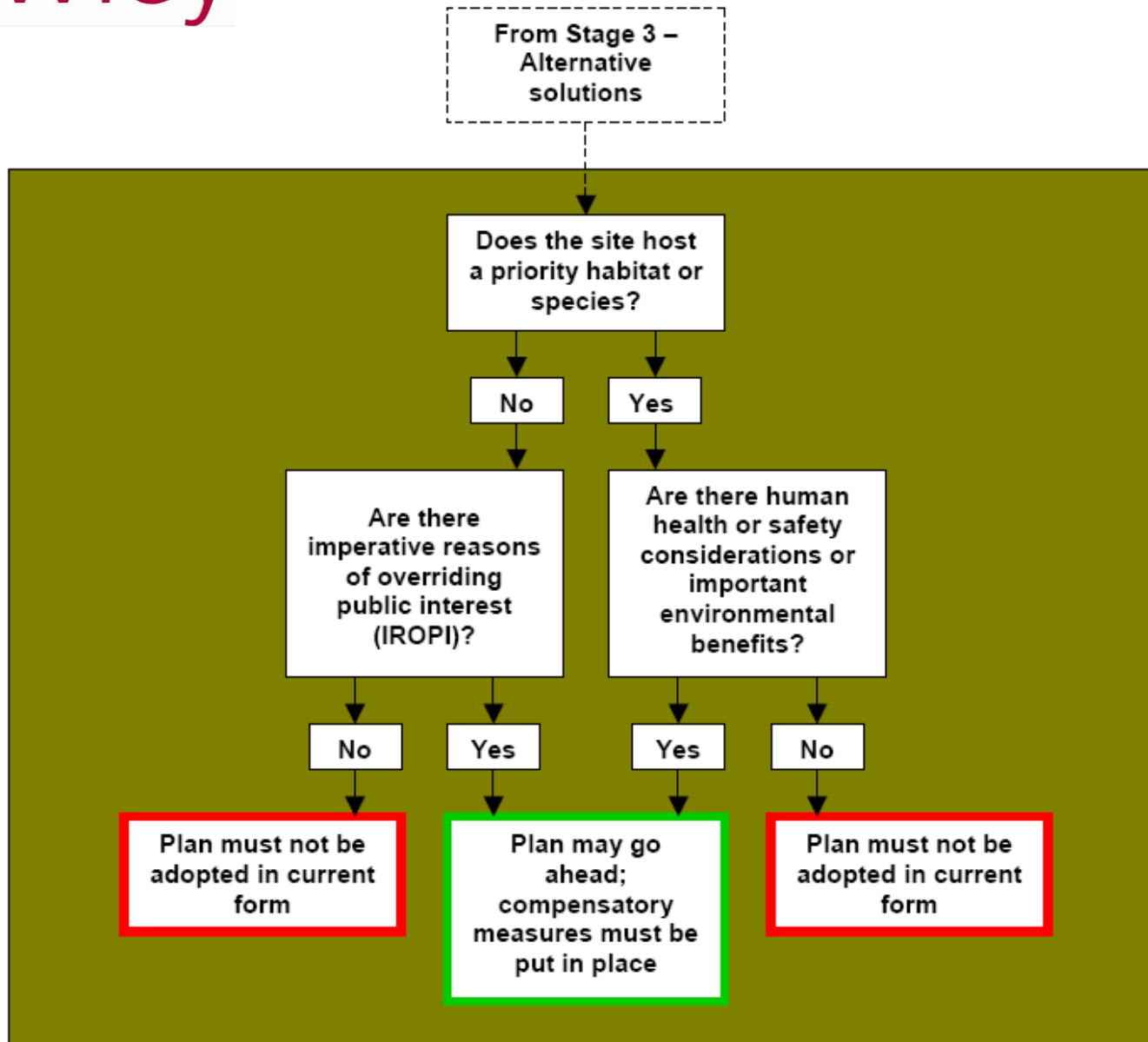
DON'TS:

- Shift responsibility down the line to project stage
- Specify vague / generic mitigation measures
- Leave uncertainty about who will be responsible for implementing mitigation measures, when and how.

Stage 2 of the Appropriate Assessment Process



IROPI & Compensation



IROPI & Compensation

Untested in Ireland

Often of a social or economic nature but where priority habitats are concerned, on human health and safety criteria relevant

EC guidance states must be long term and in the interest of the general public or the greater good, as opposed to specific companies / individuals.

Questionable as to whether many plans would qualify due to greater scope for examination of alternatives in plans

A Powerful Process but Several Challenges

- Operating in the dark - lack of conservation management plans & baseline ecological data
- Conflicting guidance
- Emerging practice
- Reliance on ECJ, Irish and UK case law

**Appropriate Assessment Technical Workshop
Oxford 2009. Draft principles for good practice
(<http://www.levett-therivel.co.uk/>)**

**10th December, Conference on Appropriate
Assessment (DoEHLG, EPA, BirdWatch Ireland,
IEEM & IEMA event). Launch of DoEHLG guidance.**