

Appropriate Assessment and the Planning Process

Irish Planning Institute
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Comhshaoil, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government



Overview

- Appropriate Assessment Context
- Implications for Planning Authorities
- Development plans and AA
- Development management and AA
- Imperative Reasons of Overriding Public Interest (IROPI)



Habitats Directive 92/43/EEC

- Purpose of the directive
 - *To promote the maintenance of biodiversity*
 - *...to maintain at, and where necessary restore to, favourable conservation status, flora, fauna and Habitats of European importance*



Appropriate Assessment context..

- Requirement since 1997
 - EU Habitats Directive (92/43/EEC) transposed by EU (Natural Habitats)Regulations 1997
 - Related to Development Management
- Case 418/04 EC Commission v Ireland
 - Circular letter ..SEA 1/08 NPWS1/08 Appropriate Assessment of all Land Use Plans
- Preparation of Guidance document
- Inclusion in Planning Bill
- Future Guidelines

Implementing Appropriate Assessment ..

- Natura 2000 sites
- Decision making tool
 - precautionary principle applies
 - individually or in combination with other plans or projects
 - in situ or ex situ considerations
- Iterative process
- Stages in Appropriate Assessment
 - Screening
 - Mitigation
 - Alternatives
 - IROPI
 - Compensatory measures

Appropriate Assessment,

- Screening
 - Potential effects of a plan or project...
 - Identification of Natura 2000 sites
 - Assessment of significant effects, in combination effects of plan or project
 - Screening conclusion
- Mitigation
 - Measures aimed at minimising the negative impact
- Alternatives
 - Looking at alternative ways of implementing the project or plan
- IROPI and Compensatory measures

Implications for Planning Authorities

- Competent authorities
 - Regional authorities, Planning authorities, An Bord Pleanála
- Types of plans requiring screening for AA
 - Draft Land Use Plans/amendments/variations (Planning & Development Act 2000)
 - *Regional Planning Guidelines*
 - *Development Plans*
 - *Local Area Plans*
 - *Strategic development Zones Planning Schemes*
- Types of projects
 - Planning Authorities ...all proposed developments to be screened, both own works and development management proposed development
 - An Bord Pleanála... all projects to be screened
- Need for expertise

Implications for the Development plan

- Development Plan to contain appropriate policies & development objectives implementing the Directive.
 - *E.g...It is the policy of the Council that plans/ projects which would be reasonably likely (either individually or in combination with other plans or projects) to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, shall not be permitted on the basis of this Plan unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions....*
- Indicate location of Natura 2000 sites and any specific issues arising e.g FWPM rivers
- AA will be ‘appropriate’ to its level..
- Plan to inform decision making at LAP level or project level

Development Plan and Screening

- Screening
 - Policies and Objectives to be screened
 - E.g. Settlement policies, Infrastructure policies
 - Policies and objectives of the plan cannot be adopted if adversely affects integrity of Natura 2000 site unless IROPI
 - Policies, Objectives with no significant effect
 - Will not lead to development
 - Are intended to protect the environment
 - Positively indicate that the policy or objective will not have a significant effect or adverse affect on the integrity of a Natura 2000 site
 - Policies or Objectives with a caveat or conditional approach
 - Policies, objectives where this is not clear
 - Proceed to Scoping of AA
 - Scoping to be ‘appropriate’
- Consider Mitigation, Alternatives, and IROPI if necessary

SEA, EIA and Appropriate Assessment

- SEA, EIA and AA
 - Parallel but separate processes
 - AA focuses on the Natura 2000 sites
 - Assists and informs the SEA, EIA process
 - Iterative processes
- AA/SEA screening should commence before commencement of the plan process
- AA can be separate document or part of SEA/ EIA but must be a discrete named section
- Need for an AA audit trail (record of when and why decisions were made)

Development management and Screening..

- Pre Application discussions

Inform applicant of screening for AA and of information required if known

- Liaise with in house expertise, and other expertise e.g. NPWS as necessary to reach decision

- Lodgement

- Planning Authority undertakes screening for AA

- Developments were clear that will not have a significant effect, because of use or location
- Development were clear that AA required or unclear ...precautionary principle
- Liaise with in house expertise, NPWS, and other expertise as necessary to reach decision

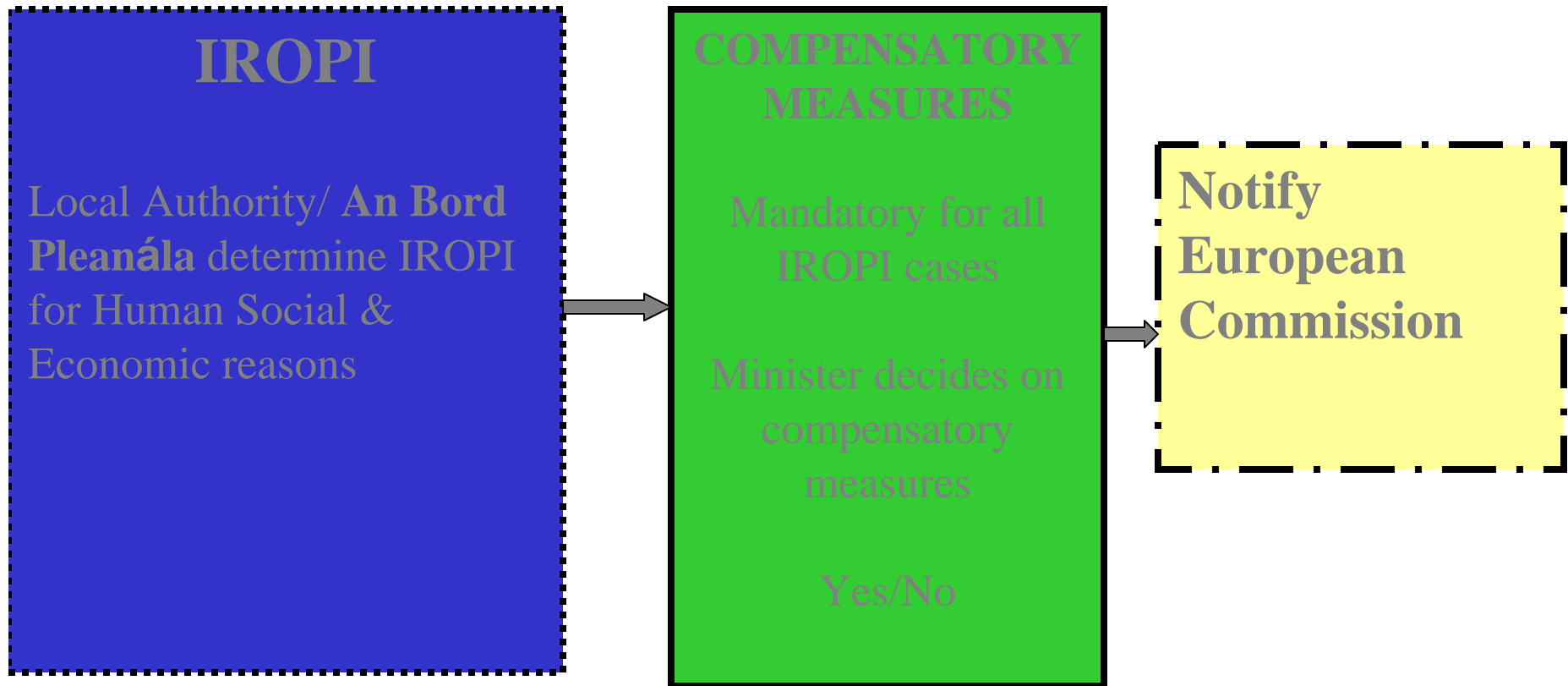
- Screen at each part of the decision making process including request for Further Information
- Consider Mitigation, Alternatives, if necessary and if still adverse affects then consider refusal or IROPI and Compensatory Measures

Imperative Reasons of Overriding Public Interest...(IROPI)

- Public Interest must be overriding
 - long term
 - of public interest
 - project necessary
- Compensatory Measures
 - includes
 - Restoration
 - Creation
 - Enhancement

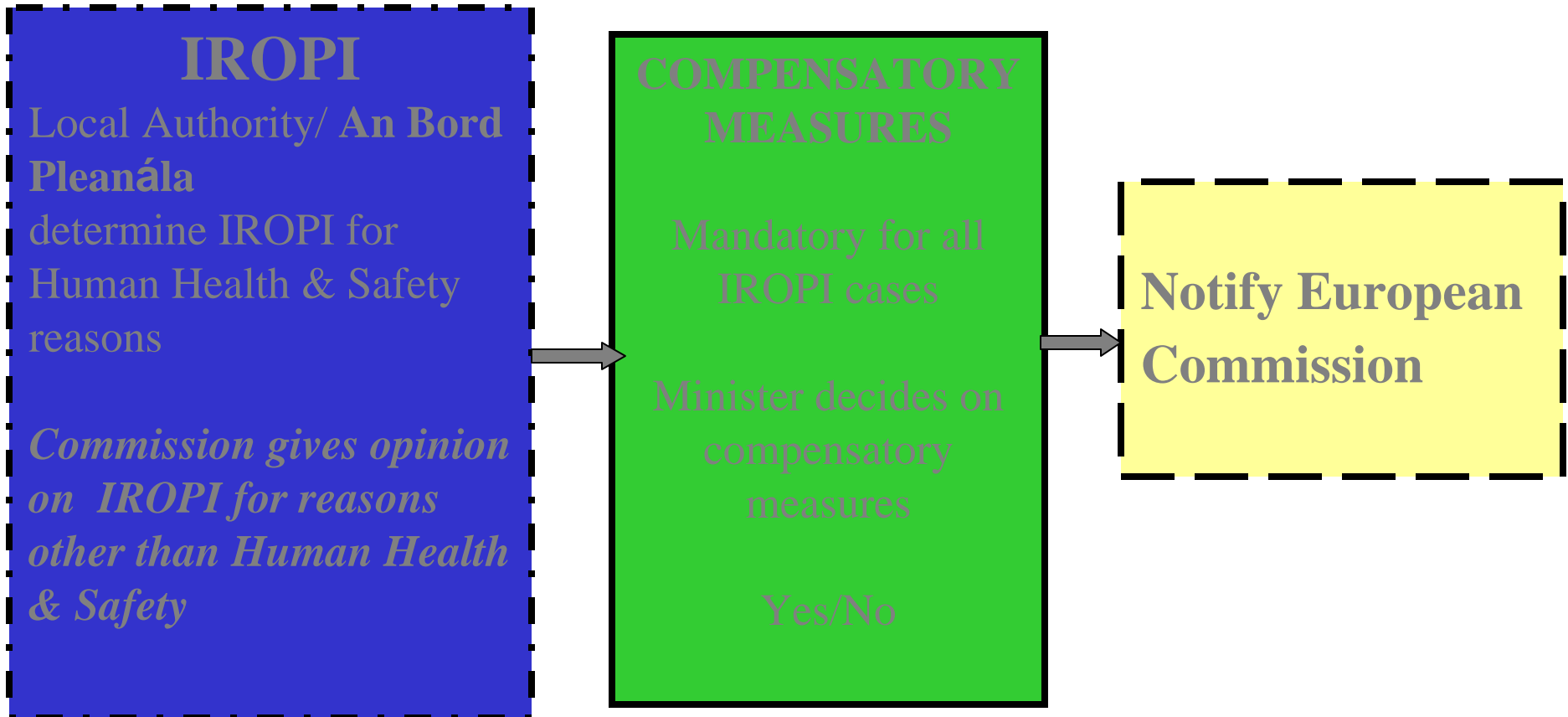
IROPI & Compensatory Measures

Non Priority Site



IROPI & Compensatory Measures

Priority Site



Finally

- Remember the purpose
 - *To promote the maintenance of biodiversity*
 - *...to maintain at, and where necessary restore to, favourable conservation status, flora, fauna and Habitats of European importance*
- Decision making tool
- Iterative process
- Paper trail
 - Recommend AA decision statement at each stage of the decision making process
- Welcome feed back

