

## Note of Meeting with Representatives of the West Cumbria MRWS Partnership on Strategic Environmental Assessment

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20<sup>th</sup> June 2012

10:00 -12:00 am

Herdus House

### Attendees

- Rhuari Bennett (3KQ)
- Richard Griffin (Allerdale BC)
- Andrew Craze (NDA RWMD)
- Guy Richardson (CALC)
- Richard Sargent (DECC)
- Steve Smith (Copeland BC)
- Alun Ellis (NDA RWMD)

### Purpose of meeting

The main purpose of the meeting was to discuss concerns raised by the Partnership following PSE3 with regards to Strategic Environmental Assessment (SEA) and the risk of legal challenge to the MRWS process. The discussion was informed by a number of slides reproduced in Annex A. The key points from this discussion are summarised below:

#### 1. Requirements for SEA

By way of introduction the requirements for SEA in UK legislation were discussed (Ref. 1). This legislation prescribes a process to be followed in advance of adopting plans or programmes which are subject to SEA. This process aims to ensure that decisions are informed by their environmental implications and the opinions of consultation bodies and the public. There was some discussion of the objectives of the SEA Directive (Ref. 2) in terms of promoting sustainable development and how this is reflected in the SEA process as well as specific requirements relating to transboundary consultation.

#### 2. MRWS White Paper and SEA

Government did not believe there was a requirement for the MRWS White Paper (Ref. 3) to be subject to SEA but had recognised in the white paper itself that SEA would be relevant to the implementation of the site selection process and actioned the NDA to develop a Strategy for how SEA, Sustainability Appraisal (SA) and Environmental Impact Assessment (EIA) would be applied at a later stage in its role as implementing body.

There was a discussion of how voluntarism would be reflected within any SEA in relation to reasonable alternatives and whether an earlier generic assessment of waste management options and implementation approaches would address some of the comments made on the appropriateness of geological disposal and the site selection framework set out in the white paper.

DECC and NDA RWMD pointed out that while the MRWS White Paper itself was not subject to SEA it did recognise the need for SEA to apply to the MRWS process at a later stage and that while the question of waste management options and voluntarism as a principle were not subject to SEA these questions were covered in some detail in the national work of CoRWM in coming to their 2006 recommendations to Government and in the consultation on the framework for implementing geological disposal which informed the production of the MRWS White Paper.

DECC and NDA RWMD confirmed that there had been no legal challenges to the White Paper since it was published in 2008 including on the basis of its approach to SEA. If a challenge were to be made after a Decision to Participate then by this stage an SEA process would already be



underway, as described below in relation to the Strategy for Sustainability Appraisal and Environmental Assessment

### **3. NDA Strategy for Sustainability Appraisal and Environmental Assessment**

There was a discussion of the production of the NDA's Strategy for Sustainability Appraisal and Environmental Assessment (Ref. 4) which was published in 2009 following a consultation in 2008 in response to the requirement in the MRWS White Paper for NDA to develop such a strategy.

The strategy states that NDA will undertake informal Generic Assessments during MRWS Stages 1 to 3 to inform its work and the deliberations of communities who make an expression of interest. It was clarified in light of confusion about some of the terminology that this was not and was never intended to be a formal application of the SEA process set out in the UK Regulations but was instead a generic assessment of the potential environmental, social and economic impacts of implementing a geological disposal facility. Such generic assessments have been undertaken and the report published (Ref. 5) and information from these assessments has been used to inform the response to various requests for information from the West Cumbria MRWS Partnership.

The strategy states that formal SEA will be undertaken in MRWS Stage 4 (Desk Based Studies) to inform the adoption of a geological disposal implementation plan to progress the implementation of geological disposal at the candidate sites selected at the end of desk based studies. At this stage an assessment of the environmental, social and economic implications can be undertaken and informed by information about specific potential candidate sites. This assessment would therefore go further and into more depth than the generic- level assessments undertaken during Stage 1 - 3 (Ref 6.)

NDA RWMD is keen to engage with any Community Siting Partnership or equivalent on its proposed approach to SEA and implications for the other activities to be undertaken during MRWS Stage 4 soon after any decision to participate. Following this initial engagement with local community representatives it is expected that early in MRWS Stage 4 it would consult both consultation bodies and the public on the scope of the proposed SEA. This scoping consultation would effectively begin the formal SEA process which would take place during MRWS Stage 4. While these consultations would be national they could provide an opportunity for those within communities who make a decision to participate to express their opinions.

EIA would be undertaken during MRWS Stages 5 and 6 to inform planning applications where this is required and would be informed by the SEA work undertaken during MRWS Stage 4.

### **4. SEA Scoping and reasonable alternatives**

Representatives of the Partnership questioned the scope of the assessments to be undertaken during MRWS Stage 4 and in particular the approach to realistic alternatives with respect to alternative waste management options and siting processes.

NDA RWMD is developing its thinking ahead of the planned discussion with any Community Siting Partnership on its plans for SEA during MRWS Stage 4 described above. The national scoping consultation early in MRWS Stage 4 process also provides an opportunity for consultation bodies and the public (including local communities and their representatives) to provide their opinions on this question as described in the Strategy for Sustainability Appraisal and Environmental Assessment and thereby input to the development of plans for SEA and the approach to reasonable alternatives.

NDA RWMD also made the point that while it will need to look at a sufficiently broad range of reasonable alternatives to inform the decisions at the end of MRWS Stage 4 there are a number

of ways in which this could be done and the choice of the most appropriate way of doing this will need to be informed by the circumstances which apply at the time.

## 5. Assessments planned during MRWS Stage 4 (Desk Based Studies)

There are a number of other social and environmental assessments which may need to be undertaken alongside the SEA process and are linked to it - for example, Strategic Transport Assessment (STA), Habitats Regulations Assessment (HRA). It was also observed that the site identification and assessment process and the SEA are separate but linked processes which will be undertaken in parallel during MRWS Stage 4 (Desk Based Studies) and that the SEA process is prescribed by law. NDA RWMD is giving some consideration to how these assessments are co-ordinated and how to consult on and communicate proposals for these assessments.

## References

1. The Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004 No 1633)
2. EU Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.
3. Department of Environment, Food and Rural Affairs, Department of Business Enterprise and Regulatory Reform, Welsh Assembly Government, Department of the Environment Northern Ireland, *Managing Radioactive Waste Safely: A framework for implementing geological disposal*. Cm7386, ISBN 9780101738620, June 2008.
4. Nuclear Decommissioning Authority, *Geological disposal: A Strategy for Sustainability Appraisal and Environmental Assessment*, NDA Report Number NDA/RWMD/014, ISBN9781840293982, July 2009
5. Entec, *Geological Disposal: Generic Environmental and sustainability Report for a Geological Disposal Facility – Main Report*, Entec Doc Reg No.: 26069-02, October 2010
6. West Cumbria MRWS Partnership, *Geological Disposal Facility Impacts Sub Group Report*, Document Number 163, July 2011

## ANNEX A: Presentation Material

# Geological Disposal:

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**RWMD's approach to SEA and related assessment work.**

Meeting with West Cumbria MRWS Partnership 20<sup>th</sup> June 2012

# UK Requirements of SEA

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The Environmental Assessment of Plans and Programmes Regulations 2004 sets out requirement for SEA at UK level.

A plan or programme for which an environmental assessment is required shall not be adopted or submitted to the legislative procedure for the purpose of its adoption before account is taken of —

- Environmental report for the plan or programme
  - Opinions expressed by consultation bodies and the public
  - Outcomes of transboundary consultation (where this is necessary)
- Following adoption of the plan or programme there is a requirement to produce a statement describing how these have been taken into account.

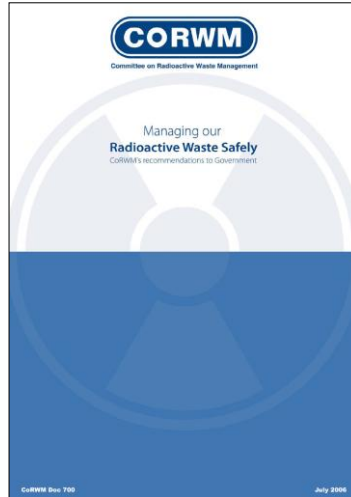
## CoRWM: Recommendations

**2003 Established**  
**2006 Made Recommendations**

**Key recommendations:**

- Geological disposal
- Safe and secure interim storage
- Flexible, staged approach
- Further research and development
- Voluntarism

**Accepted by Government in 2006**



## MRWS White Paper

**2007 Government consults on how to implement**

**2008 MRWS White Paper published following earlier consultation:**

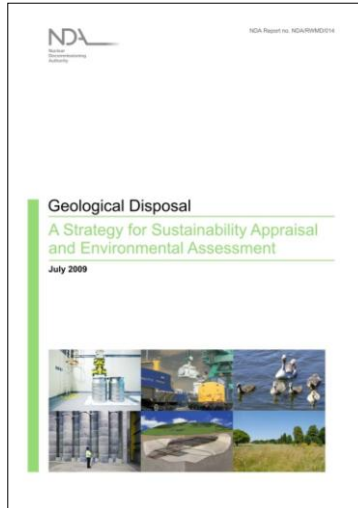
- 'Government is committed to ensuring that the NDA's geological disposal facility programme fully assesses and accounts for environmental impact and sustainability issues through the application of SEA, SA and EIA. The Government expects the NDA to undertake sustainability appraisal, meeting the requirements of the SEA Directive. The Government and the NDA will undertake work on the scope of that sustainability appraisal following publication of the White Paper. There will be close co-ordination and integration of this work and it will continue after candidate communities have been identified to enable local issues and views to be integrated into the sustainability appraisal.'
- 'Following the publication of this White Paper, NDA will prepare and publish for consultation its proposals for sustainability appraisal and environmental assessment.'

# RWMD Strategy

## Consultation - 2008

## Published – 2009

- Sets out broad scope of assessment work
- Describes what will be done and when
- Emphasis on stakeholder engagement
- Good practice approach, not statutory minimum



# MRWS vs SEA/EIA

## MRWS Stages 1 – 3

Generic Assessment (published 2011)

## MRWS Stage 4

SEA

## MRWS Stage 5

EIA – surface based investigation

EIA – geological disposal

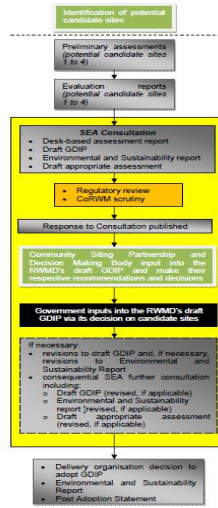
## MRWS Stage 6

EIA – geological disposal

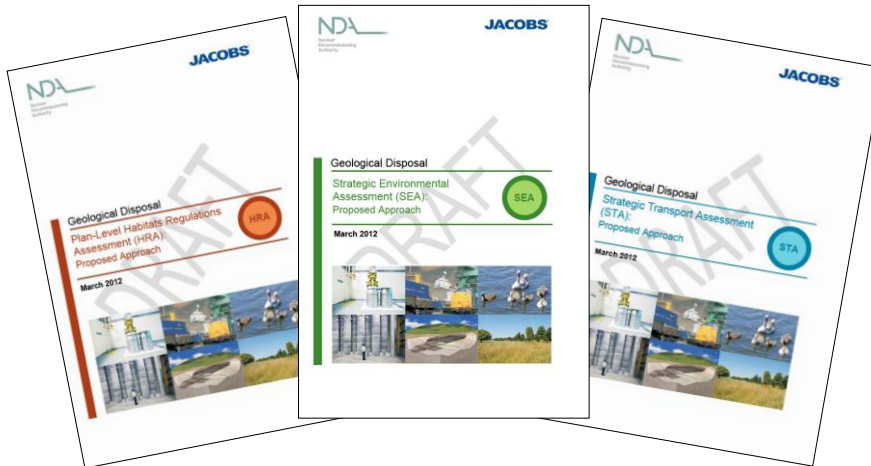


# Approach to SEA in Stage 4

- Extract of draft permissions schedule:



# Developing our approach to SEA



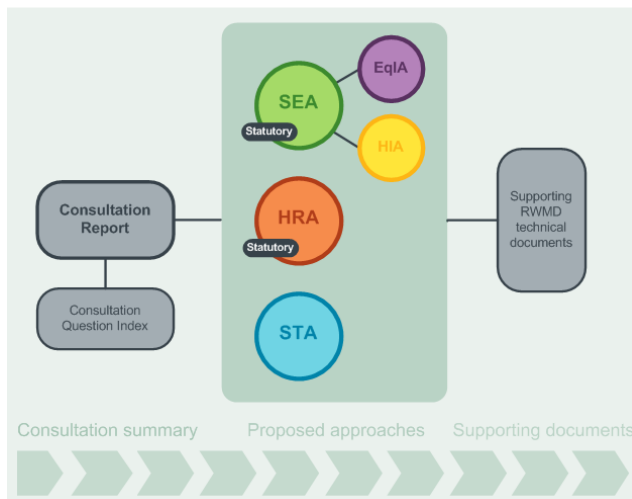
## Consulting on our approach

### The Environmental Assessment of Plans and Programmes Regulations 2004 - Regulation 12:

- (5) When deciding on the scope and level of detail of the information that must be included in the (environment) report, the responsible authority shall consult the consultation bodies.
- (6) Where a consultation body wishes to respond to a consultation under paragraph (5), it shall do so within the period of 5 weeks .....

**However as set out in the strategy we clearly intend to go beyond these minimum requirements in consulting on our approach.**

## Consulting on our approach





## “Reasonable Alternatives”

Where an environmental assessment is required the responsible authority shall prepare, or secure the preparation of, an environmental report which shall identify, describe and evaluate the likely significant effects on the environment of—

- (a) implementing the plan or programme; and
- (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme

## Summary

The MRWS process, from 2001 onwards, has been open and transparent with decisions being made based on extensive consultation and stakeholder engagement.

During the CoRWM process, no options were dismissed without a genuine comparative assessment which included consideration of environmental, sustainability and ethical issues.

RWMD’s Strategy for Sustainability Appraisal and Environmental Assessment was also developed through extensive stakeholder engagement and formal consultations required by the 2008 White Paper .

RWMD will undertake an SEA during Desk Based Studies followed by EIAs at later Stages of the programme associated with development consent and have already undertaken some generic assessments to inform this.

A formal consultation on the scope of the SEA will take place early in MRWS Stage 4 and is expected to provide a vehicle for wider opinions on the proposed approach.