



## Infrastructure Planning Commission Implementation route map December 2009



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Department for Communities and Local Government

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# Infrastructure Planning Commission implementation route map – December 2009

## Introduction

1. This document provides a further update to the implementation route map for the new development consent regime for nationally significant infrastructure projects (NSIPs) and for the establishment of the Infrastructure Planning Commission (IPC), in line with our commitment to provide updates as our implementation plan evolved. It updates the versions published in January and July 2009.
2. This document confirms our ongoing intention to switch on the new regime for the energy and transport sectors from 1 March 2010, for the waste water and hazardous waste sectors from April 2011, and the water supply sector from April 2012, providing certainty and predictability to promoters and interested parties on how individual applications would be treated. It also sets out progress made, and the future programme, for delivering the overall framework for the new development consent regime for NSIPs.
3. Since July significant progress has been made in the implementation programme, including the IPC opening for business and the publication of the first tranche of National Policy Statements for consultation, specifically:

### *Setting up the IPC*

- The IPC opened for business on 1 October, and is now actively advising promoters and other interested parties to ensure that the first applications to the new system are prepared to a high quality. It publishes on its website a list of the projects it expects to receive applications for after 1 March 2010.
- Six Commissioners are now in place at the IPC, including Sir Michael Pitt (Chair), and Dr Pauleen Lane CBE and Robert Upton CBE (Deputy Chairs), and a further three will be joining early in 2010.
- John Saunders has been announced as Chief Executive and will be taking up his post early in 2010, taking over from the interim CEO.

### *Secondary legislation*

- The second package of secondary legislation and guidance setting out pre-application requirements and the detail of the application process itself came into force on 1 October; the relevant guidance is published on the CLG website.
- Consultation on the third package of secondary legislation closed on 5 October. This covered details of how the IPC will run its examinations, matters it must have regard to in coming to decisions on applications, and the fees it will be able to charge. It is intended that these regulations will come into force on 1 March 2010.

### *National policy statements*

- National policy statements covering energy (overarching energy, fossil fuel generation, renewable energy, oil and gas infrastructure, electricity networks and nuclear power) and ports were published for consultation on 9 November.

## Background

4. Improving the UK's infrastructure is critical to maintaining and improving our quality of life, protecting our prosperity and safeguarding and enhancing the environment in an increasingly competitive global economy.
5. Over the next two decades we will need to replace around a third of our electricity generating capacity. We need to ensure that investment provides security of energy supply through a diverse and reliable mix of fuels and low carbon technologies – renewables, nuclear and fossil fuel plants fitted with carbon capture and storage. These low-carbon technologies will also allow us to reduce our carbon emissions as part of our strategy to tackle climate change.
6. At the same time we need to take steps to improve our transport infrastructure – railways, ports, roads and airports – and water and waste infrastructure. People expect to be able to travel reliably and to have clean, secure and affordable supplies of water and facilities for waste management. We need to deliver this in a way which takes into account the needs of communities and the environment.
7. The old planning system for nationally significant infrastructure was simply not up to this challenge. It grew up incrementally and now consists of eight separate but overlapping regimes. It became cumbersome. Consideration of individual applications could take many months or years including lengthy debate about the national need for infrastructure. The process of reaching decisions has been too complicated. Many individuals, communities and other stakeholders found it difficult to make their voices heard under the old system.
8. This is why the Government is fundamentally reforming the development consent system for nationally significant infrastructure projects. Following extensive consultation on the 2007 planning white paper, the Government legislated in what became the Planning Act 2008. This provides for a more efficient, transparent and accessible planning system for nationally significant infrastructure projects.
9. This new regime provides for:
  - the Government to produce national policy statements (NPSs) that integrate environmental, social and economic objectives and provide clarity on the need for infrastructure. These are being prepared with the objective of contributing to the achievement of sustainable development including, in particular, the desirability of mitigating and adapting to climate change
  - a single consent regime – developers will need to submit just one application instead of the numerous related applications which often had to be made under the previous regime
  - a new duty – and greater onus – on promoters to ensure that proposals are

properly prepared and consulted on before they submit an application for development consent and

- a new independent body, the IPC, to take over responsibility for making decisions on nationally significant infrastructure applications. Decisions will be based primarily on, and in accordance with, NPSs. The examination process will be streamlined. Questioning at hearings will be led by Commissioners rather than being fundamentally adversarial in nature

10. These reforms will establish a clear separation between policy making and decisions on individual applications. This will give promoters a clearer framework with a higher degree of predictability in which they can make investment decisions with more confidence. In most circumstances, cases will be decided within a year from application.

11. At the same time, the new regime aims to be more transparent and provide better opportunities for the public and local communities to get involved in decisions that affect them. There are three opportunities to get involved:

- in the debate about what national policy means for planning decisions
- in the development of specific projects and
- the examination of applications for development consent – both by making written representations and appearing at the IPC's hearings

12. In summary, the new regime will enable us to take the decisions about nationally significant infrastructure in a way that is fairer and faster. This is vital to our economic, environmental and social well-being, including meeting the challenge of climate change, strengthening the voice of communities and creating the conditions for future economic success.

## Putting the new regime in place

13. Broadly, there are three tasks being undertaken to set up the new regime:

- establishing a new independent body, the Infrastructure Planning Commission (IPC), which will take decisions on planning applications for nationally significant infrastructure projects
- setting out the detailed procedures and processes of the new regime in statutory instruments (SIs) and guidance and
- the preparation of national policy statements (NPSs) which will set out the national need for particular types of infrastructure and provide the principal basis for the IPC's decision making

14. Given the substantial progress made to date, the timetable for setting up of the IPC and putting in place the regulations involved with the new regime is now most unlikely to change.

15. However, the timetable set out for NPS development and designation inevitably continues to be subject to potential change given the extensive public consultation and parliamentary scrutiny involved.

16. By having an implementation programme which enables the new regime to be commenced for the affected sectors on fixed dates, we are providing industry and stakeholders with clarity on the regime under which a given application will be considered.

17. The overall route map is summarised in figure 1. This identifies the key milestones we are working towards and the assumptions we have made. Figures 2 and 3 give more detail on the processes to produce secondary legislation and guidance (that will flesh out the provisions in the Act) and the process for preparing and designating NPSs.

# Infrastructure Planning Commission

18. The IPC started work on 1 October this year. It is working with promoters and other interested parties to ensure that the first applications to the new system are prepared to a high quality in accordance with requirements, including that consultation on them is thorough and effective. As part of this the IPC is able to provide screening and scoping decisions for environmental impact assessments. At the start of its operations the IPC published its Interim Corporate and Business Plan for the remainder of this financial year
19. The IPC's chair, deputy chairs and commissioners will act as decision makers on applications for nationally significant infrastructure projects. Sir Michael Pitt (Chair), Dr Pauleen Lane CBE and Robert Upton CBE (Deputy Chairs), and six other permanent commissioners are all now confirmed. Two further commissioners will be announced shortly, and CLG is currently recruiting an additional 30 commissioners to a register that will enable the IPC to efficiently manage a fluctuating workload. Once appointed to the register, commissioners will be let individual contracts on a case-by-case basis.
20. John Saunders has been appointed as Chief Executive of the IPC, a position he will take up in January. He will lead the IPC Secretariat in providing the necessary operational, day-to-day support to enable the commission to function effectively, and as accounting officer, is responsible to Parliament for ensuring the IPC makes effective use of public funds.
21. At a launch event held on 22 October, the IPC launched its programme of projects, providing the public with a list of projects it anticipates receiving applications for. Eleven projects were named and the list has been added to subsequently. The IPC expects to receive about 40-50 applications during its first full year.
22. The IPC continues to staff-up and implement and test systems so that it will be ready to receive applications from 1 March 2010. Around 40 permanent IPC secretariat staff are now in place and are being trained on core IPC processes. Shared service arrangements with CLG for finance, HR, IT and payroll services have been successfully implemented. Further work is ongoing to develop a case management system in time for 1 March 2010.
23. The IPC has produced publications that will help stakeholders such as Members of Parliament, local authorities, leaders in non-governmental organisations, public bodies, businesses and the general public to understand the role of the IPC. The IPC plans to finalise additional technical guidance once the secondary legislation upon which it is based is laid before Parliament early in 2010.

## Detailed procedures in secondary legislation and guidance

24. The Planning Act established the framework for the new development consent regime, but the detailed procedures and rules for how development consent can be obtained are being set out in secondary legislation and guidance. Statutory Instruments and guidance will provide further technical details about how the principles established by Parliament are to work in practice, and what the standards mentioned in the Act are.
25. The Act also allows the Secretary of State to issue guidance for the benefit of participants in the IPC process, explaining how an application can meet the standards the Act expects of them, and ways in which they can make their opinions on a project heard. The Secretary of State can also issue written guidance to the IPC in order to guide its decision-making.

## First and second package of statutory instruments NPS consultees and pre-application requirements

26. The first package of regulations which sets out the list of statutory consultees for national policy statements was published in draft in January 2009. It was consulted on between January and April, and the statutory instrument (SI no. 2009/1302) came into force on 22 June.
27. The second package of regulations was published in draft in March 2009 and was then consulted on until June. It dealt with the requirements placed on developers in order for them to prepare and make applications to the IPC. In particular, these deal with the pre-application work which developers must undertake in order to meet the Planning Act obligation to consult on applications before submitting them to the IPC. They also cover how consultation work already undertaken would be regarded for applications which are then submitted under the new regime. The package also covered the following:
  - regulations setting out model provisions for draft development consent orders
  - regulations transposing the obligations in the environmental impact assessment and Habitats Directives to the new regime and
  - guidance from the Secretary of State as to what could be classed as 'associated development', for which the IPC can grant development consent as part of a nationally significant infrastructure project
28. The consequential package was brought into force on 1 October 2009 to coincide with the IPC starting work. Guidance documents covering application forms, pre-application consultation, and associated development, have all been published on the CLG website. This provides promoters with guidance on what they need to do to prepare and consult on proposals in advance of submitting applications to the IPC from 1 March 2010.

## Third package of statutory instruments: examination and decisions on applications

29. The third package of regulations was published in draft on 14 July. It deals with how the IPC will examine and decide on applications. The package includes prescribed matters the IPC must have regard to when coming to decisions on applications, guidance on how it should decide on applications which request compulsory purchase of land, and regulations about orders granting development consent. The package also covers the fees that can be charged by the IPC.
30. Consultation on the third package closed on 5 October 2009. We intend to bring this package into force and publish associated guidance on 1 March 2010.

## Fourth package of statutory instruments

31. Work has just started on the fourth package of regulations. This package will cover changes to and revocations of, a development consent order. These regulations are not necessary for the consideration of the original application for development consent; they are needed to deal with any necessary later changes to the development consent order that has been granted as a result of that application. These regulations will set out the various processes necessary to deal with those later changes and will also set out how to deal with any necessary revocations. The regulations will cover: applications; consultation; publicity; examination; decision making; and any necessary compensation. The package will also cover the fees that can be charged by the IPC for these types of application.
32. Our current intention is to publish the draft fourth package during March, with a subsequent twelve week consultation period. We intend to bring this package into force on 1 October 2010.

## Non-statutory guidance for local authorities

33. The Planning Act envisages local authorities having a key role in the new process, notably in the design and conduct of promoters' pre-application consultation exercises and in producing local impact reports. This reflects their various functions, as both place-shaper for their local area, and as the representative of local people.
34. Guidance documents are being developed to help support local authorities with their role in the new process; from the early stages before an application is made, right through to enforcement of a consent order. It will set out in detail the opportunities which the Act gives to local authorities to ensure that the promoter is held to the highest standards of transparency and accountability. They will be published early in 2010.

## National policy statements

35. National policy statements (NPSs) lie at the centre of the new regime for nationally significant infrastructure projects (NSIPs). They will operate as the primary policy documents for the IPC, applicants and other interested parties when considering applications for development consent. Topics covered include the need for new or expanded infrastructure; locational considerations; how impacts are to be assessed and weighed against benefits; and the mitigation of impacts. All NPSs are also subject to appraisal of sustainability (AoS), including, where appropriate, strategic environmental assessment (SEA). NPSs are also subject to habitats regulation assessments under the Habitats Directive.
36. On 9 November the first seven draft national policy statements were published for public consultation and parliamentary scrutiny. The Department for Transport published its draft NPS on ports and the Department of Energy and Climate Change published its suite of draft energy NPSs. This comprises an overarching energy NPS and a range of technology specific NPSs which must be read in conjunction with the overarching NPS. The energy NPSs are:
  - *Overarching NPS for Energy* (EN-1)
  - *Fossil Fuel Electricity Generating Infrastructure* (EN-2)
  - *Renewable Energy Infrastructure* (EN-3)
  - *Gas Supply Infrastructure and Gas and Oil Pipelines* (EN-4)
  - *Electricity Networks Infrastructure* (EN-5)
  - *Nuclear Power Generation* (EN-6)
37. Because of their importance, it is vital that NPSs are well founded and authoritative. We are therefore committed to thorough and effective public consultation in the production of NPSs. The NPS consultations include events around England and Wales with the aim of providing citizens and communities with more information. Where an NPS is location-specific, as is the case with the nuclear power NPS, the

relevant local communities are being consulted on the proposals, and local authorities are being consulted on how the NPS should be publicised in the local area.

38. Planning Aid England, which provides free and independent professional planning advice to community groups and individuals who cannot afford to pay professional fees, has been given additional resources by CLG to help promote community engagement in the NPS consultation process. This has enabled Planning Aid England to act as independent facilitators at some national events, provide assistance and advice to visitors at local nuclear events, and to provide information, advice and training on NPSs and the new NSIP process through its regional networks.
39. Consultation on the energy NPSs closes on 22 February 2010. Subject to the consultation and Parliamentary scrutiny, the Government intends to finalise and formally approve the energy NPSs later in 2010.
40. Consultation on the Ports NPS closes on 15 February 2010. Subject to the consultation and Parliamentary scrutiny, the Government intends to finalise and formally approve the Ports NPS later in 2010.
41. As well as thorough and effective public consultation, NPSs are subject to Parliamentary scrutiny. The Energy and Climate Change Select Committee will be scrutinising the draft energy NPSs, and has now issued a call for written evidence with a deadline of 15 January. The Transport Select Committee will be scrutinising the draft NPS for ports and it has also issued a call for written evidence with a deadline of 15 January.
42. The Select Committees will produce their reports into the draft NPSs by about the end of March and may recommend that one or more of the NPSs be debated in either House of Parliament. Where the Select Committee recommends that a debate is held on a draft NPS, the Government will make time available for this in both Houses.
43. Before designating an NPS, the Government will consider representations made during the consultation, any Select Committee recommendations and any resolutions of either House, and must lay before Parliament a statement setting out the Secretary of State's response to any resolution or recommendations before amending the NPS as appropriate.
44. As confirmed earlier this year the IPC will be able to start receiving applications for the energy and transport sectors from 1 March 2010 irrespective of whether the relevant NPS has been designated. If for any reason the relevant designated NPS is not available when a particular application reaches decision-making stage (likely to be in late 2010 at the earliest), the IPC would have to make a recommendation to the relevant Secretary of State rather than make the decision itself. The Secretary of State is under a duty to make the development consent decision within three months of the recommendation from the IPC (although the Secretary of State may extend this deadline). Where a relevant NPS has been published in draft this can still be a consideration for the IPC when making its report and recommendation to ministers.
45. NPSs are in the process of being produced for the full range of infrastructure sectors covered by the new regime. Projects above the thresholds set out in the Planning Act will be considered by the new regime. Smaller projects will be considered by the

current regimes. The thresholds are set out in Part 3 of the Planning Act (see link at end). The Act makes provision for NPSs to be updated (either as a whole or in part) over time to reflect changes of circumstances and policy.

46. The remainder of the national policy statements are planned to be produced to the following timescale:

<b>NPS</b>	<b>Publication of draft</b>	<b>Finalised and formally approved</b>
National networks (i.e. strategic roads and railways, including strategic rail freight interchanges)	Early 2010	Late 2010
Waste water (e.g. sewage treatment infrastructure)	Spring 2010	2011
Hazardous waste (e.g. high temperature incineration)	Summer 2010	2011
Water supply* (e.g. reservoirs)	Late 2010	Early 2012
Airports	Early 2011	Late 2011

\*Whilst it is hoped to begin consultation on the water supply NPS in late 2010, this is dependent on the final water resource management plans being published as they are central to the NPS.

47. The NPSs are being drafted by the departments responsible for the sectors they cover. Communities and Local Government is playing a coordinating role in the drafting of NPSs to ensure coherence and consistency both between NPSs, and between NPSs and the rest of the planning system. This will ensure that the new regime and the existing ones, including the town and country planning system, work well alongside each other. As statements of national policy on nationally significant infrastructure, regional planning bodies and local planning authorities must have regard to NPSs when preparing their plans at regional and local level.

48. NPSs will continue in force until such time as they are withdrawn or replaced. There is no set period for NPSs although each individual NPS may suggest a time frame, for example, up to 2025 or 2030. While it is important that NPSs have a long shelf-life it is also important that they remain up to date and reflect changing circumstances. The Act therefore places a duty on the Secretary of State to review each NPS whenever the Secretary of State thinks it appropriate to do so.

## Implementation timetable

49. The attached diagrams show our implementation plan, as of December 2009, indicating what has been achieved and the programme going forward and our current plan for further work. As previously stated, the timetable set out for NPS development and designation inevitably continues to be subject to potential change given the extensive public consultation and Parliamentary scrutiny involved, but by having the new regime commencing on fixed dates, we are providing industry and stakeholders with clarity on which regime a given application will be considered by.

50. The overall route map is summarised in figure 1. The work to establish the new Commission, set out detailed procedures for the making and examination of applications, and draft the NPSs continues to be taken forward in parallel so that the new regime can be rolled out as quickly as possible.

## Applications submitted before 1 March 2010

51. Applications for consent of an energy or transport NSIP (or aspects of that project) submitted under the current regime before 1 March 2010 – such as a planning application – will not be affected by commencement of the new regime. Any permissions granted for such applications will continue to have legal effect.

52. Scheme promoters progressing applications under the current regime are however advised to consider their planned timetable carefully and consider whether they will have all their necessary applications submitted prior to 1 March. If not and aspects of a project will require development consent, it may make sense to seek consent for the entire project via the IPC's single consent regime.

## For further information

53. For further details please see:

- CLG website – section on Planning Act 2008 implementation  
<http://www.communities.gov.uk/planningandbuilding/planning/>
- Infrastructure Planning Commission  
<http://www.independent.gov.uk/infrastructure>

You can contact the IPC at: [ipcenquiries@infrastructure.gsi.gov.uk](mailto:ipcenquiries@infrastructure.gsi.gov.uk)

To access the energy NPS consultation please visit:  
<https://www.energynpsconsultation.decc.gov.uk/>

To access the ports NPS consultation please visit  
<http://www.dft.gov.uk/consultations/open/portsnps/>

## Annex A: Guidance published to date (December 2009)

Planning Act 2008:  
Nationally significant infrastructure projects  
**Application form guidance**

September 2009

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/applicationformguidance.pdf>

Planning Act 2008:  
**Guidance on pre-application consultation**

September 2009

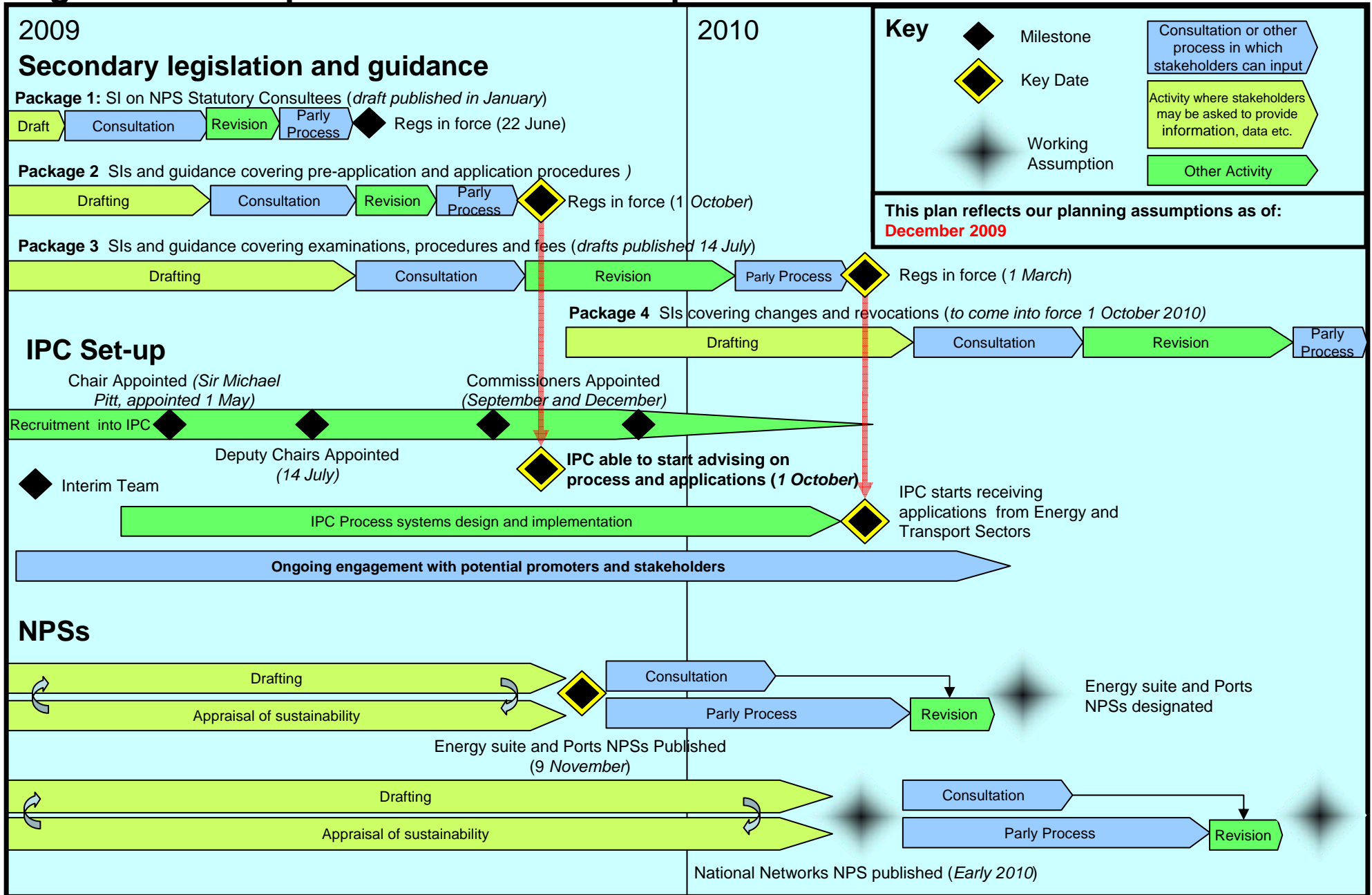
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/guidancepreapplication.pdf>

**Guidance on associated development**  
Applications to the Infrastructure Planning Commission

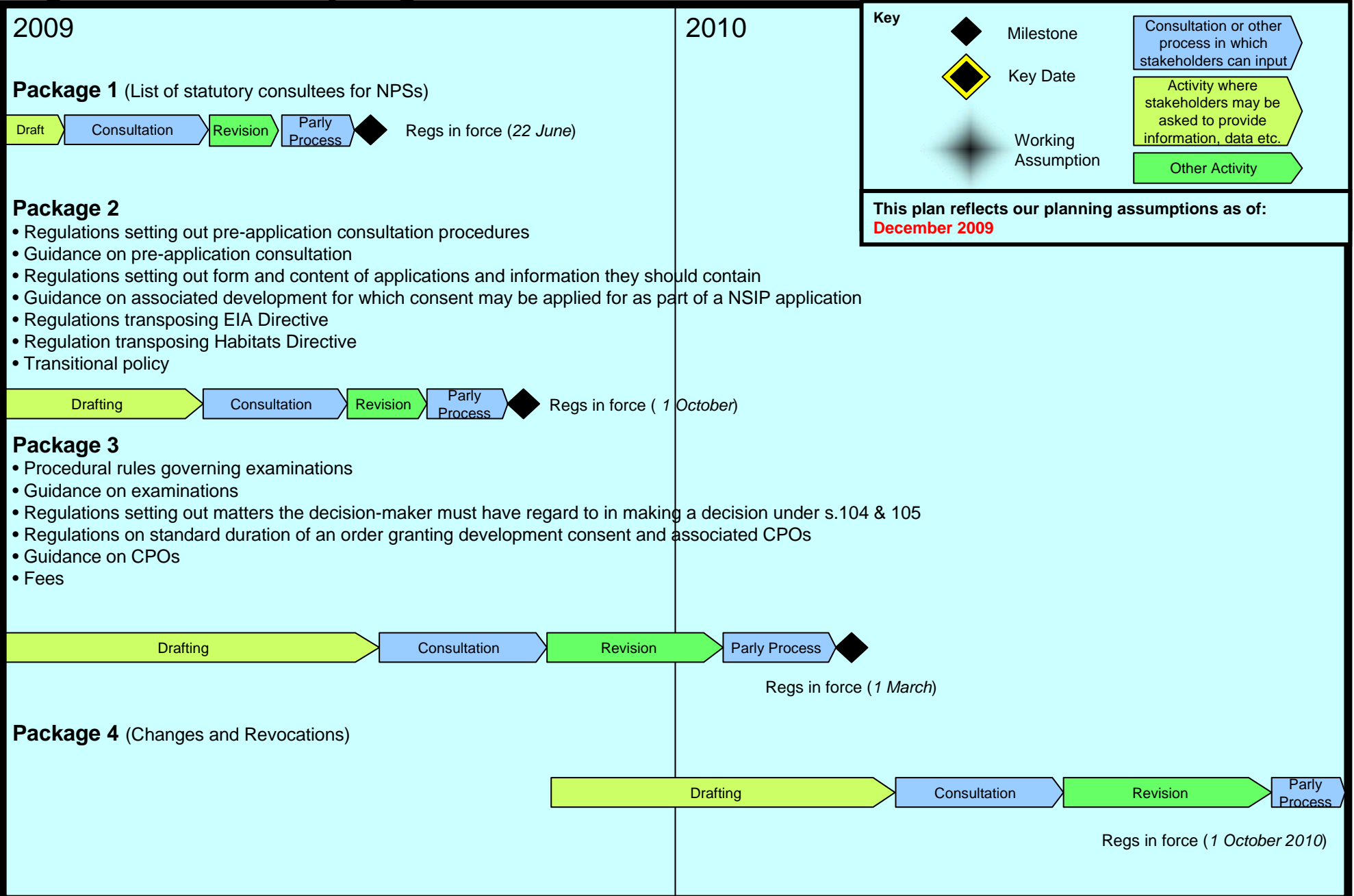
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/guidanceassociateddevelopment.pdf>

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# Figure 1: IPC Implementation Route Map – Overview



# Figure 2: Secondary Legislation and Guidance



# Figure 3: Outline of NPS Process (for first tranche of NPSs)

