



Environment and Rural Development Committee

17th Meeting, 2004

Wednesday 23 June 2004

The Committee will meet at 11.00 am in Committee Room 1.

1. **Subordinate legislation:** The Committee will consider the following proposed code—

Scottish Outdoor Access Code: Proposed Code, (SE/2004/101).

2. **Sustainable development:** The Committee will consider its response to the consultation on the formulation of a UK sustainable development strategy.

Not before 11.30am

3. **Subordinate legislation:** The Committee will take evidence from Ross Finnie MSP, Minister for Environment and Rural Development, on the following negative instrument—

the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 2004/258).

4. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Shrimp Fishing Nets (Scotland) Order 2004 (SSI 2004/261)

the Agricultural Business Development (Scotland) Amendment Regulations 2004, (SSI 2004/267); and

the Common Agricultural Policy (Wine) (Scotland) Amendment Regulations 2004, (SSI 2004/272).

Tracey Hawe
Clerk to the Committee
Direct Tel: 0131-348-5221

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Scottish Outdoor Access Code: Proposed Code, (SE/2004/101).</p>	ERD/S2/04/17/1a
<p><u>Agenda Item 2</u></p> <p>“Taking It On” – Consultation Paper on a UK Sustainable Development Strategy.</p> <p>Briefing from SPICE (<i>for Members only</i>).</p>	<p>ERD/S2/04/17/2a</p> <p>ERD/S2/04/17/2b</p>
<p><u>Agenda Item 3</u></p> <p>the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 2004/258).</p> <p>Written evidence received in relation to the regulations.</p> <p>Briefing from SPICE</p>	<p>ERD/S2/04/17/3a</p> <p>ERD/S2/04/17/3b</p> <p>ERD/S2/04/17/3c</p>
<p><u>Agenda Item 4</u></p> <p>the Shrimp Fishing Nets (Scotland) Order 2004 (SSI 2004/261)</p> <p>the Agricultural Business Development (Scotland) Amendment Regulations 2004, (SSI 2004/267)</p> <p>the Common Agricultural Policy (Wine) (Scotland) Amendment Regulations 2004, (SSI 2004/272)</p>	<p>ERD/S2/04/17/4a</p> <p>ERD/S2/04/17/4b</p> <p>ERD/S2/04/17/4c</p>

EVIDENCE FROM COSLA ON SEA REGULATIONS

CONSULTATION ON STRATEGIC ENVIRONMENTAL ASSESSMENT OVERVIEW COMMENTARY

Summary of proposals and their context

The proposals have two distinct objectives:

- To extend the requirement for Environmental Impact Analysis (EIA) from individual projects to plans and programmes
- To extend the application of EIAs into strategic policy development

The first of these is an EU Directive, which must be incorporated into Scottish law by 21 July 2004. The second arises from a commitment in the Executive's Partnership Agreement following the last elections to 'legislate to introduce strategic environmental assessment to ensure that the full environmental impacts of all new strategies, programmes and plans developed by the public sector are properly considered.'

The proposal is to implement these two commitments in two related stages. The first stage would be a Regulation to translate the EU Directive into Scottish law. The second will be to introduce a new Bill to implement the second commitment. This new Bill will incorporate the Regulation introduced at the first stage, which will be repealed.

Currently EIAs are required to be undertaken for a range of development projects (generally prescribed by EU directives). This process is governed primarily through UK Regulations in the context of the town and country planning system. Gaps in this system relating to activities not covered by planning controls are filled by specific provisions for forestry, trunk roads, offshore activities (including harbours), agricultural land improvement, water abstraction, electricity lines and pipelines. These procedures have become well established and are broadly appreciated. There are, however, some widely recognised shortcomings, in particular:

- Project based EIAs cannot readily include consideration of cumulative or indirect impacts
- EIAs are triggered in the current system by developments falling within the definitions set out in the relevant legislation. Developments which fall outside the scope of current legislation – notably, agricultural and forestry operations (as opposed to new developments) and changes in processes within existing plants - are not covered.

The EU Directive is intended to go some way to overcoming the first of these shortcomings by requiring that the plans and programmes which form the policy framework within which individual development projects are considered should themselves be the subject of an EIA. This higher level of application of the EIAs has come to be known as 'Strategic Environmental Assessment' (SEA). The EU Directive, however, limits the application of SEAs to plans and programmes which are subject to formal adoption within the legislative provisions of each Member State and 'set the framework for future development consent of projects listed in the

Annexes (to the EIA Directive)'. In practice in Scotland this may limit the scope to Local Plans and Structure Plans under the Town and Country Planning Act, since there are no similar statutory requirements for the production of formal plans for forestry, transport or the utilities. The proposed Regulation appears to go beyond the requirement of the Directive to include plans and programmes which set the framework for the future consent of projects irrespective of whether they fall within the EIA Annex lists.

The proposed Bill would extend the requirement for SEAs to plans and programmes which are not subject to formal adoption under any statutory provisions and to 'strategies' which may to some degree set the framework for more specific 'plans and programmes' whether or not they relate to physical development. It is not clear from the Consultation Report what is the origin of this commitment. It may be viewed as sound practice in line with the UK's commitment to international environmental management. It will go a little way towards filling the second gap in current EIA arrangements noted above, by extending the range of activities covered by EIAs at least at a strategic level, including for example agricultural programmes.

Proposed response – Regulation on SEAs

The first stage proposal – the translation of the EU Directive on Strategic Environmental Assessment of Plans and Programmes into a Scottish Regulation is a legal requirement, and may be broadly welcomed. A number of recently approved Structure Plans and Local Plans have already included a SEA based on guidance issued last year by the Scottish Executive in the form of a research report. SEAs will assist planning authorities in providing tighter guidance on the significant environmental issues which need to be taken account of in development applications.

A number of points on detailed issues of interpretation and procedure are made in response to the Questions asked by the Executive. But there are three issues of broader concern:

- The Regulation offers no definition of 'development consent.' Since this term is critical to determining whether a 'plan or programme' is such that an SEA is required a definition of the term would appear to be essential. This should refer to the Town and Country Planning Act definition of development and planning consent and to other relevant legislation which provide powers to other bodies for similar approval procedures.
- The proposal to extend the requirement for an SEA to plans and programmes which form the basis for future development consents irrespective of whether these developments fall within the EIA Directive Annex lists is significant. In practice, however, to the extent that Development Plans are likely to be subject to SEAs within the scope of the Directive it may not result in a major increase in the number of plans covered. It may have a significant value in ensuring that plans involving a number of smaller scale developments which would not fall within the Directive categories are covered by SEAs.
- Whilst most authorities already assemble some of the environmental information which will be required for SEAs and have passed their plans through assessment processes, SEAs complying with the Regulation will require greater rigour and depth. There will also be a new statutory monitoring requirement. SEAs will also

reduce the extent of analysis required to be undertaken by applicants for development in undertaking EIAs – effectively some of the work required will be shifted from private developers to local authorities. These new burdens should be taken into account in assessing the level of funding support for planning authorities, and in the forthcoming review of planning fees.

Proposed response – planned bill

The proposed Bill is more problematic. It would apply to a wide variety of strategies and policies drawn up by local government as well as central government and a wide range of public agencies. The definition of ‘strategies’ which will be included is itself an issue (see below), but it will fundamentally shift the scope of the requirement for SEAs from plans which are focused on managing physical development to a wide range of service delivery strategies. It appears likely to cover strategies such as:

Schools estates strategy (impact on routes to school, modes of transport, energy conservation)

Schools catchment area policies (as above)

Care in the community (transport implications, energy conservation)

Cultural facilities strategies (transport, energy, conservation)

Sports facilities strategies (transport, conservation)

Housing strategy (transport, energy, conservation)

Housing allocation strategy (transport)

Asset management strategy (energy, transport, development)

Local transport strategy (transport, pollution, energy)

Waste management (energy, pollution, natural resources)

Procurement strategies (energy, transport, re-cycling)

The aim of the proposal may be endorsed – all local authorities have a commitment to promoting sustainable development through the management of their services as well as through the use of their regulatory powers. Sustainable development also features as a core theme of many Community Plans. But the proposals for the Bill have major weaknesses which will require to be addressed before any consideration is given to its drafting. The flaws may also prompt questions as to whether the aims could be more effectively achieved by alternative means.

Key weaknesses in the proposals are:

- The lack of a clear definition of ‘strategies.’ The definition of ‘strategies’ presented is not a definition of strategies but a definition of the range of strategies which will be covered by the proposed Bill. Whilst the consultation paper includes a discussion of the distinction to be drawn between ‘strategies’ and ‘plans and programmes’ there is no discussion of the variety of descriptions which may be given to ‘strategies’ such as ‘policies,’ ‘frameworks,’ ‘agendas,’ or ‘partnership agreements’. The nearest the paper gets to a definition is in fact in a ‘description’ of strategies as ‘a coherent collection of policies operating in conjunction with each other and presented as such.’ This suggests that ‘policies’ would also be considered to be ‘strategies.’ The significant extension in the scope of SEAs is not the extension to ‘strategies,’ which is essentially a semantic extension, but the extension beyond those which set the framework for future development consent for projects. As noted above, this can be given a tight definition.
- Potential conflict with town and country planning procedures. All physical developments falling within the scope of the legislation covered by the proposed

Regulation require to be subject to approval under the relevant statutory procedures. This includes developments which are a consequence of other strategies such as those relating to health services, schools, waste management, and roads and transport SEAs undertaken for strategies which are not development plans must not prejudice SEAs or EIAs undertaken in the context of the planning system. This could be illegal. It would also prejudice the rights of the public to independent examination in public of features of a strategy which should properly be incorporated into development plans.

- Undertaking a strategic SEA on a group of facilities out of the context of the development plan for the area even at a strategic level would also be technically flawed. The impact of, for example, the development of health facilities can only be effectively considered in the context of related developments such as housing expansion and transport. There is a likelihood that both the impact and the potential for mitigation measures will be significantly underestimated through the 'functional' approach inherent in the proposals for the Bill. The 'functional' SEAs will also cut across the requirements for SEA of Transport Strategies (the STAG process) and River Basin Management Plans.
- The decision on whether an SEA is required will be taken by the authority responsible for the strategy. This will leave a wide range of policies and decisions by all public authorities potentially open to legal challenge on the basis that an SEA should have been undertaken. When an SEA has been undertaken there will be a requirement to give full consideration to representations by the public. This will become at best a major bureaucratic burden and at worst could delay the implementation of essential social and economic policies for months or years.

Examples:

Refusal of a school bus to a specific home could result in a challenge on the basis that the decision was taken by reference to a coherent set of policies which represented a strategy and had not been subject to an SEA. It could be argued that an SEA was required since the facility of providing school buses makes a significant contribution to the reduction in car usage.

Refusal of a Council house near to a tenant's place of work could be challenged on the basis that the housing allocation criteria represented a coherent set of policies, that these were not subject to an SEA and that proximity of housing to tenants' places of work has a major bearing on the generation of traffic.

- SEAs will require to be undertaken by officers responsible for services who have no familiarity with environmental policy issues or the procedures required to undertake an SEA. At least in local authorities there is already experience within planning sections of undertaking SEAs or assessing EIAs. Other organisations will be required to undertake analyses for which they have no previous experience. This will be costly in resources even for local authorities. There is also the potential for extensive duplication in the collection and analysis of baseline data, analysis of impacts and monitoring, and the probability of extensive overlap and conflict with town and country planning, transport planning and regimes such as waste management and river basin planning.

The potential problems in drafting a Bill which is clear in its application and proportionate to the benefits which will be derived prompts the question of whether the objective of extending the application of SEAs could be achieved more effectively

by other means. For example, all relevant organisations could be subject to a requirement to establish an internal scrutiny process which will involve environmental assessment of its policies on a regular basis. This could be closely integrated with the specific requirements relating to development plans, and with Community Planning. The requirement in relation to local authorities could be introduced as an extension of the Best Value requirements, which are in turn subject to audit. Equivalent obligations could be placed on other relevant organisations. The requirements could be reinforced through functional guidance on the preparation of strategies such as Local Transport Strategies, School Estates Strategies and Housing Plans. Such a process would:

- be technically better than that proposed in the Bill because cross-cutting issues would be effectively assessed
- be more efficient in avoiding the potential for overlap and conflict
- be open to quality scrutiny through best value audit procedures
- would be less open to legal challenge

CoSLA would welcome the opportunity to develop ideas for alternative, more effective ways of implementing the commitment set out in the Partnership Agreement

COSLA RESPONSE TO SEPECIFIC CONSULTATION QUESTIONS

These responses should be read in conjunction with the broader issues set out in the Overview response

Q1

The Directive will apply only to plans and programmes which set the framework for future development consents of projects listed in Annexes I and II to Directive 85/337/EEC. This would appear to restrict the requirement for SEAs effectively to Development Plans under the Town and Country Planning Act. Most developments by public utilities and private companies which would fall within the scope of Directive 85/337/EEC require consent under the Town and Country Planning Acts. The exceptions are developments which are excluded from the definition of development under the Town and Country Planning Act - notably forestry, agriculture and offshore development including fish farming – and permitted development. There are separate EIA Regulations covering these projects, in particular certain projects. The provisions of the Act should extend to plans and programmes prepared by these organisations to the extent that they prepare frameworks for consent for developments which do not require planning permission. But it is important to avoid the possibility of other organisations preparing SEAs for plans which could conflict with SEAs of Development Plans prepared under the Town and Country Planning Acts.

Q2

The definition of plans and programmes is sufficiently robust. It would clearly embrace formal alterations of development plans. Whilst it would not cover 'non-statutory' action plans and other planning documents which set out to amplify the policies in the development plan these can never supersede the development plan itself. The SEA for the development plan will therefore remain the primary material consideration in assessing development applications.

Q3

The screening system is unlikely to be overwhelmed given the limited range of plans and programmes which would appear to be covered, as reviewed in the responses to Qs 1 and 2 above.

Q4, Q5

Very few plans falling within the scope of the Directive are produced on a joint basis – where they are and have statutory force as regulatory instruments they will be produced by a formally constituted partnership in which responsibilities are clear.

Q6

The proposed screening process appears reasonable except that it would seem to be unacceptable for Scottish Ministers to be both a consultee and arbiter. It is unclear what information they would bring to bear as the basis for responding to a consultation which cannot be provided by SEPA or SNH, except in relation to Historic Scotland's responsibilities. It would appear preferable for Scottish Ministers not to be included as consultees, but for Historic Scotland to be consulted.

For the reasons set out in response to Qs 1 and 2 it is essential that Planning Authorities are added to the consultees for plans and programmes due to be prepared by other agencies.

It is also noted that when SEAs are undertaken as part of the statutory planning process a wider range of organisations require to be consulted. It appears sufficient to limit consultations on whether an SEA is required to the three organisations suggested, particularly as decisions require to be publicised and may be subject to judicial review.

Q7, Q8

There does not appear to be any advantage in the alternative arrangements suggested. It may be noted that the screening procedures in place for EIAs have operated on a similar basis for some time without challenge.

Q9

It seems unlikely that the volume of screening opinions required will place the consultee authorities under significant pressure.

Q10

The types of plans and programmes which will be subject to the Directive are tightly defined (see Qs 1 and 2 above). There does not appear to be any case for further categorisation.

It is strongly suggested, however, that the term 'development consent' should be defined in relation to Scottish legislation, in particular the Town and Country Planning Act, since this lies at the heart of the definitions of the scope of the requirement for SEAs.

Q11, Q12

This question relates to circumstances where the requirement for an SEA is not apparent at the outset in preparing a relevant plan or programme. Such circumstances may be quite rare. In relation to EIAs local planning authorities are required to deliver screening opinions at the outset of the process and cannot subsequently change their view. It would not be unreasonable for the same discipline to be applied to SEAs to avoid any uncertainty.

Q13

28 days might be considered generous – planning authorities are required to provide screening opinions on EIAs within 21 days.

Q14

It would be impractical to impose a requirement to start preparing a plan or programme within a specified time of a screening opinion. If it became apparent later that there had been an undue delay and circumstances had changed significantly any plan or programme prepared without reconsidering the need for an SEA the relevant plan or programme would have reduced weight as a framework for development consents – possibly to the point where it would not be a material consideration.

Q15

See response to Q6. Adding planning authorities to the consultees would provide an external view on the requirement for plans prepared by Scottish Executive agencies.

Q16

The guidance available on EIAs and the Consultation report on application of SEAs to Development Plans provides sufficient guidance. The process of undertaking environmental assessments has by now become established.

Q17, Q 18

The quality of the reports relating to development plans will be subject to public scrutiny, including Public Inquiries where they are subject to objection, as well as internal quality control. It is the interests of the responsible authority to ensure that reports are produced to a standard which meets the terms of the Directive.

Q19

Adoption of development plans is clearly defined in the relevant legislation. Formal approval of other plans and programmes which have the force of material considerations in relation to development consents would also require formal approval by the relevant body.

Q20

There does not appear to be any need to address this issue specifically in the Regulation. Associated guidance should, however, make it clear that SEAs should be conducted and subject to consultation prior to finalisation of plans and programmes. This is set out at length in the Research report on the application of SEAs to development plans. Unless SEAs are built into earlier stages of the process it will not be possible to report in the terms required by Article 17(4) of the proposed Regulation.

Q21, Q22, Q23

The relevant provisions of the Directive relating to avoidance of duplication should be transposed into the Regulation. Since an SEA should consider cumulative and projected impacts conclusions should not become rapidly outdated – if they do the exercise will have served no purpose. More importantly SEAs at a higher level in the hierarchy should consider cumulative impacts across a wider area or range of activities. Re-working SEAs at a lower level could fail to pick up critical environmental impacts. The issue could be covered by adding a further sub-clause in Schedule 1 of the Regulation to the effect that: “the degree to which the environmental impact of the proposed plan or programme has previously been assessed in the context of drawing up a plan higher up in a hierarchy, having regard to the length of time which has elapsed and the extent of evidence of significant changes in relevant features of the environment.”

Q24, Q25, Q26

It is suggested that the consultation bodies for SEAs should be defined as under the EIA Regulation – if they are not consulted there could be a conflict in considering a subsequent development application. Consultations on the SEAs themselves should be more extensive than consultations on screening opinions. The list of bodies to be formally consulted should not be defined on a case by case basis – this would leave excessive scope for legal challenge (failure to consult the prescribed bodies is a common form of challenge to decisions).

Q27, Q28, Q29

There are well established arrangements for publicity of draft plans and programmes in the context of the Town and Country Planning Acts. These have been the subject of extensive review recently. It is suggested that these procedures, combined with the provisions set out in the draft Regulations will be sufficient to draw SEAs to the attention of interested members of the public.

Q30

28 days should be retained as the time for submission of representations. It is the same as the period allowed by the EIA Regulations.

Q31, Q32

Further detail on monitoring should be covered in subsequent guidance, not in the Regulations. Guidance is already provided in the Research Report on SEAs and Development plans.

Q33

This relates to a transitional issue. It will apply only to plans and programmes adopted over the next two years where it can be demonstrated that the first preparatory act took place before 21 July 2004. It would appear acceptable to leave the authority responsible to defend its decision not to undertake an SEA under these circumstances. But to reduce the scope for debate the Regulations could add a definition that the 'first preparatory act' shall be "the preparation of a first draft or initial survey of issues to be covered in the plan or programme." It would be unreasonable for authorities to be open to challenge on the basis that they had agreed that they would prepare a plan or programme at some time in the future, but after 21st July 2004.

Q34, Q35

The proposed definition is not considered to be adequate – see discussion in the overview report. Until a satisfactory definition has been proposed it is impossible to gauge the number of strategies which might be covered. An indication of some of the principle strategies is provided in the overview report, but this is not based on a full survey, and is not comprehensive – some Councils may have published 'strategies' on many more relevant topics.

Q36

The Schedule setting out criteria for determining whether a strategy should be subject to an SEA appear to be as relevant as for the narrower application of the Directive.

Q37, Q38

If responsible authorities are able to determine in a pre-screening process whether or not they consider an SEA to be required there appears to be little purpose in subsequent screening – it would apply only where an authority had doubts about its view and wished voluntarily to subject its conclusion to a formal consultation procedure. In the absence of a clear definition of 'strategies' (see response to Q34) authorities may choose to avoid the risk of misinterpretation of the definition by seeking a formal view on all strategies. If, however, the definition of 'strategies' was tighter the pre-screening stage would have the merit of simplifying a process which will be in any event viewed as highly complex.

Q39

As noted in the Overview report the application of SEAs beyond the scope of the Directive will take environmental assessment into fundamentally different processes by disconnecting it from the Town and Country Planning and equivalent procedures for statutory approval of developments. There would be a strong case for leaving the Regulation as it is proposed and not absorbing it into a broader Bill. The Bill should then tackle the introduction of SEAs to strategic policies which will not result in developments subject to planning approval.

Q40, Q41

These questions again depend on the definition given to 'strategies.' Development by private companies will fall within the controls of the planning Acts and equivalent regimes, and therefore be covered by the proposed Regulations. The extension proposed by the Bill would bring within the scope of SEAs strategies for the operational use of existing facilities. The operational strategies of some private companies providing public services, such as rail and bus operators may have major environmental impacts. Such businesses should be brought within the scope of the Bill.

Q42

An enabling power to modify the application of the Schedules to strategies outside the scope of the Regulations would appear prudent in view of the potential difficulties in defining the scope of the extended coverage.

Q43

It is considered that it is sufficiently clear that SEAs will be considered alongside other factors including the impact of proposed strategies on social justice and economic opportunity. The procedure for SEAs will require the consideration of mitigation measures – this implies a recognition that strategies which have the minimum impact on the environment may not be the best when set against other considerations if the impact on the environment can be reduced to an acceptable extent. The application of SEAs to development plans will set them in a context which requires the consideration simultaneously of social and economic considerations. To include these in SEAs would risk reducing important social choices which should be made through democratic processes to technical issues.

Q44, Q45, Q46

Exemptions should be considered on the basis of the potential environmental impact of the operational strategies of particular organisations. There would appear to be a strong case for not exempting the two examples – schools and hospitals – since their operational policies have major impacts on the environment through property management (energy conservation), transport generation and waste treatment practices. The 'pre-screening' process will enable smaller organisations which undertake functions with no clear environmental impact to justify not undertaking SEAs. Centrally determined exemptions has the potential to undermine the primary purpose of the Bill.

Q47, Q48, Q49, Q50

In the absence of an adequate definition of 'strategies' any attempt to estimate the cost is impossible. Estimates of the cost should also take into account 'intangible' factors, such as delays to planning processes, absence of expertise within organisations covered by the Bill, responding to complaints (based on the absence of SEAs and legal challenges and adaptations to management information systems to provide impact assessment and monitoring data. To comply with the proposed Bill most larger public organisation will require to establish a dedicated professional screening and assessment unit with appropriately qualified staff in addition to any expertise which they may have within planning functions which will be absorbed by the more specific requirements of the Regulations. The cost to local authorities of compliance with the proposed Bill would be expected to be well in excess of the projected costs for the Scottish Executive.

Written Evidence to Environment and Rural Development Committee Environmental Assessment Regulations

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations; 36 bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society. The organisations listed below support this response.

We are pleased to provide written evidence to the Committee as they consider the regulations to transpose the European Directive into Scottish statute. At this stage the comments have been kept general, highlighting some key issues and principles that LINK members raised during the Scottish Executive consultation exercise. LINK will be pleased to provide more detailed comments on the primary legislation on strategic environmental assessment that is to come forward later in the year.

Introduction

LINK members warmly welcomed the commitment by the Scottish Executive in the Partnership Agreement to legislate to introduce SEA across the range of all new strategies, plans and programmes developed by the public sector in Scotland.

This commitment has the potential to factor environmental consequences into the heart of decision-making, rather than dealing with environmental considerations as a bolt on extra, thereby helping to secure more sustainable development for Scotland. Once the Partnership Agreement commitment has been implemented successfully, Scotland should be able to stand at the forefront of SEA activity across Europe.

In our consultation response to the Scottish Executive on the regulations and the legislation, we highlighted 4 key issues which we believed needed be addressed if the introduction of the Regulations and in due course the Bill is to be effective. These are outlined below.

The plans, programmes and strategies members of LINK believe may be subject to the Regulations and the Bill are attached, as Annex 1. This is just a draft list of plans, programmes and strategies that LINK bodies have suggested might be subject to SEA under this legislation.

Key Issues

1. Public Involvement

At the consultation stage, LINK members welcomed the broad definition of the 'public' as contained in the Regulations but were concerned that the exclusion

of the public from the screening and scoping stages missed an opportunity for better decision-making.

By limiting the number of consultation bodies to Scottish Ministers (Historic Scotland), SNH and SEPA, there is a very real danger that important areas of expertise or knowledge will be untapped. By publicising these stages and seeking public comment, the Executive would be delivering a truly **open** and **transparent** system.

2. Administration of the SEA

The proposals consulted upon rely upon consensus and communication between the consultation bodies. The process is more likely to deliver results if the suggested option of a separate SEA agency or arms length body (like, for example, the Scottish Executive Inquiry Reporters Unit) is established using a percentage of the funding which will be required by the consultation bodies and correspondingly reduce the administrative burden placed upon them. This offers multiple benefits including:

- Co-ordination of screening by a central body who is not responsible for producing plans, programmes or strategies thus addressing the issue of impartiality;
- Decisions issued by this body could be subject to an appeal procedure to Scottish Ministers (or possibly in the future an Environmental Court);
- Responsible Authorities could be compelled to undertake SEA when it was deemed necessary (not currently an option);
- The consultation process could be tailored to individual plans, programmes or strategies and co-ordinated centrally;
- Duplication of effort by consultation bodies would be avoided;
- The quality of environmental reports and the SEA process could be routinely monitored;
- Advice and guidance could be produced as the SEA body develops expertise and experience; and
- This body could also undertake a similar role for Environmental Impact Assessments (EIAs) as currently happens in the Netherlands and Poland.

We appreciate that the Executive may be reluctant to consider the establishment of a new body. If this is not pursued under the Regulations we would encourage the committee to seek reassurance that the issue be reconsidered during the passage of the Bill based on the experience gathered up to that point.

3. Quality and Monitoring

During the consultation we were concerned that the proposals put forward would not meet the quality or monitoring requirements of the Directive. To address this we recommended the following:

- That mandatory scoping reports are subject to public consultation;

- That the plans or programmes which are not accompanied by an Environmental Report of suitable quality are not adopted or approved;
- Consultation authorities or the SEA body are given powers to compel responsible authorities to provide additional data or revisit their Environmental Reports if they are of a poor quality;
- Name and shame those who regularly produce poor quality SEAs; and
- Put recording systems in place to collect the necessary information to monitor the impacts of plans programmes and strategies, any remedial action taken to remedy unforeseen impacts and the range of plans and programmes subject to SEA.

4. 'Pre-Screening'

Although not affecting the regulations, the Committee may like to note that the proposals for the Bill proposed the introduction of a new concept of 'pre-screening'. Essentially this would enable responsible authorities to 'opt-out' of undertaking SEA. The proposals would allow these authorities to decide not to undertake SEA following the disclosure of an assessment against the criteria in Annex II of the Directive. There is no role for the consultation authorities, nor is there any scope to challenge the decision other than by judicial review.

Consultation bodies may welcome this proposal as a mechanism to reduce workloads but would serve to undermine the intention of the commitment in the Partnership Agreement . By providing responsible authorities with an easy opt-out and no means of challenge the Executive would not only undermine confidence in the commitment in the Partnership Agreement but create a confusing two tier system. The case-by-case evaluation of plans, programmes and strategies, combined with increasing experience, advice and guidance offers the most equitable and manageable solution.

Supported by the following LINK members:

- Association of Regional and Islands Archaeologists
- Biological Recording in Scotland
- Cairngorms Campaign
- Council for Scottish Archaeology
- Friends of the Earth Scotland
- Marine Conservation Society
- The National Trust for Scotland
- Plantlife Scotland
- Ramblers Association Scotland
- Royal Society for the Protection of Birds Scotland
- Scottish Countryside Activities Council
- Scottish Countryside Rangers Association
- Scottish Wildlife Trust
- Woodland Trust Scotland
- WWF Scotland

Scottish Environment LINK

Initial Response to the Scottish Executive Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland

This is a preliminary list of those strategies, plans and programmes LINK members have identified as having potentially significant environmental effects and which may be subject either to the SEA Regulations or the proposed Bill.

Key: ✓ = it may be subject to SEA under this legislation
 ? = indicates uncertainty
 ✗ = a negative assessment

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
Town and Country Planning		
Structure Plans Statutory, prepared by local planning authorities under the Town and Country Planning Act	✓	✓
Local Development Plans Statutory, prepared by local planning authorities under the Town and Country Planning Act	✓	✓
Subject Plans (Statutory plans prepared by Local Planning Authorities e.g. minerals, forestry, waste management & alternative energy)	✓	✓
National Park Plans Statutory, prepared by National Park Authorities, containing strategic objectives and policies for managing the Parks	✓	✓
National Planning Framework Currently under consideration in Scotland (launch 04)	✗	✓
National planning policy guidance National Planning Policy Guidelines, Circulars, Scottish Planning Policies, Planning Advice Notes	✗	✓
Supplementary Planning Guidance Non-statutory. Discretionary, limited to supplements to statutory plan policy and to be clearly cross-referenced to it	✗	✓
Local Agenda 21 Strategies Sustainable Development strategies, prepared by Local Authorities and partners including local communities Non-statutory, Community Planning	✗	✓
<i>Building better cities; delivering growth and opportunities</i> , SE policy statement 2003	✗	?

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
Waste		
National Waste Strategy	?	✓
Area Waste Plans	?	✓
Designing places, a policy statement for Scotland 2001 (SEERAD)	×	?
Historic Environment		
National Cultural Strategy 2000 and implementation guidance for LAs 2003	×	✓
Passed to the Future: Historic Scotland policy for sustainable management of the historic environment 2002	×	✓
Architecture policy for Scotland 2001	×	✓
Water Management		
River Basin Mgt plans and sub basin plans (from 09) arising from WEWS Act 03	✓	✓
Water Company Infrastructure or Abstraction Plans	✓	✓
OFWAT price reviews (Asset Management Planning) Legally enforceable price limits for water companies.	?	✓
Access and Recreation		
A Walking Strategy for Scotland 2003 (SE)	×	✓
A strategy for physical activity 2002. Implementation plans to be published 03/04 (SE)	×	✓
Core Paths Plans to be drawn up by every local authority within 3 years of Land Reform (Scotland) Act	×	✓
Scottish Outdoor Access Code	×	✓
Marine Environment		
Strategic Framework for the Marine Environment – in prep by the Scottish Executive	×	✓
Scottish Executive are to produce a Scottish Coastal Strategy by 2004-05 as required by the EU recommendation on ICZM	×	✓

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
Scottish Coastal Forum developing a Scottish Coastal Strategy (consultation due shortly)	✗	✓ /?
Shoreline Management Plans	✗	✓
Beach Management Plans	✗	✓
Coastal Management Plans Voluntary. Integrated coastal management e.g. Regional / Local Authority Coastal Strategies, Firths Initiatives etc	✗	✓
Coastal Habitat Management Plans (ChaMPs) Non-statutory plans for the management of coastal flood defences in all soft coastal Natura 2000 sites. Not yet piloted, they may not be applicable to Scotland	✗/?	Yes, if they are ever applied to Scotland
Harbour plans Non-statutory plans prepared by Harbour Authorities for management of recreation, watercraft etc.	✗	✓
Bathing Waters Strategy 2002 (SEERAD)	✗	✓
Offshore Oil & Gas Licensing Rounds (reserved issue).	Already used	Already used
Oil Spill Contingency Plan	✗/?	✓
Emergency/Major Incident Plans (non-statutory, often produced by e.g. oil terminals)	✗/?	✓
Fisheries		
SEERAD Strategic Review of Inshore Fisheries (underway, at the consultative stage; may well produce an inshore fisheries strategy)	✗	✓
Fisheries Strategies (local authority produced strategies to promote fisheries, e.g. Highlands fisheries strategy)	✗	✓
Strategic Framework for Scottish Aquaculture 2003	✗	✓
Strategic Framework for the Scottish Sea Fishing Industry (2000). Scottish Executive strategy for the fishing industry.	✗	✓
Locational Guidelines for Aquaculture (2002). Policy guidelines.	✗	✓
Area Management Agreements (non-statutory agreements between fish farmers, regulators, and wild fish interests for the treatment of sea lice in specific coastal waters).	✗	✓
Highland Council Aquaculture Framework Plans. Non-statutory	✗	✓

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
guidance on fish farm locations.		
Aquaculture Strategies (local authority produced strategies to promote fish farming, e.g. Western Isles Strategy)	X	✓
Locational guidance for fish farms 1999	X	✓
Environment		
Scottish Biodiversity Strategy and Implementation Plans	X	✓
Scottish Biodiversity Forum Research Strategy 2002	X	✓
SNH Policy Statements on topic areas– e.g. Agriculture, renewable energy, opencast mining, sustainable development etc.	X	✓
Local Nature reserves mgt plans (local authorities)	X/?	✓
SNH Corporate plan	X	✓
SEPA Corporate plan	X	✓
S39 Management Agreements Legal agreements, voluntarily entered into by statutory agencies with owners of SSSIs	X	✓ /?
Marine SAC Management Schemes Management plans for marine Special Areas of Conservation under article 6 Habitats Directive, either specifically designed for the site or integrated into other development plans. Preparation will be led by UK statutory conservation agencies and plans will be statutory. Management schemes may also be developed for marine elements of SPAs. (Not being proposed for terrestrial SACs as management plans for SSSIs considered sufficient.)	?	✓
River Conservation Strategies for SAC rivers	?	✓
Management schemes for European marine sites (i.e. marine SACs and SPAs)	?	✓
National policy framework (goose populations)	?	?
Non-native species policy (under review?)	?	?

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
SSSI Management Statements Statutory nature conservation agencies producing management statements for all SSSIs, listing key interest & what management is needed to maintain/enhance that interest	?/ X	✓
SEERAD'S Strategy for Agricultural, Biological and Related Research	X	✓
Management Plans for NNRs, Prepared by statutory nature conservation agencies	X	✓
Regional & Local Biodiversity Action Plans, Habitat Action Plans and Species APs Voluntary, prepared by partnerships including local authorities, statutory agencies, RSPB, WTs etc. Audit of biodiversity resource of the area, identify priorities, and targets for action	X	✓
Tourism		
A strategy for Scottish Tourism 2000	X	✓
Tourism framework for actions 2002-05; SE tourism policy	X	✓
Visitscotland Corporate plan	X	✓
Forestry		
Sustainable Forestry: the UK Programme. 1994	?/ X	✓
Scottish Forestry Strategy 2001	?/ X	✓
Indicative Forestry Strategies	✓	✓
Local Forest Frameworks	✓	✓
Scottish Forestry Grants Scheme	X	?/ ✓
FC corporate plan	X	✓
Economic Development		
Scottish Executive Expenditure plans/budget?	X	X
A modern regional policy for the UK: consultation on the future of structural funds, 2003	X	?/ ✓
Construction work procurement guidelines (SE, various dates)	X	?

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
Local Economic Development Strategies Voluntary, prepared by Local Authorities	✗	✓
Skills strategy for a competitive Scotland 1999	✗	✓
HIE/SE Corporate Plans	✗	✓
LEC Corporate Plans	✗	✓
EU/Rural Development/Agriculture		
Single Programming Documents Statutory regional development plans for EU funding, prepared by partnerships including local authorities, statutory agencies	?/ ✗	✓
A Forward Strategy for Scottish Agriculture 2000	✗	✓
A National Strategy for Farm Business Advice and skills 2003	✗	✓
Animal Health and Welfare in Scotland: Implementation plan for the AH& W Strategy in Scotland 2003	✗	✓
Rural Development Plans	?/ ✗	✓
Transport		
Modern Ports: A UK policy 2000	✗	✓
" Transport delivery report. " non-statutory, was published first in March 2002 as 'Scotland's Transport: Delivering Improvement', and had an update entitled 'Building Better Transport' published in 2003.	✗	✓
National Cycling Strategy	✗	✓
Strategic Rail Authority ('Strategic Plan' [produced annually, GB body]	✗	
Scotland's Canals: an asset for the future, 2002	✗	✓
Local Authority Transport Strategies Non-strategy, prepared by all local planning authorities	?/ ✓	✓
Ports Waste Management Strategies	?/ ✓	✓
Air Transport Strategy (UK white paper Dec 03)	✗	✗/?
Energy		

Plan, Programme, or Strategy	Subject to SEA under the Directive and Regulations?	Subject to SEA under the proposed Bill principles?
UK Energy Strategy 2003	X	X
Securing a renewable Future: Scotland's renewable Energy, policy doc 2003	X	✓
A Climate Change Mitigation Strategy for Scotland 1999 (due for review 04)	X	✓
UK Fuel Poverty Strategy	X	X
UK Strategy for Radioactive discharges 2001-2020	X	X
Air Quality		
Air Quality Strategy for UK. 2000	X	X
Telecommunications		
SE strategy paper for extending availability of broadband telecommunications services in Scotland 2001	X	✓
Defence		
Rural Estate Strategy Prepared by MOD, identifying objectives for use of the Rural Estate. Government policy, non-statutory. SEA being carried out	X	✓ /?
Strategic Defence Review Review of military operations. Government policy, non-statutory. SEA being carried out	X	✓ /?
Integrated Land Management Plans Conservation management plans prepared by MOD for major training sites. Government policy, non-statutory	X	✓ /?
Other areas		
Social Justice Strategy 1999	X	✓
A Science Strategy for Scotland	X	✓
Executive Departmental & Government Agency Strategies (SEPA, SNH, HS, DCS, FCS) (such as procurement, waste minimisation etc)	X	✓
School Estate Strategy 2003	X	✓
Education, Training and Lifelong Learning Strategy 1998	X	✓
Scottish Executive's Equality Strategy 2000	X	✓
Scotland's Health Strategy 2000	X	✓

STRATEGIC ENVIRONMENTAL ASSESSMENT

ALASDAIR REID

This briefing provides an introduction to Strategic Environmental Assessment.

It is published to coincide with the Environment and Rural Development Committee's scrutiny of the Scottish Executive's Regulations giving effect to the European Directive on the Assessment of Environmental Effects of Certain plans and Programmes (2001/42/EC). This Directive comes into force on 21 July 2004.

SPICe will publish a Bill Briefing Paper to correspond with the proposed Executive Bill on Strategic Environmental Assessment.

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Alasdair Reid on extension 85375 or email alasdair.reid@scottish.parliament.uk. Members of the public or external organisations may comment on this briefing by emailing us at spice.research@scottish.parliament.uk. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers.

Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

www.scottish.parliament.uk

SPICe briefing

Click to insert day,
month & year

Click to enter
series title & no.



The Scottish
Parliament

CONTENTS

KEY POINTS OF THIS BRIEFING	3
INTRODUCTION	4
WHAT IS STRATEGIC ENVIRONMENTAL ASSESSMENT?	5
THE PURPOSE OF THE SEA DIRECTIVE.....	5
STRATEGIC ENVIRONMENTAL ASSESSMENT IN SCOTLAND.....	6
<i>The provisions of the SEA Regulations</i>	6
THE KEY STAGES OF STRATEGIC ENVIRONMENTAL ASSESSMENT.....	11
<i>What are the benefits of SEA?</i>	13
KEY DIFFERENCES BETWEEN ENVIRONMENTAL IMPACT ASSESSMENT AND STRATEGIC ENVIRONMENTAL ASSESSMENT	14
KEY POINTS FROM THE SEA CONSULTATION RESPONSES	15
MAJOR ISSUES HIGHLIGHTED BY RESPONSES	15
<i>Scope</i>	15
<i>Definition of Plans and Programmes</i>	16
<i>The Screening Process</i>	16
<i>Environmental Assessment</i>	16
<i>The List of Consultation Authorities</i>	17
<i>Monitoring</i>	17
APPENDIX 1 CASE STUDY EXAMPLE. THE NATIONAL PLANNING FRAMEWORK FOR SCOTLAND, ENVIRONMENTAL ASSESSMENT REPORT	18
GLOSSARY OF TERMS	22
SOURCES	23

KEY POINTS OF THIS BRIEFING

- the term Environmental Assessment includes both Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA)
- SEA is carried out on plans and programmes at a strategic level, EIA is carried out on specific development projects
- SEA is an iterative and systematic process for identifying, predicting, reporting and mitigating the environmental impacts of proposed plans and programmes
- SEA must also clearly identify **feasible alternative** plans or programmes
- the EU SEA Directive is required to be transposed into Scottish legislation by 21 July 2004
- the Partnership Agreement commits the Executive to go further than obliged by the Directive and include all new and amended **strategies** as well as programmes and plans. A Bill on SEA is expected in late 2004
- the SEA Regulations transpose the Directive, and cover plans or programmes prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use
- the Regulations do not apply to plans or programmes prepared for national defence or civil emergency, finance or budget proposals and some current European development funds
- SEPA, SNH, and the Scottish Ministers (including Historic Scotland) are statutory consultees, all others who are affected, likely to be affected, or who have an interest in the process, are also included in the consultation process
- there is a duty on the Responsible Authority (owner of plan or programme) to monitor its significant environmental effects and take remedial action

INTRODUCTION

During recent years, there has been considerable development in both the acceptance of the need to manage the way in which humans interact with the environment, and the tools available to achieve such management.

Amongst the assessment tools available are Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA). Collectively known as Environmental Assessment, these procedures are designed to ensure that the environmental implications of certain actions can be taken into account before they are carried out. For example, before undertaking an individual project such as a dam, motorway, airport or factory, an EIA may be required, or for plans and programmes, an SEA would be carried out.

One of the main reasons why SEA evolved is that EIA only enters the decision-making process once decisions at policy or planning level (that could influence project environmental planning and design) have already been taken (João 2004).

The process of Environmental Assessment involves:

- an analysis of the likely effects on the environment of a proposed activity
- recording those effects in a report
- undertaking a public consultation exercise on the report
- taking into account the comments resulting from the consultation and the contents of the report when making the final decision on how or whether to proceed with the proposed activity
- informing the public about that decision

Strategic Environmental Assessment generally applies to high level governmental plans and programmes, and allows the identification, comparison and adoption of feasible options or alternatives (to mitigate against potential environmental impacts). Environmental Impact Assessment applies to individual construction or development projects.

For comparative purposes, the key differences between EIA and SEA are clarified later in this paper.

This briefing paper explores SEA. A further SPICe paper on Environmental Impact Assessment will be published in the near future.

There is a glossary on page 22; it may be useful to refer to this before reading the briefing.

WHAT IS STRATEGIC ENVIRONMENTAL ASSESSMENT?

Strategic Environmental Assessment (SEA) is a systematic process for identifying, predicting, reporting and mitigating the environmental impacts of certain proposed plans and programmes.

João (2004) states two fundamental principles for implementing SEA; firstly, it must clearly identify feasible alternative plans or programmes and compare them in an assessment context, and secondly, SEA must *improve*, rather than just analyse, the plan or programme. It is further explained that alternatives at a strategic level should not solely be concerned with choosing between different types of development to achieve the same aims e.g. choosing between producing energy by coal or biomass but about demand reduction, for example reducing the demand for energy production by insulating buildings. The following alternatives might be considered at a strategic level:

- do nothing, or continue at present level
- demand reduction e.g. reduce the demand for water through metering
- different location approaches e.g. build new houses elsewhere
- different types of development which achieve the same objective e.g. produce energy by nuclear or wind
- introduce fiscal measures e.g. toll roads or congestion charges
- different forms of management e.g. waste management by incineration or recycling

In their Guidance for Planning Authorities on the Strategic Environmental Assessment Directive the Office of the Deputy Prime Minister (ODPM) (2004a) states that *“Assessment always involves comparison. The effects of a plan or policy can only be understood by comparing it with a state, an option or an objective.”*

SEA should not be thought of as separate from the plan-making process, rather as a creative decision aiding tool to be used in the design cycle of the strategy. Best practice assumes that strategic actions are subject to multiple stages of decision-making, and SEA should be integrated into each of these decisions, rather than adjusting strategy-making to include a single SEA stage (Levett and Therivel 2003). It is because of this that they state *“preparation of an SEA report is probably the least important part of the SEA”*.

Once spatial planning, or other policy decisions e.g. on waste management or fisheries have been made, through the use of the SEA process, an EIA can be carried out to assess and mitigate against the environmental impact from specific projects or operations resulting from strategic plans or programmes.

THE PURPOSE OF THE SEA DIRECTIVE

EU Directive 2001/42 on the Assessment of the Effects of Certain Plans and Programmes on the Environment (or SEA Directive as it has become known) was adopted on 27 June 2001. Member states are required to transpose the directive into domestic legislation by 21 July 2004. The responsibility to transpose the Directive is devolved to Scotland.

The purpose of the SEA Directive is to ensure that the cumulative and synergistic environmental consequences of certain plans and programmes and alternatives to these are identified and assessed during their preparation and before adoption. The general public, local authorities and environmental bodies can give their opinion and all results are taken into account in the course of the policy making process. SEA aims to promote sustainable development and transparent planning by integrating environmental considerations and involving the public at a higher level of

decision-making. Anyone can comment on the proposed plan or programme and the accompanying environmental report, should they feel that it affects their environment.

STRATEGIC ENVIRONMENTAL ASSESSMENT IN SCOTLAND

The Partnership Agreement (Scottish Executive 2003a) makes a commitment to go further than obliged to by the Directive, and introduce legislation for Strategic Environmental Assessment that includes all new and amended strategies as well as programmes and plans. It states that the Executive will:

...introduce strategic environmental assessment to ensure that the full environmental impacts of all new strategies, programmes and plans developed by the public sector are properly considered.

In order to help public sector and other relevant bodies prepare for the SEA Directive, and to comply with its timescales (it must be implemented by 21 July 2004) the Executive published Interim Planning Advice on the Environmental Assessment of Development Plans (Tyldesly 2003). A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland was also published in December 2003 (Scottish Executive 2003b). This closed on 11 March 2004, and a summary of responses is considered later in this paper.

Parallel to this consultation the ODPM (2004b) has published a Consultation document on implementation of SEA Directive (2001/42/EC) for England and Wales, and Guidance for Planning Authorities on the Strategic Environmental Assessment Directive (2004a).

The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI/2004/258) (the Regulations) (Scottish Executive 2004a) will be considered by the Environment and Rural Development Committee on 23 June 2004. The regulations are a Scottish Statutory Instrument and are subject to negative procedure.

On the subject of specifically extending the application of SEA to *strategies*, the RSPB (2003a) states:

By including "strategies", the Executive has ensured that they too will be using SEA, for example, to consider the environmental implications of the Aquaculture Strategy, or the Agriculture Strategy. Without this modification to the requirements of the Directive, significant areas of Executive activity would be largely exempt from using SEA.

In contrast, the National Health Service (2004) state:

...we feel that the inclusion of the wider Scottish commitment to extend SEA beyond the existing obligations (of the directive) at this time is well intentioned but potentially problematic. It is unclear what the benefits of doing so in Scotland exclusively are if this is not to be extended within the rest of the UK...We feel that it might be more appropriate to allow time to gain experience and learn lessons through compliance with the Directive before expanding into areas that do not require such compliance.

In order to include *strategies* in this legislation, the Executive has scheduled a Bill on Strategic Environmental Assessment for probable introduction in late 2004, with a consultation preceding its publication running for 3 months from July. The current Regulations deal solely with the SEA Directive, and will subsequently be repealed by the Bill.

The provisions of the SEA Regulations

providing research and information services to the Scottish Parliament

There has been little change to the draft regulations consulted on earlier in 2004, and the Statutory Instrument sets in place a process which includes the following provisions (Scottish Executive 2004a).

Criteria for Application of the Directive

Regulations 1, 2, 9, and 10 set out the extent of the Directive. Regulation 9 encompasses plans or programmes which are prepared for:

...agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use

Additionally, the regulations only apply to plans or programmes that are required by legislative, regulatory or administrative provision and set the framework for future development consent of projects e.g. construction projects, or the extraction of mineral resources, covered by the EIA Directive (85/337/EEC), and plans or programmes that have an effect on Natura 2000 sites (covered by EU Directives 79/409/EEC on the conservation of wild birds and 92/43/EEC on the conservation of natural habitats and of wild flora and fauna). Those which lie outside the subject area list, but still fall under the other criteria, will be covered if they have *significant environmental effects* as determined by the Scottish Ministers.

The Regulations do not apply to plans and programmes solely concerned with national defence or civil emergency, finance or budget proposals. Plans and programmes co-financed under the 2000–2006 European Regional Development Funds, and European Social Fund, or those funded under the 2000–2007 Rural Development Plan are also exempt. These latter exemptions are to avoid duplication because they already contain a similar environmental assessment mechanism. The Executive anticipates that future rounds of regional development, rural development and social funding will be covered under the Regulations.

The Regulations apply to all programmes and plans for which the first formal preparatory act e.g. the publication of a draft, or outline framework, is after 21 July 2004. Additionally, they apply to programmes and plans which are adopted or submitted to legislative procedure after 21 July 2006, where formal preparations have been ongoing since before the implementation date. Exemptions to this latter implementation date (21 July 2006) can be granted by the Scottish Ministers on a case by case basis if a SEA is not feasible, as long as they inform the public of their decision.

Screening

This refers to the decision-making process on whether SEA should be carried out. The Directive allows for decisions to be made on a case by case approach, or by specifying types of plans and programmes, or by a combination of both.

Regulation 13 sets out a proposed screening mechanism based on a combination of both case by case decision-making, and specifying types of plans or programmes (a diagram of the screening process is featured later in this document). The responsible authority (owner of the plan or programme) carries out its own assessment against the criteria set out in Schedule 1 (Annex II of the Directive), and submits that assessment to consultation authorities (SNH/SEPA/Scottish Ministers [including Historic Scotland]). The consultation authorities have 28 days to process an initial assessment. It is the responsibility of Scottish Ministers to determine whether SEA should be carried out in the event of a disagreement.

As noted above, Schedule 1 (Scottish Executive 2004a) sets out criteria for deciding the likely significance of effects. In order to decide whether SEA should be carried out, the plans and

programmes, and the characteristics of the effects and of the area likely to be affected are to be assessed against certain key issues.

The characteristics of plans and programmes must have regard to the degree to which they set a framework for projects and other activities depending on:

- location, size, operating conditions or resource use
- the degree to which the plan or programme influences other plans and programmes
- the ability of the plan or programme to integrate environmental considerations and promote sustainable development

At a European level, consideration should also be given to the relevance of the plan or programme to EC environmental legislation e.g. waste management or water protection.

The characteristics of the effects and of the area likely to be affected must have regard to:

- the probability, duration, frequency and reversibility of the effects
- the cumulative and transboundary nature of the effects
- the risks to human health or the environment e.g. due to accidents
- the geographical area and size of the population likely to be affected

Other concerns to be taken into account include the effects on areas or landscapes protected under natural or cultural heritage designations, and the value and vulnerability of the area likely to be affected due to intensive land-use.

In all cases the consultation authorities must be consulted and conclusions, including the reasons for not requiring an environmental assessment, must be made available to the public.

Environmental Assessment

Regulations 6, 8, and 11 require the assessment to be carried out before the plan or programme to which it relates is adopted or submitted to legislative procedures. Regulation 16 sets out the information to be included in the environmental report, and Regulation 21 requires the responsible authority to monitor the significant environmental issues raised by the assessment. Regulation 17 sets out how long consultation authorities have to comment on the environmental report.

The basis for the environmental report is set out in Schedule 2 of the Regulations (Scottish Executive 2004a). An environmental report must outline the contents and main objectives of the plan or programme, and detail its relationship, if any, with other relevant plans and programmes. It should also outline the current state of the environment, the environmental characteristics of areas likely to be significantly affected and its future condition, should the plan or programme not go ahead.

Furthermore, the assessment should explore and highlight existing environmental problems and environmental protection objectives or considerations that have been taken into account. The impact of plans or programmes on Natura 2000 designations is of particular importance to the report, as are the following issues:

- biodiversity
- human health
- fauna, flora & soil
- water, air & climatic factors

- architectural & archaeological heritage (cultural heritage)
- landscape
- the inter-relationship between the above factors

The above should be considered, whether the impacts are permanent or temporary, primary or secondary, cumulative, synergistic, positive or negative and in the short, medium and long-term. For example, SEA of the National Waste Strategy might highlight increased recycling, reduced landfill rates, and positive effects on landscape whilst recognising the negative issues surrounding new waste facilities in order to minimise adverse impacts on landscape, biodiversity and communities.

Central to these issues is the consideration, at any stage of the assessment process, of reasonable alternatives to the plan or programme should significant environmental impacts be predicted. The consideration of all of the issues in the context of the strategic objectives and geographical scope of the plan or programme is also imperative. Executive guidance to date (Tyldesly 2003) states:

There is no expectation on planning authorities to assess options that would be incompatible with national planning guidance or the structure plan. Neither is there any expectation that options or alternatives must be generated merely for the sake of assessment

The ODPM (2004) states:

Obviation of demand is often environmentally and socially better than providing for demand or rationing consumption through price or limited capacity. For example, better local amenities or services might make some journeys unnecessary; and insulation and design standards can reduce the need for domestic heating. Obviation is not the same thing as restricting or thwarting demands: it should be seen as looking for different, more sustainable, means to achieve human quality of life ends.

The environmental report should also set out the proposed measures to prevent, reduce, and, as fully as possible, offset the significant environmental effects of implementing the chosen plan or programme. It should also outline the reasons for selecting these measures and describe the SEA methodology, whilst detailing deficiencies in technical knowledge or lack of expertise in compiling the assessment.

Ongoing monitoring and review of a Strategic Environmental Assessment is compulsory, and a description of these measures along with a non-technical summary of the entire document should be included. The report should consider each of the alternative implementation options contained in the plan or programme.

In order to avoid duplication of assessment with other parallel studies, and make best use of existing data, responsible authorities are expected to take into account available information and to make qualitative judgements in the absence of firm data, within the scope agreed with the consultation bodies.

Following consultation, Regulation 17 now provides for a fixed period of scoping of 5 weeks. This allows consultation authorities to comment on the range and level of detail of the environmental report. It also allows the Scottish Ministers to review the period for consultation to ensure that consultation authorities, and others affected by the plan or programme, have enough time to respond.

Consultations and Decision Making

Regulations 2, 5, and 18 provide for the consultation and decision making process of SEA.

The Directive requires the designation of environmental authorities whose specific responsibilities are likely to be concerned by the effects of implementing plans and programmes. Regulation 5 lists these consultation authorities as:

- Scottish Environment Protection Agency
- Scottish Natural Heritage
- Scottish Ministers (including Historic Scotland)

Similarly, the “public” are required to be legally identified. Regulation 2 defines “public” to include non-governmental organisations (NGOs) and local authorities, thus incorporating all those who are affected or likely to be affected or who have an interest in the decision making process.

Both the public (as defined) and recognised consultation authorities should be given an early opportunity to express opinions on draft plans or programmes, and the associated environmental report.

In the Draft Regulations, a time period of “*not less than 28 days*” was set for these opinions to be submitted. Following consultation, Regulation 18 now requires the responsible authority to set a time period, the length of which is to be decided on a case by case basis. Scottish Ministers retain the option to increase or decrease this if they deem that it is not suitable.

The transboundary consultation (originally contained in Draft Regulation 16) (Scottish Executive 2003b) is no longer included in the published Regulations. This is a duty specifically laid upon the UK as member state, and will be contained in the English Regulations as a UK wide provision. If a transboundary effect is expected from a Scottish plan or programme, the Responsible Authority will be obliged to inform the Scottish Ministers and Secretary of State, and supply appropriate documentation. UK regulations will contain handling arrangements.

The above consultations and the opinions expressed (environmental report, public and transboundary consultation) are required to be taken into account during preparation of the plan or programme before it is adopted or submitted.

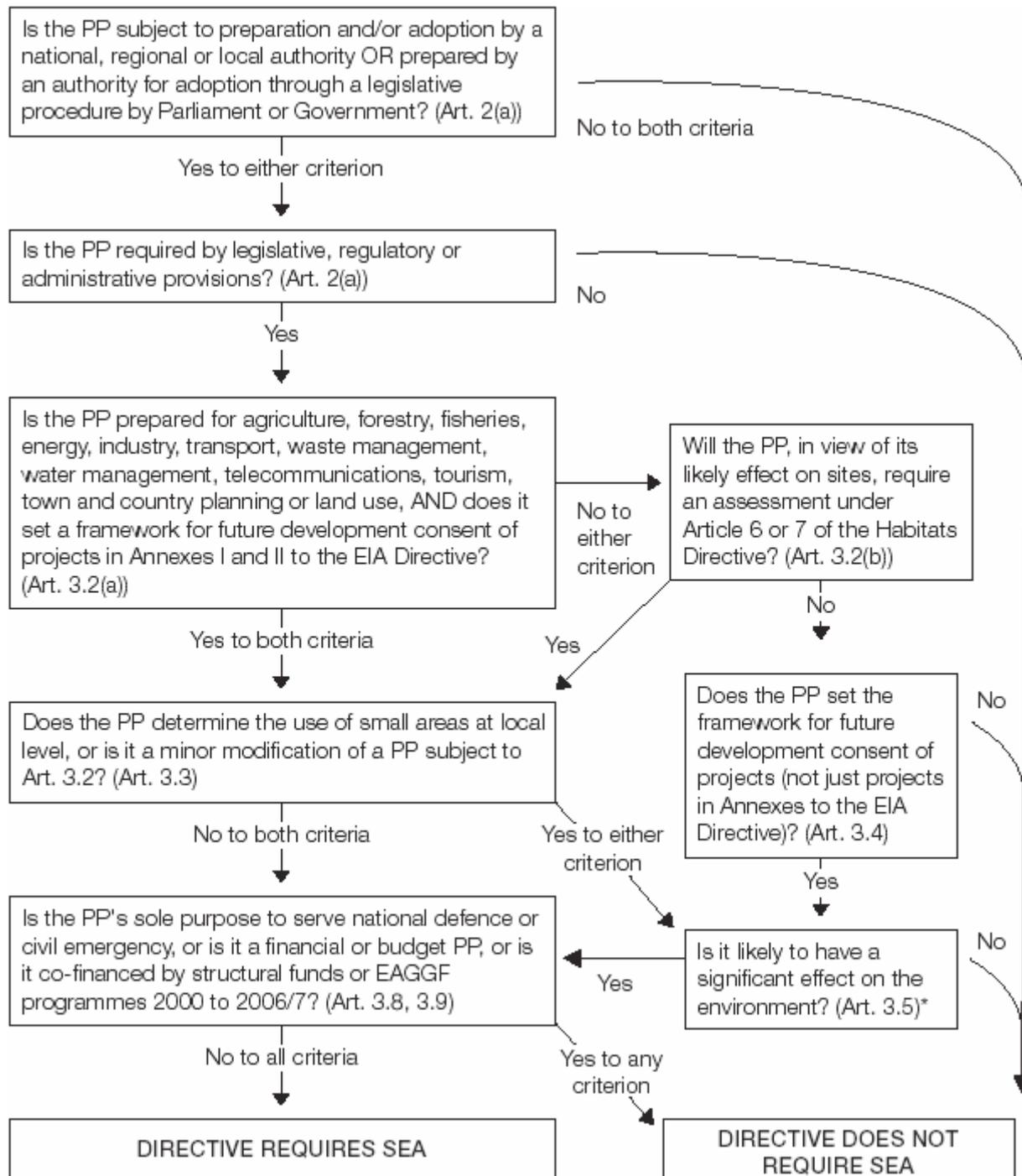
Following this, the plan or programme, as adopted, must also be made available, as must a statement summarising how environmental considerations have been integrated, and the reasons for choosing the plan or programme as opposed to alternatives considered. A further statement must also be made detailing how the plan or programme will be monitored.

Monitoring

Regulation 21 places a duty on the responsible authority to monitor the significant environmental effects of its plan or programme. This permits the early identification of unforeseen adverse effects, and allows for remedial action to be taken. In many cases responsible authorities may already have environmental monitoring arrangements in place; the use of these is encouraged to avoid duplication of effort.

THE KEY STAGES OF STRATEGIC ENVIRONMENTAL ASSESSMENT

Firstly, a decision has to be taken on whether SEA is applicable to the proposed plan or programme (PP). The Office of the Deputy Prime Minister, in its document The Strategic Environmental Assessment Directive: Guidance for Planning Authorities (2004a) sets out the following diagram showing criteria for application of the Directive:



It is generally felt that SEA works best as an iterative process i.e. as potentially significant environmental effects are revealed, the assessment will return to earlier stages to consider reasonable alternatives to the plan or programme and decide whether policies and proposals need altering. The plan is subsequently improved and reassessed, taking into account its original objectives and geographical scope. Tyldesly (2003) considers a stage by stage approach to SEA of development plans. Summarised below, this is put into context in [Appendix 1](#) which shows a case study example of how SEA has been applied to Scotland's first [National Planning Framework](#).



It should be remembered that the above model is **not** linear, and alternative courses of action can be considered at any of the previous stages to alter the plan or programme, and avoid or mitigate against environmental impacts.

It should also be noted that both of the diagrams in this section appear in documents that apply primarily to planning authorities, and Area Structure Plans. The SEA Directive will apply to a wider range of public and private organisations who prepare plans and programmes. The majority of SEA experience in the UK to date has been in a planning context.

What are the benefits of SEA?

Fundamentally, SEA, by considering environmental impacts at plan or programme level, identifies those areas of environmental concern that may not be obvious if considering impacts resulting from individual projects or operations in isolation. For example, the Department of Trade and Industry (DTI) recently carried out SEA as part of their offshore energy strategy, entitled Future Offshore (DTI 2003). The SEA allowed the consideration of multiple issues relating to the development of offshore wind energy, such as visual impact, the impact on birds and marine ecology, and the possible impact on other marine activities on a regional level.

A Discussion paper on Strategic Environmental Assessment by The Wildlife Trusts/WWF-UK Joint Marine Programme (2003) highlights how SEA for offshore developments can involve habitat mapping, risk analysis and visual and ecological sensitivity mapping, and ultimately determine appropriate and inappropriate sites for projects. The paper further states that SEA can help with interpretation of cumulative impacts, for example the visual impact of two or three offshore wind farms. The Wildlife Trusts/WWF-UK (2003) further believes that SEA:

Facilitates consultation between various government bodies and stakeholders and enhances public involvement in the evaluation of environmental and social aspects of policies, plans and projects

Similarly, Fischer (2002) considers the 5 key benefits of SEA to be:

- *wider consideration of impacts and alternatives*
- *pro-active assessment - SEA as a supporting tool for strategic action formulation for sustainable development*
- *strengthening project EIA - increasing the efficiency of tiered decision making*
- *systematic and effective consideration of the environment at higher tiers of decision-making*
- *consultation and participation on SEA-related issues*

Further to this, the RSPB (2003a) notes that SEA can help to strengthen, streamline and shorten Environmental Impact Assessments by the early identification of potential impacts and cumulative effects, and by addressing strategic issues relating to the justification and location of proposals.

There is general consensus about the principles of SEA, and the Directive. Consultation responses focussed some criticism on certain aspects of the regulations. These are explored briefly on page 17.

KEY DIFFERENCES BETWEEN ENVIRONMENTAL IMPACT ASSESSMENT AND STRATEGIC ENVIRONMENTAL ASSESSMENT

Whilst this paper deals solely with SEA, it is important to clarify the key differences between EIA and SEA.

Essentially, the difference is one of scale of assessment. The actual environmental impacts assessed i.e. biodiversity, landscape, transport, development footprint etc are very similar.

SEA involves a holistic approach that considers the projected environmental impacts over time of multiple actions within a region or ecosystem. In contrast to EIA, SEA provides decision makers with information, strategies, and actual and projected information on environmental effects on species, habitats and ecological processes that site specific studies (like EIA) do not capture.

Whereas SEA is an assessment tool for establishing the suitability or scale of undertaking a particular plan or programme, EIA is a widely accepted and utilised planning tool that is carried out at an individual project level. Essentially, EIA can be defined as a systematic, project specific process that examines the environmental consequences of a development, prior to construction, as part of the planning process.

EIA is iterative, and can be used both to predict environmental impacts, thereby allowing them to be addressed, and to confirm that such predictions and appropriate mitigating actions are accurate and effective through continual monitoring. Once an SEA has been carried out, developments relevant to that plan or programme may find the EIA process less onerous e.g. possibly smaller in scope, or more specific, due to certain impacts already having been identified and mitigated against.

The table below summarises the key differences of SEA and EIA.

Strategic Environmental Assessment	Environmental Impact Assessment
strategic	project specific
applied to plans and programmes	applied to individual projects
area specific	site specific
can consider the cumulative effects of numerous plans and programmes	difficult to consider cumulative effects
can consider associated and parallel effects	difficult to consider associated and parallel effects
greater degree of flexibility	constrained to specific projects

KEY POINTS FROM THE SEA CONSULTATION RESPONSES

The Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland was published on 18 December 2003, and closed on 11 March 2004 (Scottish Executive 2003b). This document asked 50 specific questions. 53 interested bodies and individuals responded to the consultation. As the Regulations (Scottish Executive 2004a) are subject to negative procedure, there will be no opportunity to amend the legislation in its current form.

MAJOR ISSUES HIGHLIGHTED BY RESPONSES

The following section briefly raises some of the key issues highlighted by a majority of respondents. A further consultation will take place prior to the SEA Bill being introduced.

Responses from Woodland Trust Scotland, the National Trust for Scotland, Friends of the Earth Scotland, Royal Society for the Protection of Birds Scotland, COSLA, Perth and Kinross Council, the Strategic Rail Authority, Scottish Natural Heritage, Scottish Environmental Protection Agency, the National Health Service Scotland, Forestry Commission Scotland, and NIREX are focussed on.

In general terms, environmental NGOs have commented on a lack of independence in arbitration and scoping in the process i.e. SEPA, SNH, Historic Scotland, and the Scottish Ministers are not fully independent from the plans and programmes that will be covered by the Regulations. Additionally, there are no third party rights of appeal beyond a judicial review if the process fails. COSLA, SEPA, and SNH have all raised concerns about funding and resources. SEPA states:

Effective implementation of these new regulations will, however, place very significant resource demands upon SEPA. In addition, the extension of the scope of plans subject to SEA in Scotland will, of course, increase these resource demands further. We would therefore wish to see a clear commitment to ensuring that appropriate resources are made available to allow effective discharge of these new responsibilities.

Scope

WTS, NTS, FoE, and RSPB all call for the establishment of a dedicated, independent body to supervise SEA. NTS states:

A separate arms-length agency should be established to co-ordinate the screening, scoping and consultation stages of the SEA process, to ensure consistency, impartiality and co-ordination and to avoid duplication of effort.

On the subject of private companies carrying out public functions under the control or direction of the government, SNH states:

...we support the general principle that the plans, programmes and (under the proposed legislation) the strategies of private companies which are prepared to enable them to perform their public functions should be subject to SEA.

Definition of Plans and Programmes

COSLA felt that the definition of plans and programmes was sufficiently robust, and further stated that the SEA for development plans would be the “*primary material consideration*” in assessing development applications. PKC argue that the definition is “*cumbersome*” and “*inconclusive*”. They further state that:

A concise and unambiguous definition, in conjunction with a list of types of plans and programmes (which could periodically be updated by ministers) would give better guidance to potential Responsible Authorities...thereby less scope for by-passing of the Regulations.

The NHS does not consider the current definitions to be clear enough to prevent plans or programmes from entering the screening process unnecessarily. On this subject, SNH considers that there may be short-term confusion over what is relevant, but that this will decrease as experience grows.

The Screening Process

A number of different respondents commented on the screening process. COSLA felt that it was reasonable, except stated that:

...it would seem to be unacceptable for Scottish Ministers to be both a consultee and arbiter

Both FoE and RSPB share this view.

NTS argued that a pre-screening process should not be introduced, as this may allow the avoidance of scrutiny of some plans and programmes. Along with COSLA, it also raised the issue of the Executive acting as judge and jury over its own plans.

PKC notes that case by case screening is more rigorous, but also that it is likely to place a significant resource burden on Responsible and Consultation Authorities. It endorses the Executive’s combined approach.

Environmental Assessment

Both COSLA and the RSPB note that the process of undertaking environmental assessments has by now become established, and that there is a substantial level of environmental reporting experience in the public domain.

The RSPB is however concerned that the Regulations will not secure high quality environmental reports, as the scoping stage of the process is not effective enough. They tie this in with a further call for an independent SEA body. SEPA, SNH, and FoE also recognise that the Environmental Report is “*at the very heart of SEA*” (SEPA), and that:

The quality of reports could be assisted through production of draft scoping reports which facilitated input at an early stage. Third parties should have an opportunity to challenge the content of reports. An independent audit of a sample of reports should also be undertaken. (FoE)

The List of Consultation Authorities

WTS advocated a flexible list of consultation authorities, to be selected by the screening agency on a case by case basis. This would include consultation of the FC on any plan or programme affecting Scotland's national and private forests and woodlands. In its response, FC did not advocate becoming a Consultation Authority. COSLA disagreed with the form of flexibility advocated by WTS, stating:

The list of bodies to be formally consulted should not be defined on a case-by-case basis – this would leave excessive scope for legal challenge (failure to consult the prescribed bodies is a common form of challenge to decisions).

Monitoring

RSPB believes that the Regulations fall short of the requirements of the Directive. It states that there is:

...no obligation to report monitoring results or undertake/report remedial action taken consequently it will be impossible for the Scottish Executive to collate or monitor the significant environmental effects of the implementation of plans and programmes unless they happen to be plans and programmes developed by Scottish Ministers

NIREX states that:

Provisions should also be included to ensure that monitoring plans and mitigation measures are included in the Environmental Reports and are subject to public consultation.

SNH support the proposals set out in the Regulations, and SEPA believe that they broadly fulfil the requirements of the Directive. Nevertheless, SNH suggest that:

...the Regulations could place a requirement on the responsible authority to report annually to Scottish Ministers and the consultation bodies on the results of their monitoring, with Ministers having the right to request changes

and SEPA points out that there is currently no provision for ensuring that remediation to address unforeseen environmental effects is undertaken or reported. It feels that “*without such provision, the monitoring process is academic*” and that there should be a role for the consultation authorities whereby they are informed of, and able to direct, ongoing monitoring reports and proposed actions.

APPENDIX 1 CASE STUDY EXAMPLE. THE NATIONAL PLANNING FRAMEWORK FOR SCOTLAND, ENVIRONMENTAL ASSESSMENT REPORT

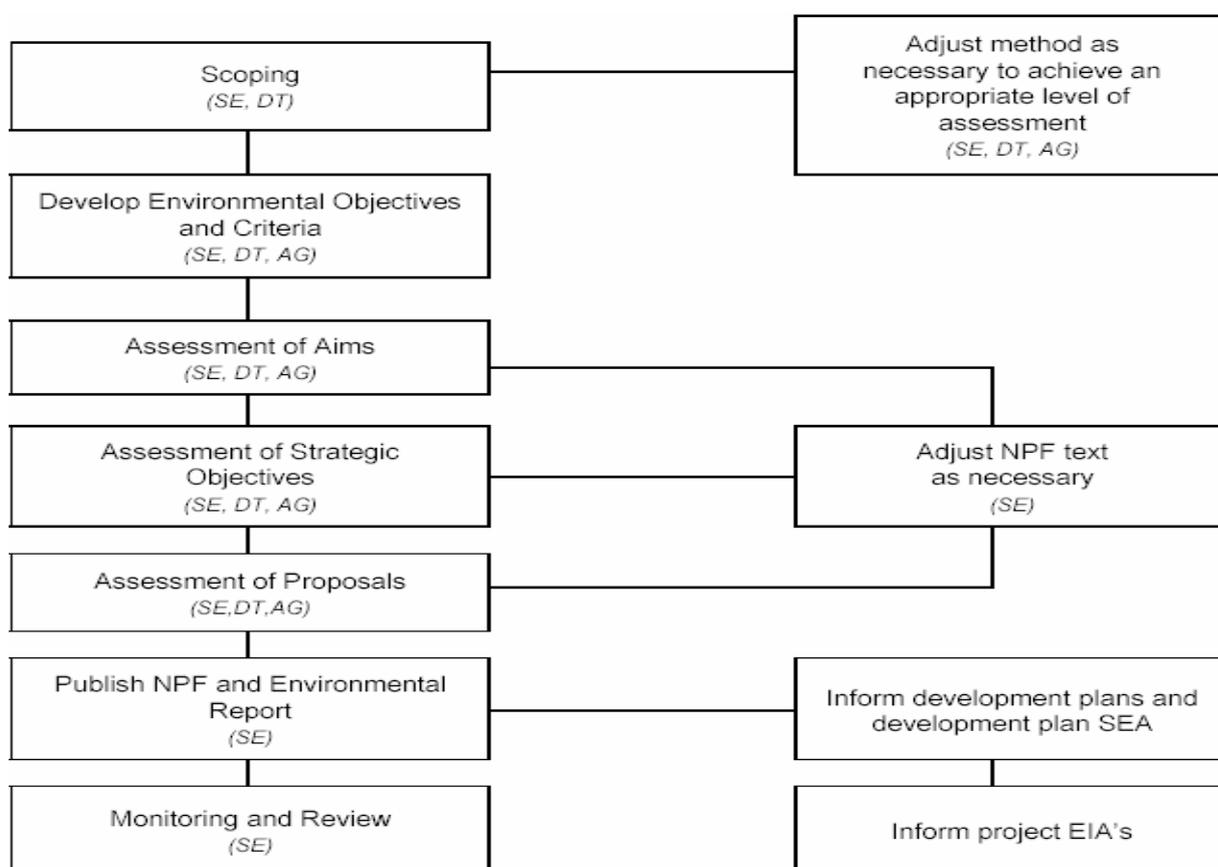
Scotland's first National Planning Framework (NPF) (Scottish Executive 2004b) is a non-statutory planning policy document which has been prepared by the Scottish Executive. The NPF provides a spatial perspective of Scotland and identifies likely change to 2025 to allow the development of and investment in, strategic infrastructure where it is needed.

SEA of the NPF is outwith the scope of the Directive; however, because of the Executive's Partnership Agreement commitment, it was decided to carry out a pilot SEA to aid future work. This assessment does not meet the full requirements of the Directive, particularly in terms of consultation and considering alternative options; this was because many of the NPF proposals were already existing Executive commitments.

Nevertheless, this SEA (Scottish Executive 2004c) provides a useful case study from which to examine the process of this style of environmental assessment.

Scoping

There are few comparative examples of national spatial plan assessments, so a method of assessment suitable for this level of planning was devised by David Tyldesley and Associates, and an Advisory Group comprising representatives from the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Scottish Environment LINK, and the Executive. Following a number of adaptations, and re-testing of the methodology, the following approach was agreed (Scottish Executive 2004c):



The key players at each stage (the Scottish Executive (SE), David Tyldesley & Associates (DT) and the Advisory Group (AG)) are shown in brackets.

Assessment

Criteria against which to assess the NPF were derived from a number of sources, including the Directive, Tyldesly's own Environmental Assessment of Development Plans, and the Executive's Indicators of Sustainable Development for Scotland. The following table sets out the environmental criterion for assessment.

Environmental Issue	Environmental Criterion for Assessment
Landscape	<i>Respects and protects the character, diversity and special qualities of Scotland's landscape</i>
Biodiversity	<i>Protects or enhances biodiversity, flora or fauna</i>
Climate	<i>Reduces energy consumption or CO₂ emissions</i>
Air	<i>Reduces pollution or emissions and protects air quality</i>
Water	<i>Minimises water pollution or enhances water quality</i>
Soils	<i>Protects or enhances the quality of soils</i>
People	<i>Safeguards or enhances the living environments of people or communities</i>
Human health	<i>Promotes human health</i>
Cultural Heritage	<i>Safeguards or enhances the built environment</i>
Material Assets	<i>Promotes the development of a sustainable settlement pattern and physical infrastructure, or encourages the efficient use of land and resources</i>

The NPF was then assessed against the above criteria. The following key issues were considered (Scottish Executive 2004c).

Aims

The assessment highlights that all of the aims are likely to have some positive effects on the environment. For example, increased economic growth and competitiveness can deliver a higher quality of life, improved infrastructure and better environments, and a commitment to environmental justice can ensure improved living environments and better health for disadvantaged communities. In light of this, the assessment also recognises that care is needed to ensure that development promoted, in furtherance of economic objectives, reinforces environmental aims and targets.

Strategic Objectives

The strategic objectives of the framework seek to achieve an appropriate balance between social, economic and environmental considerations and place emphasis on environmental stewardship.

The assessment identifies that supporting the development of urban areas could have both positive and negative effects on the environment. For example, it cites strengthening international links as having significant negative impacts on climate and air, but significant positive impacts on people and material assets. Similarly, it recognises that the potential of renewable energy resources has significant negative impacts on landscape and biodiversity, but positive impacts on climate, air, health and material assets.

Transport

Developing external links and improving connectivity can help to promote a more sustainable settlement pattern and physical infrastructure, however, there are likely to be potential negative effects on climate, landscape, biodiversity and air quality. These issues should be addressed at the EIA phase of individual projects.

The assessment recognises that developing more direct air links is likely to have significant negative environmental effects in terms of climate, air and possibly health, whilst improving material assets for some. Similarly, safeguarding land for airport extension is likely to have negative impacts on landscape and biodiversity, and uncertain or unpredictable impacts on water and cultural heritage. Improving sea links will have significant positive environmental effects for climate and air, whilst having negative ones for water.

Other Infrastructure

Investing in energy and water infrastructure is recognised as having numerous positive and negative effects. Furthermore, the promotion of electricity generated from renewable sources is cited as an important element of both the UK and Scottish Climate Change Programmes. It states (Scottish Executive 2004c):

A significant proportion of Scotland's renewable energy resources lie within sensitive areas and some projects such as wind farms and grid improvements may have to be located in these areas

Nevertheless, supporting community-based renewable energy projects can help to maintain population in remote and economically fragile rural areas. In this section of the assessment, one issue noted as likely to have significant negative environmental effects, with no positive ones, is the expansion of aquaculture to the East Coast. Likely negative effects were registered for both biodiversity and climate.

Regional Perspectives

Proposals for the regions considered are seen to be predominantly positive, although some mixed and negative impacts have been highlighted.

Proposals for the Central Belt place strong emphasis on environmental improvement and area regeneration, whilst recognising the negative effects of improving transport connectivity highlighted above. Additionally, realising West Edinburgh's potential as a business location will have negative impacts on landscape and a mix of negative/positive impacts on people.

Proposals for the East Coast recognise that broadening the economic base of Inverness and the Inner Moray Firth will have a mixture of positive and negative effects on the landscape. Additionally, transport projects designed to reduce journey times between centres will require careful EIA at the project stage to eliminate or mitigate any adverse environmental impacts.

Co-ordinated action to stimulate development in the Western Isles will help to maintain the population in an economically fragile rural area and sustain environmentally important land management practices. The assessment recognises the importance of balancing new development against the unique environmental heritage of the islands. In practice, the assessment highlights one of the objectives of improving transport infrastructure to support timber extraction, and proposes taking steps to ensure that a higher proportion of timber is transported by rail.

The Effect of Assessment

As a result of the assessment, it is stated that (Scottish Executive 2004c):

...the NPF has been amended to give greater recognition to Scotland's landscape and bio-diversity assets, reinforce national policy on the protection of sensitive areas, and stress the importance of maximising opportunities to improve landscape quality.

Additionally, planning authorities are encouraged to ensure that further, more detailed, EIAs are carried out, and appropriate mitigation measures put in place, once the specific nature and location of the projects are identified.

A further recommendation of the assessment from the Advisory Group (Scottish Executive 2004c) was that:

...the Executive should make a commitment to identifying environmental enhancement opportunities at the strategic scale specifically to offset any negative effects on landscape or biodiversity.

The Executive has undertaken to consider the implications of this in reviewing the NPF.

Monitoring and Review

It is intended to review the NPF on a four-year cycle. The Executive's Indicators of Sustainable Development for Scotland, and compliance with this assessment, will form the basis of the monitoring process.

In conclusion, the Executive (2004) states that the:

...strategic objectives of the NPF and the effects of its proposals on the environment are predominantly positive...Measures to eliminate or mitigate the potential negative effects of proposals will have to be addressed in more detail through the assessment of development plans and specific development proposals...Whilst there has been overall benefit in carrying out the assessment, the Executive acknowledges that there is much to learn in the future as international experience of assessment at the strategic level develops

GLOSSARY OF TERMS

Consultation Authority	Specialist body with environmental expertise that is to consider plans, programmes and strategies, and agree with the responsible authority the need or otherwise for SEA. They are the Scottish Environment Protection Agency, Scottish Natural Heritage, and (to include Historic Scotland), the Scottish Ministers. The Regulations refer to consultation authorities in Regulation 5.
Cumulative Effects	The combination of effects which, in some cases, may not be significant in themselves, but which taken together amount to a significant impact. There might be several of the same effects, for example too many houses in one place, or be the combination of different types of effect in one area, for example one causing noise, another reducing air quality.
Project	The execution of construction works or of other installations or schemes; other intervention in the natural surroundings and landscape including those involving the extraction of mineral resources.
Responsible Authority	The owner of the plan, programme or strategy. A body in the public sector, but including any person, certain of whose functions are functions of a public nature. Defined in Regulation 4.
Scoping	The stage in the assessment process which seeks to define what the environmental report should cover and how environmental effects should be assessed and presented.
Screening	The stage in the assessment process which determines whether a particular plan or programme, or alteration to one, should be subject to the assessment process.
SEA report or Environmental report	A report detailing all the significant positive and negative environmental impacts of a plan. It will be published along with the plan or programme for public comment.

SOURCES

COSLA. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

David Tyldesly and Associates [Online]. Available at: <http://www.rtpiconsultants.co.uk/auto/main/28.html> [Accessed 10 June 2004]

David Tyldesly & Associates. (2003) *Environmental Assessment of Development Plans*. Available at: <http://www.scotland.gov.uk/library5/planning/eadp-00.asp>

Department for Trade and Industry [Online]. Available at: <http://www.dti.gov.uk> [Accessed 10 June 2004]

Department for Trade and Industry. (2003) *Future Offshore. A Strategic Framework for the Offshore Wind Industry*. Available at: http://www.dti.gov.uk/energy/leg_and_reg/consents/future_offshore/index.shtml

European Commission. (1997) *Directive 2001/42 on the Assessment of the Effects of Certain Plans and Programmes on the Environment*. Available at: <http://europa.eu.int/comm/environment/eia/full-legal-text/96pc511.htm>

Fischer, T.B. (2002) *Strategic Environmental Assessment in transport and land use planning*. London: Earthscan.

Forestry Commission Scotland. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Friends of the Earth Scotland. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

João, E. (2004) *Implementing Strategic Environmental Assessment* [Online]. Available at: <http://www.strath.ac.uk/Departments/CBE/CPD%20Seminar%20Series/Past%20Seminars/Handouts%20for%20Past%20Seminars/19%20February%202004/Lighthouse%20handout-19Feb04-.pdf> [Accessed 16 June 2004]

Levett-Therivel Sustainability Consultants [Online]. Available at: <http://www.levett-therivel.fsworld.co.uk/> [Accessed 17 June 2004]

Levett and Therivel. (2003) *What is Strategic Environmental Assessment?* [Online]. Available at: <http://www.brookes.ac.uk/schools/planning/SEAmicro/What%20is%20SEA.html> [Accessed 17 June 2004]

National Health Service Scotland. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

National Trust for Scotland. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

NIREX. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Office of the Deputy Prime Minister [Online]. Available at: http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/homepage/odpm_home_index.htm [Accessed 26 May 2004]

Office of the Deputy Prime Minister. *Environmental Assessment* [Online]. Available at: http://www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=4127&l=1 [Accessed 26 May 2004]

Office of the Deputy Prime Minister. (2004a) *Guidance for Planning Authorities on the Strategic Environmental Assessment Directive*. Available at: http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_026670.pdf

Office of the Deputy Prime Minister. (2004b) *Consultation document on implementation of SEA Directive (2001/42/EC)*. Available at: http://www.odpm.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_027595.hcsp

Perth and Kinross Council. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Royal Society for the Protection of Birds. (2003a) *Strategic Environmental Assessment. Parliamentary Briefing*. Edinburgh: RSPB.

Royal Society for the Protection of Birds. (2003b) *Strategic Environmental Assessment. Legislative Proposals Parliamentary Briefing*. Edinburgh: RSPB.

Royal Society for the Protection of Birds. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Scottish Environment LINK [Online]. Available at: <http://www.scotlink.org/> [Accessed 10 June 2004]

Scottish Environment Protection Agency [Online]. Available at: <http://www.sepa.org.uk> [Accessed 10 June 2004]

Scottish Environment Protection Agency. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Scottish Executive. (2003a) *A Partnership for a Better Scotland: Partnership Agreement*. Available at: <http://www.scotland.gov.uk/library5/government/pfbs-00.asp>

Scottish Executive. (2003b) *A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. Available at: <http://www.scotland.gov.uk/consultations/environment/seacpl-00.asp>

Scottish Executive. (2004a) *The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI/2004/258)*. Edinburgh: Scottish Executive

Scottish Executive. (2004b) *National Planning Framework for Scotland*. Available at: <http://www.scotland.gov.uk/library5/planning/npf04-00.asp>

Scottish Executive. (2004c) *National Planning Framework Environmental Assessment Report*. Available at: <http://www.scotland.gov.uk/library5/planning/epfear-00.asp>

Scottish Natural Heritage [Online]. Available at: <http://www.snh.gov.uk> [Accessed 10 June 2004]

Scottish Natural Heritage. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Strategic Environmental Assessment Information Service [Online]. Available at: <http://www.sea-info.net/index.htm>

Strategic Rail Authority. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]

Wildlife Trusts/WWF-UK Joint Marine Programme. (2003) *Discussion Paper on Strategic Environmental Assessment*. Available at: <http://www.wwf.org.uk/filelibrary/pdf/sea.pdf>

Woodland Trust Scotland. (2004) *Response to A Consultation on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland*. [Unpublished]