

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE –
25 OCTOBER 2004**

**REPORT ON: SEDD CIRCULAR 2/2004 STRATEGIC ENVIRONMENTAL
ASSESSMENT FOR DEVELOPMENT PLANNING**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 660-2004

1 PURPOSE OF REPORT

- 1.1 To outline the broad provisions of recent guidance on implementing The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 in the context of development planning.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Committee:
- a notes the contents of this Report;
 - b notes that all new land use Development Plans will now require to be subject to Strategic Environmental Assessment (SEA) and this is likely to commence with the forthcoming Dundee City Region Plan.

3 FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications as a result of this Report.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 Strategic Environmental Assessment (SEA) seeks to provide for a high level of protection of the environment and integrate environmental considerations into the preparation and adoption of plans and programmes to promote sustainable development. This will broadly contribute to a range of LA21 key themes. The Scottish Executive believes that incorporating SEA into development planning has the potential to bring about a more rigorous and transparent process.
- 4.2 Although it has been normal practice for those preparing and commenting on development plans to consider their likely environmental effects, the Regulations introduce an explicit and systematic environmental assessment method for identifying and analysing the environmental consequences of a plan or programme, along with measures to prevent, reduce and as fully as possible offset any significant adverse effects.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 Where environmental assessment is required, public consultation is built into the SEA process in respect of both the draft plan or programme and the associated Environmental Report.

6 BACKGROUND

- 6.1 Joint Report No 181-2004 by the Assistant Chief Executive (Community Planning) and the Director of Planning and Transportation outlined the proposals from the Scottish

Executive on introducing Strategic Environmental Assessment (SEA) and set out a proposed response from Dundee City Council. The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 "the Regulations", came into force on 20 July 2004 and implement the SEA Directive.

- 6.2 Circular 2/2004 provides specific guidance to planning authorities on implementing the Regulations in the context of development planning. It should be noted that the Regulations equally apply to functions carried out elsewhere within local authorities and by other public bodies, and are not exclusive to planning authorities.
- 6.3 All new and replacement Structure and Local Plans, including Subject Local Plans, started after 21 July 2004 must be subject to environmental assessment because they set the framework for future development consents. Such plans and programmes started on or before 21 July 2004 but not adopted or submitted for adoption before 22 July 2006 must also be subject to assessment.
- 6.4 The environmental assessment is carried out by the 'responsible authority' which, in the case of a development plan or other planning document, is the planning authority. Where more than one planning authority is responsible for a plan or programme (eg the Dundee City Region Plan) the responsible authority should be agreed amongst those authorities with an interest.
- 6.5 Other types of land use development plans or programmes that set the framework for future development consents will also require environmental assessment if they are determined, by a screening process, as being likely to have significant environmental effects, positive or negative. The screening process is undertaken by the planning authority in consultation with the Scottish Ministers (including Historic Scotland), the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH), referred to as the consultation bodies. Such plans may include some types of supplementary guidance, masterplans and site development briefs.
- 6.6 A plan or alteration determining the use of a small area at local level or a minor modification to an existing plan or programme may be exempt from SEA where it is determined that it is unlikely to have significant environmental effects.
- 6.7 The Committee should note that an environmental assessment of the Finalised Local Plan Review 2003 has not been carried out. However, the Dundee and Angus Structure Plan 2002, which sets the land use context for the Local Plan Review, was subject to a rigorous sustainability appraisal by independent expert consultants. The Council hopes to adopt the Local Plan Review in Spring 2005. If for any reason it is not adopted by 22 July 2006, the Local Plan Review will require environmental assessment under the terms of the Regulations.

Overview of the SEA Process in the Context of Development Planning

- 6.8 There are 7 distinct steps in the SEA process. A diagram showing the entire process and a summary description of each stage is contained in Appendix 1 to this Report. Annex A sets out screening criteria that the planning authority must apply to a relevant plan or programme to determine whether significant environmental effects are likely. Annex B sets out information to be included in an Environmental Report, having regard to current knowledge and methods of assessment, and the level of detail contained within the plan itself. The Executive has set up a Strategic Environmental Assessment Gateway, an administrative body, to facilitate consultation between planning authorities and agreed consultation bodies.

Environmental Assessment (Scotland) Bill

- 6.9 The Executive published a consultation paper on the proposed Environmental Assessment (Scotland) Bill on 15 September 2004, with a closing date of 29 October 2004 for responses. A joint report by the Assistant Chief Executive (Community Planning) and the Director of Planning and Transportation to Environmental Services and Sustainability Committee in November will outline the broad provisions of the proposed Bill and seek endorsement of the Council's response to The Executive. The Bill will require SEA to be applied to all public sector strategies, plans and programmes likely to have significant environmental effects, regardless of whether they are required by legislative, regulatory or administrative means, or whether they set a framework for future development consents. The Executive will be issuing further practical guidance on the SEA process in relation to Development Plans in the form of a Planning Advice Note following the enactment of the forthcoming SEA Bill.

Resource Implications

- 6.10 Integrating SEA into the development planning system will generate additional work streams at each stage of the process. Many benefits of SEA are likely to be lost if it is carried out as a completely separate work item or by a separate external body. It is important therefore that the Council allocates sufficient staff resources and develops specialist skills in-house to ensure that SEA is properly integrated and the plan making process is not unduly extended.
- 6.11 A future joint report by the Assistant Chief Executive (Community Planning) and the Director of Planning and Transportation to the Environmental Services and Sustainability Committee will consider implementation frameworks for managing SEA within the Council.

7 CONSULTATIONS

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

Report No 181-2004 – Scottish Executive consultation on proposed legislative measures to introduce Strategic Environmental Assessment in Scotland.

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14 October 2004

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APPENDIX 1**STRATEGIC ENVIRONMENTAL ASSESSMENT PROCESS FOR DEVELOPMENT PLANS****Stage 1: Screening**

To establish whether SEA is required in relation to a plan or programme.

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Stage 2: Scoping

To establish the scope and level of detail of the Environmental Report and the length of the consultation period.

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Stage 3: Preparation of Environmental Report

To identify, describe and evaluate the likely significant environmental effects of implementing the plan or programme and any alternatives which might reasonably be proposed.

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Stage 4: Consultation on Environmental Report

Consult the consultation bodies and the general public on the provisions of the draft plan or programme and the associated Environmental Report.

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Stage 5: Preparation of Finalised Plan or Programme

Take account of the Environmental Report, consultation responses and any opinions expressed by the public, when preparing the finalised plan or programme.

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Stage 6: Adoption of Plan or Programme and Preparation of Environmental Considerations Statement

Prepare a statement detailing how environmental considerations have been integrated into the plan or programme.

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Stage 7: Monitor Implementation of Plan or Programme

Monitor significant environmental effects of implementing the plan or programme, following adoption.

OVERVIEW OF STRATEGIC ENVIRONMENTAL ASSESSMENT PROCESS

Stage 1: Screening

- 1.1 The screening stage helps planning authorities determine whether environmental assessment is required. Criteria (set out in Annex A to Circular 2/04) are applied to the plan or programme under consideration and the planning authority prepares a 'screening report' that establishes whether significant environmental effects are likely.
- 1.2 This report is sent to the consultation bodies¹ who are required to respond within 28 days of receipt. Thereafter, the planning authority publishes a "determination" as to whether significant environmental effects are or are not likely. In the case of the latter, the authority must produce a statement of reasons for that determination. Screening determinations (together with a statement of reasons if significant environmental effects are not likely) should be copied to the SEA Gateway within 28 days. Various other publicity requirements apply including press notice, inspection copy and publication of the screening determination on the Council's website.

Stage 2: Scoping

- 1.3 Where environmental assessment is required, the planning authority must secure the preparation of an Environmental Report. Sufficient detail of the plan or programme should be provided to the SEA Gateway to allow consultation bodies to form a view on the scope and level of detail of the Environmental Report and the length of the consultation period². Consultation bodies will respond to a scoping request within 5 weeks.

Stage 3: Preparation of Environmental Report

- 1.4 In preparing the Environmental Report, the planning authority should identify, describe and evaluate the likely significant environmental effects of implementing the plan or programme, and any alternatives that might reasonably be proposed. It should contain as much of the information set out in Annex B to Circular 2/04, taking into account current knowledge and methods of assessment, and the level of detail contained in the plan itself. The Environmental Report should be accompanied by a non-technical summary.

Stage 4: Consultation on Environmental Report

- 1.5 Consultation bodies and the public must be given an early and effective opportunity to comment on a draft of the plan or programme, and on the related Environmental Report. Within 14 days of preparing the relevant documents, planning authorities must comply with various publicity requirements including press notice, inspection copy and publication of relevant documents on the Council's website.

¹ Consultation bodies are Scottish Ministers (including Historic Scotland); Scottish Environment Protection Agency; and Scottish Natural Heritage.

² For Structure and Local Plans, SEA publicity requirements should be undertaken simultaneously with existing planning consultation procedures.

Stage 5: Preparation of Finalised Plan or Programme

- 1.6 Both the Environmental Report and any opinions expressed during the consultation process must be taken into account during preparation of the plan or programme and before its adoption or submission to the legislative process.

Stage 6: Adoption of Plan or Programme and Preparation of Environmental Considerations Statement

- 1.7 At the time of adoption, planning authorities are required to prepare a statement detailing how environmental considerations have been integrated into the plan or programme. Publicity requirements include press notice, inspection copies and publication on the Council's website. A copy of the plan or programme as adopted plus the statement of environmental considerations should be sent to the SEA Gateway for circulation to the consultation bodies as soon as is reasonably practicable.

Stage 7: Monitor Implementation of Plan or Programme

- 1.8 Following adoption, planning authorities are required to monitor significant environmental effects of implementing the plan or programme so that any unforeseen adverse effects can be identified at an early stage and appropriate remedial action taken. The Regulations do not specify the monitoring procedures to be followed.

ANNEX A**SCHEDULE 1 Regulation 13****CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT**

1. The characteristics of plans and programmes, having regard, in particular, to:
 - (a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;
 - (b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;
 - (c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
 - (d) environmental problems relevant to the plan or programme; and
 - (e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:
 - (a) the probability, duration, frequency and reversibility of the effects;
 - (b) the cumulative nature of the effects;
 - (c) the transboundary nature of the effects;
 - (d) the risks to human health or the environment (for example, due to accidents);
 - (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);
 - (f) the value and vulnerability of the area likely to be affected due to:
 - (i) special natural characteristics or cultural heritage;
 - (ii) exceeded environmental quality standards or limit values; or
 - (iii) intensive land-use; and
 - (g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

ANNEX B**SCHEDULE 2 Regulation 16****INFORMATION FOR ENVIRONMENTAL REPORTS**

1. An outline of the contents and main objectives of the plan or programme, and of its relationship (if any) with other relevant plans and programmes.
2. The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme.
3. The environmental characteristics of areas likely to be significantly affected.
4. Any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Council Directive 79/409/EEC on the conservation of wild birds^(a) and Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna^(b)
5. The environmental protection objectives, established at international, Community or Member State level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation.
6. The likely significant effects on the environment:
 - (a) including on issues such as:
 - (i) biodiversity;
 - (ii) population;
 - (iii) human health;
 - (iv) fauna;
 - (v) flora;
 - (vi) soil;
 - (vii) water;
 - (viii) air;
 - (ix) climatic factors;
 - (x) material assets;

^(a) OJ No L 103, 25.4.1979, P1. The latest amending Directive is at OJ No L 206, 22.7.1992.

^(b) OJ No L 206, 22.7.1992. The latest amending Directive is at OJ No L 305, 8.11.1997, P42.

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- (xi) cultural heritage, including architectural and archaeological heritage;
 - (xii) landscape; and
 - (xiii) the inter-relationship between the issues referred to in heads (i) to (xii).
- (b) short, medium and long-term effects;
 - (c) permanent and temporary effects;
 - (d) positive and negative effects; and
 - (e) secondary, cumulative and synergistic effects.
7. The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme.
 8. An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information.
 9. A description of the measures envisaged concerning monitoring in accordance with regulation 21.
 10. A non-technical summary of the information provided under paragraphs 1 to 9.