

Guidance



Scottish Natural Heritage
All of nature for all of Scotland

Strategic Environmental Assessment: Responding to Pre Screening and Screening Requests revised October 2009

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Introduction

1. This note provides guidance on SNH's approach to responding to Strategic Environmental Assessments at the Pre Screening and Screening stage, i.e. Is SEA required?¹
2. SNH is notified of all pre-screening decisions and consulted on all screening consultations. These arrive from Scottish Government via SNH's SEA gateway which is managed by the Government Team.

Requirements for SEA

3. Plans, Programmes and Strategies (shortened to Plans for ease of reading) fall into the following three categories:

¹ Further guidance on the pre-screening and screening of plans, programmes and strategies is available in Section 4 of the Scottish Government [SEA Toolkit](#).

a) Plans which by their nature, are deemed **likely to result in significant environmental effects**, and SEA is compulsory under the Act. These do not require to be subject to the screening process and Responsible Authorities may move directly to the scoping stage. These include:

- (as set out in Section 5(3)(a) of the Act) – Plans (such as local authority development plans) which set a framework for development consent, relating to agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use; and/or
- (as set out in Section 5(3)(b) of the Act) – Plans which require an Appropriate Assessment under the Habitats Directive.

b) Plans which are **exempt from SEA** include

- Those required solely to serve national defence or civil emergency
- Financial or budgetary plans
- EU co-financed plans
- Plans relating to an individual school and
- Section 5(4) plans which have been pre-screened out because they have no or minimal environmental effects (see para 4 below)

c) **All other Plans²** falling within the scope of the Act **must be subject to a pre screening and/or screening process**. The screening process may also be applied where minor modifications are proposed to plans, as described in Section 5(3), or the plan only covers the use of small areas at local levels.

Pre-screening

4. Certain plans other than those described in paragraph 3 a) above may be deemed exempt from SEA if the Responsible Authority is of the opinion that it will have no effect or minimal effect on the environment (the pre-screening process set out in Section 7 of the Act).

Key points:

- The Responsible Authority is required to notify their view to the Scottish Government SEA Gateway who maintains a register of pre-screening determinations.
- While SNH is notified of a pre-screening determination, there is no statutory requirement to consult any of the Consultation Authorities.
- The purpose of the provision is to avoid the need for unnecessary bureaucracy and consultation in circumstances where there will be no or minimal environmental effects.

5. Pre-screening is essentially a light touch screening process. The Responsible Authority still has to determine if the Plan will result in no or minimal environmental effects with reference to Schedule 2 of the Act.

² this applies to those which are prepared by Scottish Ministers, any holder of an office in the Scottish Administration, the Scottish Parliament, the Scottish Parliamentary Corporate Body, a Scottish public authority with mixed functions or no reserved function (this includes e.g. SNH and local authorities), or any other person, body or office-holder as may be specified by Scottish Ministers.

They have to inform Scottish Government of:

- the title of the Plan,
- the date of the opinion and
- give a brief description of the plan including the area or location to which the plan relates.

The form that the notification takes can vary. Some Responsible Authorities will use the Screening template in the SEA Tool kit as a basis but others will simply send a brief note to the Scottish Government detailing the information required by the Act.

SNH's role at the Pre-screening Stage

6. While we are not statutorily obliged to respond to the Scottish Government, it is important that we record whether we agree with the **pre-screening** findings of the Responsible Authority and feed this back to our SNH SEA Gateway. A very brief template is included at Annex 1 which could be used to respond to the notifications. SNH has 10 working days in which to make comment on a Pre-screening notification. Our Gateway team will forward this response to the Scottish Government Gateway if concerns are raised about the Responsible Authority's opinion.

Screening

7. Under Section 9 of the Act 'Screening Procedure' a Responsible Authority is required to summarise its initial views as to whether the plan is likely to have significant effects, and to consult SNH and the other Consultation Authorities upon these views.
8. A screening consultation should include:
 - a brief statement as to the scope of the plan, its aims, topic and geographic coverage;
 - the Responsible Authority's view on whether or not the plan is likely to have significant environmental effects; and
 - a brief justification for this view covering an assessment of the characteristics of the plan, the area affected and the predicted effects with reference to the characteristics set out in Schedule 2 of the Act.
9. The Responsible Authority should apply the criteria specified in Schedule 2 to establish likely significant effects. They specifically have to have regard to:

a) the characteristics of the plan and provide details of:

- the degree to which the plan sets a framework for projects and other activities (location, nature, size, operating conditions, allocation of resources);
- the degree to which the plan influences other plans and programmes;
- the relevance of the plan for integration of environmental considerations in particular with a view to promote sustainable development;
- environmental problems relevant to the area covered by the plan;
- the relevance of the plan to the implementation of Community legislation on the environment (e.g. link to waste management or water protection).... and

b) the characteristics of the effects and of the area likely to be affected, having regard to:

- probability, duration, frequency and reversibility of the effects;

- cumulative nature of effects;
- transboundary nature of effects (*in UK/international cases*);
- risks to human health or environment;
- magnitude and spatial extent of the effects;
- value and vulnerability of area likely to be affected due to: special natural characteristics or cultural heritage; exceeded environmental quality standards or limit values; or intensive land-use; and
- the effects on areas or landscapes that have a recognised national, European Community or international protection status.

Further guidance on Schedule 2 criteria is provided in Annex 2 of this note.

SNH's role at the Screening Stage

10. SNH has a duty to respond to the Responsible Authority within 28 days of receipt of the **screening report** with a view on whether or not the plan is likely to have significant environmental effects.

Key points:

- SNH's advice should focus on the significance of potential effects to the natural heritage.
- This is a strategic assessment so it is critical that we focus on those issues which are of sufficient importance that would need to be taken into account during a plan's preparation, e.g. we should not focus on isolated site specific issues.
- Decisions regarding whether or not the plan is of a type which requires SEA is for the Responsible Authority to decide.
- Whether we agree or disagree with the conclusions of the Responsible Authority, it is important to set out the reasoning behind our views. It may be that our findings differ from the other Consultation Authorities and it is important that we are transparent in our thought processes.

11. The **Scoping stage** [*insert link to Scoping*] will be the prime opportunity for SNH to consider the key environmental effects that should be fully addressed within the SEA. However, at this earlier Screening stage, it will be helpful for us to:
 - suggest particular types of environmental effects that are likely to warrant consideration within the SEA and to
 - draw attention to any key natural heritage sensitivities or objectives that should be taken account of within the SEA.

A suggested proforma letter, which may be helpful in responding to screening requests is attached at [Annex 3](#).

12. SNH's consultation response provides a view solely on the potential for the strategy to have significant environmental effects. It may in addition be helpful to note that SNH should not normally comment on whether or not the plan meets other criteria determining the need for SEA as set out in the Act. This is for the Responsible Authority to determine and defend if challenged.

13. If we have advised that the plan is likely to result in significant effects on the environment and the Responsible Authority disagrees, we will expect the Responsible Authority to refer the matter to Scottish Ministers under Section 9(6).
14. Once the Responsible Authority has determined whether the plan will be subject to SEA, we will expect to receive a copy of a determination and any related statement of reasons from the Responsible Authority, within 28 days of this decision having been made, in accordance with Section 10 of the Act.

The process for handling SNH's Response

15. Once SNH receive the notification or consultation, it will be forwarded to the relevant Management Unit. At the local level (e.g. structure and local plans) our response will be led by staff in the appropriate Area with support as required from Policy and Advice and Strategy and Communications Divisions. National level responses, e.g. for the Scottish Government's National Transport Strategy, will be led by appropriate staff from Policy and Advice/Strategy and Communications. A list of key contacts has been drawn up detailing who will deal with what topic issue. [Key contacts](#)
17. Area Managers / Operations Managers should sign responses to local consultations; the relevant Divisional Director should sign responses to national consultations relating to topics for which they have responsibility (see key contacts list).
18. All screening responses should be addressed to the Responsible Authority and signed off as above and emailed on SNH headed paper to the Scottish Government SEA Gateway and copied to the SNH Gateway and to SEPA and Historic Scotland's Gateways.

Scottish Government SEA Gateway: sea.gateway@scotland.gsi.gov.uk
SNH SEA Gateway: sea.gateway@snh.gov.uk
SEPA SEA Gateway: sea.gateway@sepa.org.uk
HS SEA Gateway: hssea.gateway@scotland.gsi.gov.uk

Frequently Asked Questions –

What if there is not enough information to agree or otherwise with the pre-screening conclusion?

19. If the nature of the plan is one which is likely to have significant effects, e.g. a land use plan, but the opinion of the Responsible Authority has not been clearly justified, then it is important that this information is fed back through our Gateway to the Scottish Government SEA Gateway. If possible, indicate what information would help you to come to a conclusion.

What if there is not enough information to agree or otherwise with the screening conclusion?

20. EU guidance, in cases of doubt or uncertainty advises a precautionary approach. However, the simplest solution is to contact the Responsible Authority and ask for clarification.

What if the template used provides conflicting conclusions on likely significant effect?

21. Generally the greater the degree to which the criteria are met, the greater the likelihood of significant effects. However, in some cases where the impacts on a single criterion are so important, this may also trigger SEA. This can only be considered on a case by case basis.

What if there is potential duplication with other Consultation Authorities

22. In areas where there are overlapping interests that are critical to our screening opinion, (e.g. on freshwater issues) early discussion with colleagues in the other Consultation Authorities (e.g. SEPA) is essential. Historic Scotland should be contacted at the above Gateway. SEPA may be contacted at the national level via its above Gateway or via the relevant local office³.

Contact: Fiona Rice, Policy and Advice

Date: August 2009

³ Current staff leads (July 2009) are Alasdair McKenzie in Historic Scotland; Neil Deasley in SEPA.

Annex 1 – suggested Pre-screening response templates:

Unlike responses to Screening consultations which are addressed to the Responsible Authority, all correspondence on Pre-screening notifications should be addressed and sent to our SEA Gateway. An e-mail response will suffice for this notification.

Please note, in terms of b), 'insufficient information', the simplest approach is to first get in touch with the Responsible Authority for clarification.

a) Where SNH has no comment on the Responsible Authority's opinion:

Environmental Assessment (Scotland) Act 2005: *[name of plan, programme or strategy]*
Pre-screening Opinion

Thank you for notifying me of *[name of Responsible Authority]* Pre-screening opinion. On the basis of the information provided, I have no comment on these findings.

b) Where SNH has insufficient information to comment on the notification:

Environmental Assessment (Scotland) Act 2005: *[name of plan, programme or strategy]*
Pre-screening Opinion

Thank you for notifying me of *[name of Responsible Authority]* Pre-screening opinion. There is insufficient information in the description of the *Plan/Programme/Strategy* *[delete as appropriate]* to comment on this opinion. Please can you convey this to the Scottish Government SEA Gateway.

c) Where SNH has concerns about the Responsible Authority's opinion:

Environmental Assessment (Scotland) Act 2005: *[name of plan, programme or strategy]*
Pre-screening Opinion

Thank you for notifying me of *[name of Responsible Authority]* Pre-screening opinion. From the description of the *Plan/Programme/Strategy* I consider that there may be significant impacts on the environment on the following grounds:
Please insert reasons.....

Please can you convey this to the Scottish Government SEA Gateway.

Annex 2 – Guidance on Schedule 2 (assessment of significance) criteria

| Criteria for determining the likely significance of effects on the environment (1(a) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005) | Comments on the Criteria | Examples |
|---|---|---|
| The characteristics of plans and programmes, having regard, in particular to: | | |
| 1(a) the degree to which the PPS sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources | <p>This is more of a qualifying criterion and it is probably easier to frame this question – Does the PPS set a framework for projects and other activities?</p> <p>The more precise the framework is set by a plan or programme, the more likely it is that an assessment will be required.</p> | For example a supplementary planning guidance (SPG) note on Developer Contributions will not create a framework for future development, but an SPG on Wind energy developments could set a policy framework or locational guidelines for future windfarms. |
| 1(b) the degree to which the PPS influences other PPS including those in a hierarchy | <p>Again it is probably easier to ask the question – does the PPS influence other plans etc either a higher level or lower or horizontally, i.e. of a similar status.</p> <p>This will not necessarily give a measure of significance, but will help clarify whether it is a qualifying plan or not. It can be a two way process. Not only can the lower level plan be influenced by the higher, but if the lower level plan is more recent, then any subsequent review of the higher level plan should take this into consideration.</p> | The most obvious example of a hierarchy of plans is in terms of Development Plans – the National Planning Framework will set the policy framework for Development Plans which will set the framework for masterplans or supplementary planning guidance, |
| 1(c) the relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development | <p>This is not applicable to the Yes/No category .</p> <p>The degree to which the plan will allow for sustainable development by building in environmental considerations e.g. energy efficiency measures, anti-pollution controls, afforestation proposals etc</p> <p>Would the plan act against taking forward environmental considerations for sustainable development, e.g. airport expansion plans etc.</p> <p>How far will the plan or programme</p> | <p>Does the plan use environmental considerations to take forward sustainable development objectives. e.g. green networks to deliver social benefits in terms of health and well being?</p> <p>Does the plan have potential for environmental protection?</p> |

| | | |
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| | contribute to reducing harm to the environment. A PPS which has great scope to affect the environment will be a strong candidate for assessment. | |
| 1(d) environmental problems relevant to the PPS | <p>Again not really suitable to a yes/no answer.</p> <p>This could be interpreted in several ways:</p> <ul style="list-style-type: none"> • Cases where PPS cause or exacerbate environmental problems • Where PPS are constrained or affected by environmental problems • Where PPS contribute to solving, reducing or avoiding environmental problems. • Where there are environmental problems which the plan is instrumental in resolving? | It would probably be useful if the Responsible Authority addressed all of these interpretations from the Directive guidance. |
| 1(e) the relevance of the PPS for the implementation of Community legislation on the environment (for example, PPS linked to waste management or water protection) | <p>Both +ve and –ve contributions need to be considered.</p> <p>If Habitats Dir is relevant to PPS and likely to have a significant effect then move straight to scoping. Threshold for judging significance will be that from the Habitats Directive.</p> | This could be quite far reaching as an extensive amount of legislation would have to be considered. It would perhaps be more appropriate for the specific legislation relating to the specific plan to be targeted. For example a River Basin Catchment Plan would primarily relate to the Water Framework Directive; a minerals plan might consider the Mining Waste Directive etc. Some Directives like the Habitats Directive will be cross cutting. |
| Characteristics of the effects and of the area likely to be affected, having regard, in particular, to: | | |
| 2 (a) the probability, duration, frequency and reversibility of the effects | <p>The more complex, the more widespread, or the more serious the effects, the more likely they should be considered significant.</p> <p>For identifying likely significant effects, the receptors of these effects should be considered, i.e. biodiversity, population, human health, soils, water, climate etc</p> | <p>The criteria need to be considered against the relevant SEA objectives/topics/issues.</p> <p>Guidance is now available for assessing impacts on Soil, Air, Water, Landscape and climatic factors (in prep).</p> <p>If an impact is likely to be short term, a one off and easily reversible, then it is unlikely to be significant. However, a short term impact which cannot be reversed needs greater consideration.</p> |

| | | |
|---|--|--|
| 2 (b) the cumulative nature of the effects | Cumulative impacts should be considered in terms of synergistic impacts, additive impacts and secondary impacts. Cumulative effects can arise as a result of impacts from more than one PPS. They can also arise from the interaction of policies with a PPS. | For example, proposals to enhance connectivity in a strategic transport strategy may collectively result in fragmentation of natural habitats. A number of development proposals along a linear route such as a transport corridor may cumulatively affect the landscape qualities experienced along that route. |
| 2 (c) transboundary nature of the effects (i.e. environmental effects on other EU Member States) | Very few plans in Scotland are likely to result in transboundary effects with other EU Member States, possibly with the exception of marine related PPSs | This criterion on its own is unlikely to trigger SEA, but it should be considered in conjunction with likely significant effects triggered by the other criterion. |
| 2 (d) the risks to human health or the environment (for example, due to accidents) | In terms of human health, from an SNH remit, we would be interested in PPSs that might impact on recreation and access to outdoors, this might include beneficial effects of landscape quality, i.e. tranquillity etc. Impacts on human health from a pollution perspective, i.e. air quality, noise pollution would be picked up in SEPAs remit. | There is a grey area here between socio economic impact and environmental impacts in terms of human health and population. From an SEA perspective impacts should be environmentally related. Therefore plans which have a social impact on populations, e.g. proposals to reduce levels of crime or increase access to further education are not assessed in terms of environmental impacts. |
| 2 (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected) | This is important for distinguishing between strategic and project scale assessment. | While it would not be appropriate to be prescriptive, some examples as to when the spatial extent of a plan/strategy takes it over a threshold from a strategic to project level might include: masterplans and design frameworks where the principle has already been assessed and established in a higher tier plan and the impacts do not extend beyond the immediate boundaries of the development site(s). The impacts are likely to be local and specific. |
| 2 (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. | The area to be affected should not only consider designated areas but valued or vulnerable areas must also be taken into account. | This criteria and 2(g) are difficult to assess in terms of significance. If you consider national scale PPS, the area affected will most certainly include valuable and vulnerable areas because of the nature of Scotland's natural and cultural heritage, but the proposals may not be specific enough to meaningfully assess at that scale. For regional or local plans, what is of value to a community may be different |
| 2 (g) the effects on areas or landscapes which have a recognised national, Community or international protection status | Care must be taken to consider the extent and degree to which the PPS will affect these designated sites: • Ramsar Sites • Special Areas of Conservation (SACs) • Special Protection Areas (SPAs) • National Nature Reserves • Sites of Special Scientific Interest | Significant effects on Natura sites from a PPS are likely to trigger SEA in terms of Section 5(3) of the 2005 Act. |

| | | |
|--|--|--|
| | (SSSI) <ul style="list-style-type: none">• National Scenic Areas• National Parks• Local Nature Reserves• Local Landscape Designations | |
|--|--|--|

Annex 3 – Proforma letter – Screening:

The covering letter should state our broad agreement / disagreement with the Responsible Authority.

Comments may be made in an Annex to the letter in response to the Responsible Authority's assessment of the likely significant effects on the criteria listed in [paragraph 8](#) above. In addition it may be useful to note:

- where there are gaps and further information will be required or
- where more supporting information on the plan's objectives, coverage and approach would be helpful and
- to set out the information that it would be useful for SNH to receive at the scoping stage.

SNH can only comment on likely significant effects on those interests within our remit.

Note that SEA screening consultations received under the UK SEA Regulations will require a different title, and different references within the letter to the relevant Regulations (see suggested example below). There should be no further screening consultations under the 2004 Scottish Regulations.

Examples of screening responses can be found at *[link to best practice examples in progress]*

Dear

**Environmental Assessment (Scotland) Act 2005: *[name of plan, programme or strategy]*
Screening Determination**

I refer to your screening consultation submitted onvia the Scottish Government SEA Gateway in respect of the above plan.

In accordance with Section 9(3) of the Environmental Assessment (Scotland) Act 2005, SNH has considered your screening report using the criteria set out in Schedule 2 for determining the likely significance of effects on the environment. *(see alternative wording below for responses in terms of UK Legislation, i.e. UK plans or EU plans)*

We *agree / disagree* that the above Plan *is / is not* likely to have significant environmental effects.

Further comments are detailed in Annex 1. *[omit this para if no significant effects are likely]*. Annex 1 *[also]* provides a list of information that it would be helpful for us to receive at the scoping stage.

Please note that this consultation response provides a view solely on the potential for the plan or programme to have significant environmental effects. We cannot comment on whether or not the plan or programme meets other criteria determining the need for SEA as set out in the Act.

Should you wish to discuss this screening determination, please do not hesitate to contact onor via SNH's SEA Gateway at sea.gateway@snh.gov.uk

Yours sincerely,

A suggested example of wording for consultations in terms of the UK Regulations is detailed as below.

In accordance with UK Strategic Environmental Assessment legislation (The Environmental Assessment of Plans and Programmes Regulations 2004), SNH has considered your screening report using the criteria set out in Annex 2 of Directive 2001/42/EC for determining the likely significance of effects on the environment.

Annex one

Other Issues / Comments

We would like to make the following additional comments...

[Where possible we should try and provide information on the following

- a) *Particular types of environmental effects that are likely to warrant consideration within the SEA*
- b) *Key natural heritage sensitivities or objectives that should be taken account of within the SEA.]*

If you are uncertain about what a scoping report should contain, it would be helpful if you could provide the information recommended in Chapter 5 of the Scottish Government SEA Tool kit:

Context

The Plan

- Plan name, area covered, period covered, timescales for preparation
- Legal requirement for plan
- Plan purpose, subject and proposed objectives
- Relationship with other relevant Plans and Programmes

The Area

- Summary of existing environmental problems in the area/sector covered by the plan or programme and relevant aspects of the current state of the environment
- Summary of likely future changes to environment without the plan
- Environmental characteristics of areas likely to be significantly affected by the plan or programme
- Relationship with existing environmental objectives relevant to the plan or programme. These may be European objectives set by Directives, national objectives set by legislation or policy or they may be local/regional objectives

Scope

Scope and Level of Detail

- Summary of the environmental issues to be considered in the Environmental Report with justifications
- Summary of any environmental issues not to be considered in the Environmental Report with justifications
- Summary of the proposed level of detail of assessment – e.g. will the assessment focus on very detailed policies in the plan, or just strategic objectives?

Alternatives & Mitigation

- Where possible, a summary of intended approach to assessing alternatives (e.g. type and scale of alternatives that may be assessed)
- Where possible, the proposed approach for identification of mitigation

Methods

Assessment Method

- A brief summary of the proposed approach to the assessment which might include:
- Summary of existing work to date
- Proposed (draft) SEA objectives
- Proposed approach to assessment including use of SEA objectives
- Proposed (draft) indicators

Next Steps

Consultation

- Proposed consultation period for the Environmental Report