

## APPENDIX 1 – PROJECT SPECIFICATION

*Note:* This is the original project specification agreed between the Consultation Authorities in 2009 to undertake a review of SEA in Scotland. It was originally designed to be a commission for external consultants, however following further discussions it was decided to undertake the work in house. The brief was not comprehensively updated to reflect this change, but some work was by necessity scaled back. Those aspects scaled back are marked with an asterisk [\*].

### 1. Purpose

- 1.1 The three statutory Consultation Authorities (CAs) for Strategic Environmental Assessment (SEA) in Scotland, Historic Scotland (HS), the Scottish Environment Protection Agency (SEPA) and Scottish Natural Heritage (SNH), are seeking to carry out a review of the efficiency and effectiveness of the SEA process in Scotland. The main aim of this study will be to provide recommendations on how effective SEA has been to date in protecting and enhancing the environment and to identify opportunities to streamline or improve the process and related guidance. Whilst the research covers SEA across the policy sectors, it is intended that its findings will make a valuable contribution to the wider process of planning reform.

### 2. Background

- 2.1 The SEA Directive was introduced in 2001 and transposed into domestic legislation in its current form through the Environmental Assessment (Scotland) Act 2005 ('the Act'). This requires certain new plans, programmes and strategies (PPS) prepared by the public sector in Scotland to be subject to SEA in order to understand their potential to have significant environmental effects when implemented. The Act considerably widened the range of PPSs caught by SEA compared to the original EC Directive<sup>1</sup>
- 2.2 The purpose of SEA is to ensure that information on the significant environmental effects of a PPS is gathered and made available to decision-makers, both as the PPS is prepared and prior to its adoption. SEA is a key component of sustainable development, focused on protecting the environment.
- 2.3 The Scottish Government provides the administrative support to managing the SEA process. A SEA Gateway has been established within the Scottish Government which administers SEA casework, provides advice on the SEA process and helps to ensure that

<sup>1</sup> EC Directive 2001/42/EC

information on SEA activities is transparent and accessible. The Scottish Government has provided a Tool Kit for RAs to assist them in the SEA process. The Tool Kit provides comprehensive practical guidance on implementing SEA including the provision of templates for practitioners on the structure of the SEA documentation.

- 2.4 SNH, SEPA and HS are identified as the three Consultation Authorities (CAs) in SEA and must be consulted at key stages during the preparation of a qualifying PPS. The three CAs provide, within their respective areas of competence, expert advice to Responsible Authorities (RAs) on the potential for PPSs to have significant environmental effects.
- 2.5 The requirement on public bodies to carry out SEA has now been in place for over 5 years with over 300 PPSs being subject to the process. From engagement in SEA and through the findings of the Pathfinder project, the Scottish Government, the three CAs and a large number of Responsible Authorities have developed considerable experience and a clearer insight into the process. What is less clear however, is whether the increased scope of the Act has met its ambitions and what influence that the SEA process has had on the content of the final PPS.

### **3. Aims of the Project**

- 3.1 There are two distinct but related aims of this project:
- (a) To identify whether SEA helps to achieve effective environmental protection by realising its potential to positively influence plan preparation.
  - (b) To identify opportunities for improving and / or streamlining the SEA process (and if necessary the legislation) to make it more efficient for RAs and CAs.
- 3.2 The evaluation should take into account, and add value to the outcomes from the Scottish Government’s SEA Pathfinder Project. It will build on the Pathfinder project to ensure that our understanding of issues around SEA are up to date, reflecting the rapid progress in the field over the last few years, and to explore some key issues in greater depth through critical evaluation. The findings from this work should also be more specifically tailored to the current and future capacity of the Scottish Government and the three Consultation Authorities to provide support for Responsible Authorities. The final report from the Pathfinder project is not yet available, but would be provided at the start of this research.

### **4. Objectives of the Review**

- 4.1 The following objectives are identified to achieve the project aims. Please note these are not in priority order.

**(1) Opportunities for improving the process:**

- Identify whether there are opportunities to streamline the SEA legislation and process with a view to reducing un-necessary resource burdens whilst maintaining effective environmental protection, including but not limited to:
  - Considering whether there are opportunities to amend the Environmental Assessment (Scotland) Act 2005 to streamline the process. This may include addressing issues such as widened scope of the Act and more detailed provisions such as advertising.
  - Considering whether the resource inputs expended by RAs, CAs and other stakeholders in the process are reasonable by weighing up resourcing commitments (costs) in relation to benefits arising from the process.<sup>2</sup>
  - Considering whether the information provided by Responsible Authorities is appropriate to the stage of SEA / nature of the plan and whether there are opportunities to improve effectiveness and efficiency in this area.
- Identify which parts of the statutory processes (screening, scoping, Environmental Report, adoption and monitoring) are generally implemented successfully and efficiently and those parts where there are difficulties. Specifically:
  - **Screening:** – e.g. – Does screening correctly identify those PPSs likely to lead to significant environmental effects? Are there ways in which screening can be streamlined?<sup>3</sup>
  - **Scoping:** - e.g. - Does scoping focus on the key environmental issues? Is scoping being used effectively to scope out non significant issues ?
  - **Environmental Report:** - e.g. - Does consultation with the CAs help identify and overcome potentially significant impacts and issues arising from implementing the PPS? Do the SEA reports provide CAs and the public with sufficient accessible information to enable them to effectively comment?
  - **Adoption:** - e.g. – Are SEA statements effective as a means of fulfilling the obligations at the adoption stage.
- Examine any issues arising from the role and performance of the CAs in responding to SEA consultations, including consideration of where efficiency gains may be made. Consider these findings in relation to commitments made under the broader aim of planning reform.
- Examine whether there are any areas of duplication – e.g. within assessment of plans in a hierarchy. This is likely to be of particular interest in relation to development plans.
- Explore whether there is scope for improve efficiencies as a result of any identified duplication of effort on the part of the Scottish Government and the three Consultation Authorities.

<sup>2</sup> This will be influenced by the findings under objective 2

<sup>3</sup> E.g. consideration of whether all 5(4) need to be screened as currently required by the Act

## (2) Environmental Performance Objectives

- Identify whether SEA has led to changes in the content of PPSs; including mitigation measures to prevent, reduce and offset adverse effects and if not, why not?
- Identify whether SEA has led to changes in the decisions made by the responsible authorities, as plans are implemented and including measures to prevent, reduce and offset adverse effects. i.e. Does SEA lead to better environmental outcomes, and if not, why not?
- Identify whether there are any sectors or levels of PPS that are more effective than others in undertaking SEA and in delivering environmental protection objectives and if so, why? [\*]
- Are there particular types of PPS where SEA is not working and what are the reasons for this ?
- Comment in general on the changing quality and cost of ERs over time. Are ERs better now at identifying effects and integrating their findings into better plans than earlier examples?

## (3) Cross Cutting Objectives

- Identify whether there are any changes to existing guidance that should be made or whether there are any omissions in guidance that should be plugged.
- Identify the opportunities for enhancing SEA processes and for SEA to effectively influence the PPS, to ensure that SEAs account for an appropriate investment of time and effort in relation to its policy making benefits.
- Examine how effectively the requirements of both the Habitats and Birds Directive and SEA Directive can be met in the one process. Identify the benefits and drawbacks of combining stages in the assessment process of both Directives. [\*]
- Consider existing and potential links between environmental assessments undertaken within SEAs and EIAs. [\*]

## 5. Method of Undertaking Research

5.1 SEPA will lead with a pilot that will develop and test a method for assessment before undertaking a full review of SEA effectiveness (See Annex B). The SEA Gateway and CAs will be able to provide background information, data and examples of casework.

5.2 The overall requirement from the research is that it should meet the following criteria:

- It should be focused on promoting better environmental protection through SEA;
- It should be focused on seeking efficiency gains for public sector agencies engaged in SEA activities;
- It should be focused on practical recommendations for change rather than an academic review;

- It should prioritise matters which can be addressed in the short, medium or long term;[\*]
- It should be aware of and where appropriate respond to the ongoing work to modernise the spatial planning system and key agencies engagement of it;
- It should ensure that the requirements of relevant EC Directives are met

### Key Tasks

- 5.3 The following tasks are required. It should be noted that these are not necessarily in priority or chronological order but represent that range of tasks that need to be fulfilled. There will, of course, be some tasks that can only be completed after others, but a degree of flexibility in completion of the tasks may be required.
- 5.4 SEPA will pilot a sample assessment to determine the methodology for carrying out the full review.
- 5.5 The main research phase will comprise the following:

Task <sup>4</sup>	Description	When	Contributors
1	<b>Stakeholder workshops</b> – Early in the project, stakeholder workshops will be held. These will introduce the project and also seek to secure views on a range of effectiveness issues. They will also pave the way for the more detailed questionnaire / interview roll out. Likely that there will be a need for more than one workshop – these could be geographic or topic based (eg, useful to host a land use planning event?). The SEA Forum may be a suitable body for a workshop.	Early in project timeline (note: avoid summer holidays)	SG will lead, host and run events with support from Steering Group
2	<b>Casework Review</b> – SEPA will review c40 cases in line with the method piloted and agreed by the Steering Group. Captured data will be recorded in completed spreadsheets for each case.	Jul 2010 – Mar 2011	SEPA to lead, but with support from SG and possibly a student
3	<b>Interviews and/or Questionnaires</b> – The casework review will be supported by more detailed interviews and questionnaires.	Sept 2010 – Apr 2011	SEPA to lead, but supported by SG and possibly a student
4	<b>Casework Review Validation</b> – SNH and	In	SNH and HS to

	HS to validate SEPA's casework review on issues of biodiversity, landscape and cultural heritage. This work will likely need to be undertaken in tranches rather than continuously or all at the end.	tranches from Sept 2010 – Apr 2011	validate.
5	<b>Analysis</b> – SEPA will bring all the casework review and interview data together to present a range of findings. It will also highlight good practice, key matters to address, procedural issues etc etc	Mar 2011 – Jun 2011	SEPA to review – assistance from SG SEA Unit.
6	<b>Recommendations</b> – Following analysis, SEPA will, in conjunction with the SG and CAs bring forward recommendations for potential changes.	Jun 2011	SEPA to lead, with assistance from SG and CAs
7	<b>Review of Findings and Recommendations</b> – The Steering Group will review the findings.	Jun 2011 – Jul 2011	Steering Group
8	<b>Dissemination</b> – A workshop post project will be held to disseminate findings and begin process of implementing recommendations.	Post project	SG to lead, with support from Steering Group

These tasks are expanded upon below:

#### *Stakeholder Workshops*

5.6 To facilitate the gathering of information to inform the review, it is proposed that two half day stakeholder workshops are held once the survey work has been conducted and as analysis commences. The workshops are aimed at enabling a much wider group of SEA stakeholders to make their views known. Precise timing and composition of the workshops in the project will be discussed and agreed with project steering group. **The aim of the workshops is to provide a framework for open and honest debate about SEA which looks forward to identify opportunities and solutions as well as confirming ongoing issues and problems.**

5.7 The costs associated with venues and catering will be covered by the contributing agencies, the project lead will discuss the following with the steering group:

- Planning of the events in terms of workshop administration, content, presentations etc
- Running the events on the day – support will be provided by members of the steering group, but responsibility for smooth running of the events will rest with the project lead;
- Capturing views and information from the events for use in the analysis phase of the project

#### *Casework Review*

- 5.8 A range of SEA casework from the Scottish Government SEA database will be examined. The sample will include a range of cases from across Scotland and include:
- A range of different types of PPS – including development plans, transport plans etc;
  - A range of PPSs at different spatial scales, including some very strategic high level strategies and some PPSs of a more local or regional spatial extent
  - A range of different Responsible Authority types, including the Scottish Government, public bodies and local authorities;
- 5.9 It is envisaged that around 30 PPSs will be reviewed. Emphasis should be placed on those which have been through most SEA stages (i.e. at least to ER stage and ideally through to plan adoption in most cases). The project steering group will assist in the identification of cases.

#### *Interviews/Questionnaire*

- 5.10 To secure stakeholder views, questionnaire and/or interview of SEA stakeholders is required. These should be structured so that answers to the key questions set out in the project objectives are addressed.

#### *Analysis*

- 5.11 Following evidence gathering at the survey stage, SEPA along with support from the Steering Group will be required to analyse the data in order to arrive at findings and practical recommendations. It is important that all the points raised in the project objectives (section 4) are fully addressed.

#### *Findings and Recommendations*

#### *Reporting*

- 5.12 The findings of the study should be clearly set out, explained and justified. While the findings will be derived from the survey and analysis, we would expect the following matters to be covered:
- Effectiveness of SEA as an environmental protection tool
  - Summarise the views of stakeholders
  - Role and performance of CAs and usefulness of CA responses
  - Role of the Scottish Government's new SEA Unit incorporating the existing SEA Gateway
  - Identifying barriers to effective and resource efficient SEA
  - Proportionality
  - Reducing burden and contributing to planning reform.

### *Defining recommendations*

5.13 The findings of the study should lead to practical recommendations about possible opportunities to improve to the SEA process based on findings of Task 3(1). The project lead is expected to make recommendations where appropriate in all of the areas covering in the project objectives and are envisaged to include:

- Recommendations identifying opportunities for improvements where appropriate;
- Recommendations regarding potential legislative change if necessary;
- Recommendations on how to remove/overcome perceived and real barriers;
- Recommendations on how CAs can change their SEA activities if these need changing;
- Recommendations on the additional support that could be provided by the Scottish Government’s SEA Unit.
- Recommendations on how to balance the legal requirements with producing accessible reports that effectively influence PPS;
- Recommendations should be prioritised as short, medium and long term actions

### **Dissemination**

5.14 At the end of the project, a final half day event will be organised by the contributing agencies to disseminate findings and recommendations. The project lead will be expected to attend to present findings and should cost for the time involved.

### **Engagement**

5.15 While this research is aimed at objectives set by the CAs and the Scottish Government, it is important the research engages all practitioners who have an interest in SEA to ensure that they have an opportunity to contribute, in particular to those recommendations that may have an impact upon them. Accordingly, the stakeholder interview / questionnaire and workshop stages are of key importance.

### **Communication**

5.16 The project will be led by SEPA and be managed by a small project steering group.

## **6. Deliverables, Outputs and Timescales**

### **Outputs**

6.1 The project deliverables will be as follows:

1. The pilot project will be carried out. The findings from this will inform a detailed inception report for the main study, setting out the intended approach to the project. .

2. A report comprising all of the required information as set out in section 5 of this specification. The report should include a non technical summary of the key findings and recommendations. Drafts of the report will be provided to the project steering group on at least two occasions prior to completion.

3 Hard copies of the final report along with both Word and PDF versions.

### Meetings and Workshops

6.2 It is anticipated that 4 full project steering group meetings will be required throughout the project lifetime. Three of these are planned (see timetable below), with one kept as a reserve meeting if needed. Meetings will normally be held at the Scottish Government's offices at Victoria Quay although other locations in central Scotland may also be used.

6.3 The project lead should also allow for 2 or 3 more informal meetings with representatives of the Steering Group as required to deal with any technical issues arising during the project. These meetings will be held at a mutually convenient location or by video conference. It is anticipated that most contact between the project lead and Steering Group will be by email and telephone.

6.6 As set out in section 5 above, the project lead is required to plan and run in association with the Steering Group, three stakeholder seminars on the effectiveness of SEA. The venues and catering arrangements will be organised and financed by the contributing agencies. The location of the events will likely be in the central belt.

### Timescales

6.7 The programme for project delivery will be finalised on agreement of the approach to the project at the start up meeting. However, it is anticipated that the project will take 10 to 12 months and that the following timescale will apply:

	Date	Action
Pre Main	Jan – Jul 2010	SEPA to complete pilot project
Review	May 2010	First meeting of Steering Group to introduce project
Project	July 2010	Steering Group meets to agree method for main review

Main Review Project	July 2010	Main review project commences – casework review by SEPA will begin
	Aug 2010	Steering Group meeting to finalise stakeholder events
	Sept 2010	Stakeholder Events to be led and hosted by Scottish Government. Number and location to be determined.
	Sept 2010	Interviews / questionnaires by SEPA with support from SG commence
	Jan 2011	Steering Group meeting – update on progress and issues arising
	Mar/Apr 2011	Casework review and/or interviews largely completed
	Mar/Apr 2011	Steering Group meeting – update and initial findings to be presented
	Mar/Apr 2011	Analysis work commences
	Jun 2011	Analysis and draft findings/recommendations completed
	July 2011	Steering Group discuss findings and recommendations
	July 2011	Project completion
Post Main Review Project	Post July 2011	Post Project Workshop to disseminate findings and recommendations
	Post July 2011	Begin process of implementing the recommendations – an implementation programme will need to be developed and agreed.

## AGREED PILOT PROJECT SPECIFICATION JAN 2010 TO JUL 2010 PROGRAMME

### Introduction

It was agreed that SEPA would lead development of the project method and testing it against a small sample of plans and programmes. This pilot project would form phase 1 of the review, which if successful would be used as the basis for casework analysis.

### Pilot Project Tasks

*Task 1 - Literature Review* – To ensure that the review takes account of other similar work in this area, a short literature review will be conducted. This will include consideration of the method adopted by the recent Department for Communities and Local Government review of SEA and spatial plans (assuming this draft report can be released), lessons learned from two internal SEPA reviews and also from work that may be available from other sources (eg EPA in the Republic of Ireland are beginning to consider this also).

*Task 2 - Scope and Objective Setting* – This task will identify in more detail the scope of the project and its objectives. It will set out what the study will look at and what it will not look at and also list the objectives and outputs that it will aim to deliver. At this stage, the view is that a pilot of up to 8 cases may be achievable. This would comprise four national level plans and eight local/regional level.

*Task 3 - Developing the Pilot Method* – This stage will focus on developing a methodology to be used in the review to test the effectiveness of SEA. It will include things like: identifying what “effectiveness” looks like, developing a method for the assessment, developing protocols for reviewing documents consistently, devising questions for use in interviews/questionnaires and setting out how the findings will be reported.

*Task 4 – Sign Off* – Before testing the proposed method, agreement from the Scottish Government and Consultation Authorities is required. The method tested may well be that which is ultimately used to conduct the wider review, so it is important to get agreement at this stage.

*Task 5 – Test Method* – Before assessing the 8 cases, it is considered prudent to trial the method on one plan.

*Task 6 – Undertake Assessment of up to 7 more cases* – The following tasks will be undertaken under this heading:

- a. Identify Responsible Authority partners and make initial contact to agree their participation[\*]
- b. Review SEA and associated plan documents in accordance with method procedures, highlighting how the SEA and SEA consultation responses have influenced plan content. SEA Statements will be particularly valuable;
- c. Follow this up with interviews and/or questionnaires for plan leads and SEA leads within the Responsible Authority. This is aimed to tease out how SEA has influenced plan content which may not be apparent from written documents.
- d. Write up findings from case studies and tell story of SEA process [\*]

*Task 7 – Write Up Pilot Study Findings* – This stage will bring out the key findings in terms of evaluating effectiveness of SEA from the 8 case studies assessed and also make recommendations regarding how the full review should be conducted in the light of the experience of the pilot project. These recommendations will be used to take forward the casework analysis in the main review.