

HISTORIC SCOTLAND BOARD

Strategic Environmental Assessment: HS Activities to Date

Purpose

1. A paper was given to the Board in March 2005 on strategic environmental assessment (SEA) and Historic Scotland's roles and responsibilities. The purpose of this briefing note is to provide an update to HSB on HS's activities in SEA since that time, particularly given the changes to the legislative regime resulting from the Environmental Assessment (Scotland) Act 2005.

Decisions/Actions required of Historic Scotland Board

2. The Board is invited to note the contents of the attached briefing note.

Amanda Chisholm
SEA Team, Policy Group
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STRATEGIC ENVIRONMENTAL ASSESSMENT ENVIRONMENTAL ASSESSMENT (SCOTLAND) ACT 2005

1. Introduction

1.1. The purpose of this briefing note is to provide information about Strategic Environmental Assessment (SEA) and Historic Scotland's roles and responsibilities under the Environmental Assessment (Scotland) Act 2005.

2. What is Strategic Environmental Assessment?

2.1 The environmental impact assessment of individual projects at the development consent stage has been a feature of Scots Law since 1988 when EC Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment was first implemented in the UK. A key criticism of the environmental impact assessment of projects is that it does not influence higher-level, strategic decision-making processes and that it is also difficult to capture cumulative effects. The importance of undertaking environmental assessment at a strategic level has been recognised for some time, but methods for doing so evolved only relatively recently.

2.2 EU legislation requiring the environmental assessment of plans and programmes came into being in 2001 through Directive 2001/42/EC. The requirements of the Directive are taken forward by the Environmental Assessment (Scotland) Act 2005¹. The Act requires that environmental assessment is undertaken on all public sector plans, programmes and strategies (PPS) which are likely to have significant environmental effects. It therefore introduces a strategic level of assessment into PPS formulation (referred to as "strategic environmental assessment" or SEA). SEA provides a systematic process for identifying, predicting, reporting and mitigating the environmental effects of PPS.

2.3 It should be noted that the Act (which satisfies commitments made in "A Partnership for a Better Scotland") goes beyond the requirements of the EU Directive, by broadening the application of SEA to include all public sector PPS. This approach has not been taken by the other UK administrations.

3. Historic Scotland's roles and responsibilities

3.1 Historic Scotland has dual functions under the terms of the Act:

- as a Consultation Authority; and
- as a Responsible Authority.

Consultation Authority

3.2 The Act includes requirements for consultation at key stages of the assessment process, and identifies three organisations to act as statutory Consultation Authorities: the Scottish Ministers, Scottish Natural Heritage (SNH) and

¹ The Directive was transposed into Scots Law on 20 July 2004 by *The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 258)*. The Regulations were revoked and have been replaced by the Environmental Assessment (Scotland) Act 2005, which came into force on 20 February 2006.

the Scottish Environment Protection Agency (SEPA). The Scottish Ministers have designated Historic Scotland to act on their behalf on matters affecting the historic environment. The duties of the Consultation Authorities are set out clearly in the Act, involving the following tasks:

- responding to screening reports (specified 28 day time frame);
- responding to requests for assistance in scoping Environmental Reports (specified 35 day time frame);
- review of Environmental Reports (timeframe agreed during scoping); and
- responding to adoption notices, where required.

3.3 An SEA Team has been established within the Development Assessment Team. The Scottish Executive has set up an SEA “gateway” to act as a central contact point for information and advice, as well as receiving and responding to SEA reports. HS has set up a similar gateway, as have SNH and SEPA.

3.4 The SEA Team’s efforts since July 2004 have focused on administrative, statutory and non-statutory activities.

Administration

3.5 The SEA Team is currently recruiting a new member of staff. The HS SEA Gateway is in place and functioning well. A time-tracking procedure is currently being trialled. Standard responses are also currently being trialled, to ensure consistency in HS’s responses.

Statutory

3.6 More than 150 PPS have been subject to SEA since July 2004 (as of mid-February 2007). Two hundred and forty SEA reports have been submitted to the HS SEA gateway and reviewed. Table 1 provides a breakdown by year and by type of SEA report. The total number of reports has increased steadily since 2004, a pattern which is likely to continue for another year as awareness of SEA requirements becomes more widespread. All statutory responses have been provided within the defined timescales.

Table 1. SEA reports reviewed by HS

Year	Screening Reports	Scoping Reports	Environmental Reports	Total
2004	6	1	0	7
2005	8	25	9	42
2006	57	64	42	163
2007 (to mid Feb)	7	12	9	28
Total	78	102	60	240

Non-statutory

3.7 A significant amount of effort has been expended on non-statutory activities: liaison with the Scottish Executive SEA Team, the other Consultation Authorities, and other organisations; provision of views on procedural/technical matters in response to requests from Responsible Authorities; informal consultation with

Responsible Authorities; the provision of awareness training to a variety of organisations; and attendance at various SEA events to monitor the SEA “pulse” in Scotland.

3.8 Commitments to capacity-building by the Consultation Authorities were made at the Bill Committee stage in September 2005 and reinforced by the Minister for Environment and Rural Development in September 2006. This has entailed informal consultation with the Responsible Authorities, including meetings to discuss SEA and the review of draft reports. In 2006, for example, 29 informal meetings were held with Responsible Authorities. Papers on SEA were given to four workshops/conferences, including the Local Biodiversity Action Plan officers’ annual meeting and the Institution of Civil Engineers.

3.9 The Scottish Executive made a commitment at the Bill Committee stage to provide guidance on SEA, which was fulfilled by the launch in September 2006 of the “SEA Toolkit”. The HS SEA Team was closely involved in developing and writing this guidance document.

Responsible Authority

3.10 As an authority with responsibility for the preparation of strategies, plans and programmes, Historic Scotland also has a role in the SEA process as a Responsible Authority. To date HS has undertaken SEA of two policies:

- Scottish Historic Environment Policy 1: Scotland’s Historic Environment
- Operational Policy No 2/06: Historic Scotland’s Support for the Voluntary Sector

3.11 A number of policies have been reviewed, using the pre-screening mechanism set out in the Act, and it has been concluded that SEA is not required. These include:

- draft SHEP on properties in the care of Scottish Ministers: principles of conservation and access
- draft SHEP on Scheduled Monument Consent
- draft SHEP on Listed Building Consent

3.12 The SEA work was undertaken by the SEA Team in consultation with the “policy-owners” in Policy Group.

4. Future activities

4.1 It is anticipated that the duties of HS as a Consultation Authority will continue to increase significantly over the next 12 months, and will ultimately depend upon the number of plans, programmes and strategies that will require SEA. Preliminary work undertaken in this regard identified approximately 200 PPS per annum likely to be subject to the Regulations/Act; it is possible that this number will be reached in the next 24 months.

4.2 SEA is required by the Planning etc. (Scotland) Act 2006 and the implications of this are currently being considered jointly by the Scottish Executive and the Consultation Authorities.

4.3 The Consultation Authorities will finalise their draft “Information Note” (put out to consultation in 2005/6) now that the Scottish Executive SEA Toolkit has been published. The final document will be published in 2007.

4.4 The Act requires Responsible Authorities to invite the views of the Consultation Authorities on the draft PPS as well as the environmental assessment. To date most of the draft PPS submitted in this way have been those which HS would have been consulted on in any case, and in consequence this requirement has not resulted in significant additional work. However, this situation may change as more public sector PPS are submitted to the Consultation Authorities for review.

Amanda Chisholm
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