

## EAST AYRSHIRE COUNCIL

### DEVELOPMENT SERVICES COMMITTEE - 14 DECEMBER 2004

#### A CONSULTATION BY THE SCOTTISH EXECUTIVE ON THE ENVIRONMENTAL ASSESSMENT (SCOTLAND) BILL

##### Report by Executive Director of Development and Property Services

### 1. PURPOSE OF REPORT

- 1.1 To seek the views of Committee and to homologate the representations already made to the Scottish Executive on a consultation paper entitled 'Environmental Assessment (Scotland) Bill – A Consultation' as it relates to land use planning under the Town and Country Planning (Scotland) Act 1997 and the functions carried out by East Ayrshire Council.

### 2. BACKGROUND INFORMATION

- 2.1 A report was approved by Committee on 10 March 2004 on proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland'.
- 2.2 The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 subsequently came into force on the 20<sup>th</sup> July 2004 which transposed European Directive 2001/42/EEC into Scottish Law. The Regulations require Strategic Environmental Assessment (SEA) to be undertaken of plans and programmes which are required by legislative, regulatory or administrative means. The Regulations require an Environmental Report to be prepared for plans and programmes prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use **and** which sets the framework for future development consent of projects listed in annex I and II of the Environmental Impact Assessment Directive (85/337/EEC) **or** require an assessment under article 6 or 7 of the Habitats Directive (94/43/EEC) as amended by Directive 97/62/EC.
- 2.3 Other plans and programmes that fall out with the specific sectors identified above but which set a framework for future development consent may also be subject to SEA if they are determined, by a screening process, as being likely to have significant environmental effects, either positive or negative.
- 2.4 However, under the coalition Partnership Agreement, 'A Partnership for a Better Scotland', a commitment was made to introduce SEA across a wider range of strategies, plans and programmes developed by the public sector in Scotland regardless of whether they are required by legislative, regulatory or administrative means or whether they set a framework for future development consents.
- 2.5 To implement the commitment contained within the Partnership Agreement, the Scottish Executive consulted East Ayrshire Council on the proposed Environmental Assessment (Scotland) Bill on 15 September 2004. The closing date for comments was 29 October 2004 and comments on the proposals were submitted. This report seeks the Committees views on the proposals, and requests that the comments already submitted are homologated or otherwise.

### **3. GENERAL COMMENTS**

3.1 The consultation paper sought the views of the Council on 10 specific questions. General comments highlighting key issues with a brief explanation are provided however below.

#### 3.2 Pre-screening

The first issue relates to the need for pre-screening by the Responsible Authority of plans, programmes and strategies not covered by the European Directive. In the pre-ambule the Scottish Executive favour introducing a stage before formal screening whereby the Responsible Authority would exempt those plans, programmes and strategies that have no possible significant environmental effects from the screening process.

#### 3.3 Comment

It is agreed that it is desirable to have pre-screening as proposed, but if the decision is to be taken by the Council as Responsible Authority, the Council would expect the Executive to give much more advice on what is 'significant'.

#### 3.4 Screening

The Scottish Executive favour a case-by-case screening process and have indicated that as they gain more expertise they believe they will be able to build up a comprehensive list of plans and programmes that require a SEA and that this can be made available to authorities preparing a SEA for their own plans and programmes.

#### 3.5 Comment

It is agreed that it is logical to assess plans, programmes and strategies on a case-by-case basis and to insert those plans, programmes and strategies that are subject to environmental assessment into a comprehensive list.

#### 3.6 Environmental Report

The Executive invited views on the content of the Environmental Report which provides an assessment of the plans and programmes environmental impact. They are of the view that the report should not be seen as a physically separate document, but should form a distinct and easily identifiable section of the plan, programme or strategy. The length of the document will depend on the amount of environmental information contained within it and the complexity of the likely environmental effects.

#### 3.7 Comment

It is agreed that the information contained within Schedule 2 of the Environmental Assessment of Plans and Programmes (Scotland) Regulations must be included in the Environmental Report. However, it must be recognised that there is a danger that too much environmental information will be incorporated into the report. Environmental Reports must be legible and understandable to the public to be of any use. A non-technical summary at the start of the report, although useful, is no substitute for a well written and understandable report.

### 3.8 Core Indicators

The Executive also considered whether there was merit in having a core set of environmental indicators to measure Environmental Reports and whether the environmental indicators contained within the Scottish Sustainable Development Indicators might form such a core list.

### 3.9 Comment

It is considered that a core set of indicators should not be developed at present, as they would not be applicable to every Environmental Report. A core set of indicators for different types of plans could be considered in the future once there is a sufficient body of expertise and list of Environmental Reports to call upon.

### 3.10 Social and Economic Information

The SEA Regulations and proposed Bill would require Responsible Authorities to only consider the environmental effects of the plan, programme or strategy. The Executive, while recognising that social and economic issues are important, does not think that Environmental Reports should include social and economic factors. The Executive does admit that this does not preclude the Environmental Report from becoming an annex to a wider sustainability appraisal.

### 3.11 Comment

It is critically important that social and environmental information is assessed. For example, within a land-use plan or programme, social and economic information must be considered if the plan is to be properly targeted. Planning decisions cannot be made wholly on environmental grounds alone. To aid Planning Authorities, it is considered that a Planning Advice Note on Sustainability Appraisals including Environmental Reports should be prepared.

### 3.12 Administration and Operation of SEA

The Executive sought the Council's views on how they can improve the administration and operation of SEA. The Executive have set up a SEA Gateway which is responsible for offering guidance on SEA; receiving and recording plans submitted; distributing plans to the consultation authorities; receiving the views of the consultation authorities and informing the Responsible Authorities of these views; ensuring deadlines are met; and collecting management information and statistics on the operation of SEA.

### 3.13 Comment

The Executives' current arrangements seem to be reasonable and practicable. However, there is a big distinction between the administration of the system and preparing a SEA. It is considered that insufficient attention to date has been paid to the resource implications of the proposals for Local Authorities and other Responsible Authorities.

#### **4. ADDITIONAL COMMENTS**

- 4.1 The report to the 10<sup>th</sup> March 2004 Development Services Committee was submitted along with the above comments, as they were deemed to be still relevant and valid. In particular, the March 2004 report highlighted potential problems that would occur from the inclusion of strategies into the SEA process.
- 4.2 As it is currently proposed, all plans and programmes that have significant environmental effects, even if they are not required by legislation, have to produce an Environmental Report. It is difficult to accurately assess the overall impact that this will have on the Council but it is likely to be significant. Within the planning function, SEA will have considerable resource implications and will elongate the timeframe for Local Plan preparation.

#### **5. FINANCIAL/PERSONNEL IMPLICATIONS**

- 5.1 It is considered that the introduction of the Environmental Assessment (Scotland) Bill will involve financial and resource implications for the Council. It is considered imperative that further work to assess the financial and personnel implications are urgently completed so that sufficient funds can be made available from the Scottish Executive to allow the additional work to be properly carried out.

#### **6. LEGAL IMPLICATIONS**

- 6.1 The Council is obliged under the existing regulations to prepare SEA for certain types of plans and programmes. If the range of plans, programmes and strategies is widened as proposed it will place an additional legal obligation on most, if not all, departments.

#### **7. RECOMMENDATION**

- 7.1 It is recommended that Committee agrees;
- i) to approve the contents of this report and refer the matter to the Policy and Resources Committee to assess the wider implications for the Council;
  - ii) to authorise the Executive Director of Development and Property Services to submit a copy of this report to the Scottish Executive as representing the Council's views on the consultation; and to expressly inquire if additional resources will be given to local authorities to meet this new responsibility.

**James Lavery**  
**Executive Director of Development and Property Services**  
**6 December 2004**  
**FV**

## **LIST OF BACKGROUND PAPERS**

1. Scottish Executive consultation paper, Environmental Assessment (Scotland) Bill
2. Development Services Committee Report 10 March 2004, A Consultation by Scottish Executive on Proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland.
3. Scottish Executive Consultation Paper, Strategic Environmental Assessment: A Consultation on proposed Legislative Measures to Introduce Strategic Environmental Assessment in Scotland.

Anyone wishing to inspect the background paper please contact Antony McGuinness on (01563) 576751.

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