



ANNEX 1

Consultation on Environmental Impact Assessment amending Scottish Environmental Impact Assessment Regulations to transpose Directive 2014/52/EU

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Scottish Wildlife Trust

Phone number

01313124706

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The Scottish Government would like your permission to publish your consultation response.
Please indicate your publishing preference:

- Publish response with name
 Publish response only (anonymous)
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Questionnaire

Please provide your feedback on these proposals in the form of responses to the questions below.

Regimes

If you are answering the consultation questions in relation to a particular regime, please select the relevant box clearly highlight which regime you are referring to in the comments section.

- | | | | |
|--------------------------|---------------|--------------------------|------------------------------|
| <input type="checkbox"/> | Agriculture | <input type="checkbox"/> | Marine Works |
| <input type="checkbox"/> | Energy | <input type="checkbox"/> | Planning |
| <input type="checkbox"/> | Forestry | <input type="checkbox"/> | Transport and Works Projects |
| <input type="checkbox"/> | Land Drainage | <input type="checkbox"/> | Trunk Roads |

Section 1. Assessment Process

Q1. Do you agree with proposals to provide for a coordinated rather than joint procedure?

- Yes
 No
 Unsure

Scottish Wildlife Trust does not agree with combining the two processes as each has a different, important purpose. However, coordination and sharing of data makes sense and reduce duplication of effort.

Q2. What would the regulatory impact be if legislation was introduced which required that no construction of any EIA development should take place until any operational permits or consents required under the Habitats and Birds Directives, Water Framework Directive, the Industrial Emissions Directive, the Waste Framework Directive or the SEVESO III Directive had been granted?
(Please provide details in the comments box below)

The Trust supports this legislative introduction. This is an important proposed change and would avoid the risk of non-compliance with EU legislation.

Q3. Do you have any further comments on the changes proposed to implement articles 1 and 2 of the EIA Directive?
(Please provide details in the comments box below)

The Scottish Wildlife Trust is in agreement with RSPB Scotland that Ramsar sites should specifically be included within the definition of “sensitive area”.

The Trust think that as much environmental information as possible should be made public and we would like to see this specifically stated within the regulations with regard information obtained under assessment.

Section 2: Information to be Assessed

Q4. Will you have to change your current practice to take account of the risk of major accidents?

- Yes
- No
- Unsure

This move would help eNGOs and other relevant bodies to assess a proposed project over the long term. With global climate change becoming more and more of an issue in Scotland this is a vital step. This should help reduce unforeseen impacts on the environment and communities.

Q5. Do you consider that our approach to transposition of information to be assessed appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

The trust would like to see reference to impacts on natural capital and resultant impacts on ecosystem service delivery.

Section 3: Screening

Q6. Will you have to change your current practices to meet the new screening requirements?

- Yes
- No
- Unsure

The Scottish Wildlife Trust responds to planning applications in ways. Planning applications with predominantly local impacts are dealt with by our network of local volunteers across Scotland and applications with national impacts are dealt with from our head office, however, this approach is completely dependent on capacity.

The Trust are not statutory consultees and as such are only contacted about screening on an ad hoc basis. This could mean that vital eNGO input and local knowledge is not gathered and taken account of. The Trust requests that Scottish Wildlife Trust and other relevant eNGOs are consulted at screening.

It should be impressed upon developers and the planning authority that eNGOs do not have unlimited resource to comment on planning applications and that “no comment” does not necessarily mean the eNGO does not see any potential problems, it may be that they simply do not have capacity to comment.

Q7. Are you content with the current timescales for providing a screening opinion?

- Yes
- No
- Unsure

Comments

Q8. Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

The Trust is concerned that if mitigation proposals are taken into account at the screening stage insufficient detail is available to form a view of whether or not they will be successful.

The Trust is also extremely concerned about the lack of resource at Local Authority level to assess and enforce mitigation measures.

The Scottish Wildlife Trust shares RSPB Scotland's concerns in relation to the screening process for Forestry related schemes. The Trust is of the opinion that all EIA regimes should be required to provide justification for the screening decision including for Forestry. This has been an issue of particular concern for our local members in the past.

The

The Scottish Wildlife Trust believes that extraction of shale gas by hydraulic fracturing and coal bed methane extraction could pose environmental risks ranging from contamination of aquifers to accidental release of chemicals. There must be strict interpretation and enforcement of the regulatory regime to ensure that wildlife habitats and ecosystems are protected from the potentially damaging effects of hydraulic fracturing and coal bed methane extraction.

The Scottish Wildlife Trust will consider its response to planning proposals for the extraction of shale gas and coal bed methane on a case by case basis. Where the Trust believes there would be a significant impact to wildlife, habitats or ecosystems or where the potential risk of environmental damage is high, regardless of mitigation, we will object. There should be no consents given to unconventional gas extraction in protected sites; the Scottish Wildlife Trust will object to such development proposals. As such the Trust would like to see unconventional gas extraction included in Schedule 1 of the Regulations so that an EIA is always required.

Section 4: EIA Report

Q9. Will you have to change your current practice to prepare a reasoned conclusion?

- Yes
- No
- Unsure

Comments

Q10. Do you consider that our approach to transposition of requirements concerning the content of the EIA report appropriately implements the Directive?

- Yes
- No
- Unsure

Comments

Section 5: Scoping

Q11. Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

The Trust would like to see as wide a range of organisations consulted during scoping as possible, in order to facilitate this the Trust suggests that the text of regulation is widened to include organisations, public bodies, interest groups (or similar).

As stated above the Trust is not consulted as a matter of course during scoping and we would not like to miss out on the important opportunity to contribute to planning process.

Section 6: Assessment quality and expertise

Q12. Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

In the Trusts opinion many local authorities struggle with capacity regarding ecological expertise, indeed the recent planning review highlighted this. In the Trusts experience there is also significant underfunding of biodiversity related knowledge development within local authorities.

Statutory agencies, notably SNH, are also experiencing extreme funding cuts and therefore cannot properly input and comment on the planning process.

In order for local authorities and statutory bodies to carry out their roles they must be properly funded otherwise they cannot contribute effectively to the EIA process.

Planning Authorities should not be able to determine who the “competent experts” and there should be some level of academic or grandfather rights required to ensure good environmental outcomes.

Section 7. Consultation and Publicity

Q13. Do you consider that our approach to transposing consultation and publicity appropriately implements the requirements of Directive?

- Yes
- No
- Unsure

The Trust would favour a move to all electronic availability of information on a central government portal. This should be specifically developed to aid the general public in participating in the planning process.

Our network of planning volunteers frequently report that they have difficulty “penetrating” the text heavy documents and careful consideration should be given to layout and simplicity to aid understanding.

Sensitive information should be redacted as required e.g. badger sets and nesting sites

Q14. Do you feel that the current arrangements for informing the public meet your needs?

- Yes
- No
- Unsure

See above.

The regulations should allow all interested groups/bodies/communities to be consulted on the whole process of the EIA, this could be done on an opt in basis to avoid flooding organisations with email.

Section 8. Monitoring

Q15. Do you consider that the regulations meet the requirements of the Directive concerning the information to be included in the development consent?

- Yes
- No
- Unsure

Comments

Q16. What administrative changes are likely to be required to implement new provisions on the content of decision notices?

Comments

Q17. Do you consider that our approach to transposition of monitoring in the regulations implements the requirements of the Directive?

- Yes
- No
- Unsure

The Trust is concerned that there is not appropriate resource within local authorities to perform monitoring properly with resultant negative environmental impacts. This must be addressed to make the EIA legislation meaningful.

Q18. Will you have to change your current practices to meet the new monitoring requirements?

- Yes
- No
- Unsure

Comments

Section 9. Decision

Q19. Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 10. Conflict of interests

Q20. Do you consider that our approach to conflict of interest appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

The Trust is concerned about the low number of EIAs conducted for forestry related applications and the new Regulations do not seem to address this.

Section 11. Penalties

Q21. Do you agree with proposals to introduce penalties and sanctions for knowingly or recklessly providing false information should be applied across all eight EIA regimes?

- Yes
- No
- Unsure

Penalties need to be high enough to act as a deterrent

Penalties should be introduced for failing to properly carry out mitigation and remedial work.

Section 12. Transitional Arrangements

Q22. Do you consider that our approach to transitional arrangements appropriately implements the requirements of the Directive?

- Yes
- No
- Unsure

Comments

Section 13 Other Policy Issues

Q23. Do you have any comments on the proposal by the forestry regime to increase the afforestation threshold for non-sensitive areas from 5 hectares to 20 Hectares?

The Trust shared RSPB Scotlands concerns regarding increasing this threshold as “putting the wrong tree in the wrong place for the wrong reason” can have grave environmental consequences. The proposal should be rejected.

Q24. Do you have any comments on the proposal by the marine regime to adopt the thresholds used by the planning regime where they are relevant to marine developments?

Comments

Q25. Do you have any comments on the new provisions for multi stage consents?

Comments

Q26. Do you currently use EIA guidance? If so please provide further details.

- Yes
- No
- Unsure

Comments

Q27. Is there any particular area or regime where you feel that guidance would be helpful?

Agriculture

Forestry

Marine

Part 3 – Assessing Impact

Q28. Do you think that the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity or children’s rights and wellbeing?

Comments

Q29. What do you consider are the likely costs and benefits arising from the changes outlined in this consultation paper?
(Please specify which of the Scottish EIA regimes your comments refer to.)

Comments

Q30. Do you have any comments on the Draft Partial Regulatory Impact Assessment?

Comments