

PLANNING

**Draft
Regulations on
Development
Planning**

Consultation Paper

October 2007

Draft Regulations on Development Planning

Consultation Paper

Planning Directorate

Planning Modernisation and Co-ordination Division



MODERNISING THE PLANNING SYSTEM: CONSULTATION ON DRAFT REGULATIONS ON DEVELOPMENT PLANNING

Responding to this consultation paper

We are inviting written responses to this consultation paper by 20 February 2008. Please send your response to:

dpregsconsultation@scotland.gsi.gov.uk

or

Development Planning Regulations Consultation
Planning Directorate
Scottish Government
2H, Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries on the content of the consultation paper or the consultation process, please contact liam.bullingham@scotland.gsi.gov.uk on 0131 244 0426. Please indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

In Planning Directorate we are changing our methods of distribution, with electronic publication for all our publications, subject to only a very small list of exceptions which will also be published in hard copy, such as the National Planning Framework. In addition, we are creating an improved e-newsletter system which will provide an effective way of alerting you to new e-publications, including consultations. To register for electronic newsletters about planning, please register your details www.scotland.gov.uk/Topics/Planning/ecommsplanning as soon as possible.

The Scottish Government also has an email alert system for all consultations (**SEconsult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations. SEconsult complements the new planning e-publications system described above and allows you to register for consultations on specific topic areas across the Government. Please follow the SEconsult link above if you wish to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** which forms part of this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Publishing responses

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in The Scottish Government Library within 6 weeks of the close of the consultation and on the [SEconsult](#) web pages within 6 weeks of the close of the consultation. Where agreement to publish has been given, we will check all responses for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting The Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the draft regulations or order. Final regulations and orders will require to be laid in Parliament. Further details on the timing of this process will be available through the Modernising Planning page on The Scottish Government's Planning Homepage at www.scotland.gov.uk/Topics/planning .

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to liam.bullingham@scotland.gsi.gov.uk on 0131 244 0426.

RESPONDENT INFORMATION FORM: DRAFT REGULATIONS ON DEVELOPMENT PLANNING

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)
- (a) as an individual go to Q2a/b and then Q4
- (b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation **will be** made available to the public (in The Scottish Government library and/or on The Scottish Government website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

- 4 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 The Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No

Equal Opportunities Questionnaire

This Equal Opportunities Questionnaire is requested in order that The Scottish Government can build an accurate picture of the make-up and diversity of the people that our planning policies impact on, and to ensure that the way in which we carry out our consultations is inclusive and not unwittingly discriminatory. If you have responded to this consultation as an individual, it would be helpful if you could complete this form. This information is **only** used for this purpose.

If you have a disability that requires us to make a reasonable adjustment to enable you to complete this form, please notify us.

Name	
Consultation to which you are responding	
Gender	Male <input type="checkbox"/> Female <input type="checkbox"/>

Ethnic origin

How would you describe your ethnic or cultural origin?			
White <input type="checkbox"/>	Scottish <input type="checkbox"/>	White <input type="checkbox"/>	British <input type="checkbox"/>
White <input type="checkbox"/>	European/Other <input type="checkbox"/>		
Black <input type="checkbox"/>	Scottish <input type="checkbox"/>	Black <input type="checkbox"/>	British <input type="checkbox"/>
Black <input type="checkbox"/>	Caribbean <input type="checkbox"/>	Black <input type="checkbox"/>	Other <input type="checkbox"/>
Black <input type="checkbox"/>	African <input type="checkbox"/>		
Asian <input type="checkbox"/>	Scottish <input type="checkbox"/>	Asian <input type="checkbox"/>	British <input type="checkbox"/>
Indian <input type="checkbox"/>		Pakistani <input type="checkbox"/>	Chinese/Other <input type="checkbox"/>
Indian <input type="checkbox"/>			Asian <input type="checkbox"/>
Bangladeshi <input type="checkbox"/>			
Mixed Racial Origin <input type="checkbox"/>			Other <input type="checkbox"/>

Age

Under 25 <input type="checkbox"/>	25-39 <input type="checkbox"/>	40 – 54 <input type="checkbox"/>	55- 65 <input type="checkbox"/>	65 + <input type="checkbox"/>
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Disability

<p>Do you have a disability as defined by the Disability Discrimination Act 1995 (DDA)?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>The definition of a disability under the DDA is “a physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities.”</p>
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THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of The Scottish Government's working methods. Given the wide-ranging areas of work of The Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a consultation paper inviting answers to specific questions or more general views about the material presented. Consultation papers are distributed to organisations and individuals with an interest in the issue, electronically or in hard copy and are placed on The Scottish Government's consultations webpage¹ to allow for participation from a wider audience. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in The Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: [SEconsult](http://www.scotland.gov.uk/consultations) (<http://www.scotland.gov.uk/consultations>).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

¹ <http://www.scotland.gov.uk/consultations>

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DRAFT REGULATIONS ON DEVELOPMENT PLANNING

CONSULTATION PAPER

INTRODUCTION

1. The Planning etc. (Scotland) Act 2006 (“the Act”) provides a wholly new statutory basis for development planning in Scotland and introduces strategic development plans (SDPs) and local development plans (LDPs) to replace existing structure plans and local plans. The Act also gives Scottish Ministers powers to prepare regulations concerning a range of detailed aspects of the new development planning system. These regulations will in due course replace the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983.
2. Three sets of draft statutory instruments are appended as annexes to this paper:
 - **Annex A** contains draft regulations on matters which the Act specifies will be approved through affirmative procedures in Parliament, these being the content of SDPs, and the grounds for declining to make modifications recommended in a report of an examination into a LDP.
 - **Annex B** contains draft regulations on matters which will be approved through negative procedures in Parliament, these being the remainder of the regulations governing the new development planning system.
 - **Annex C** contains a draft order, also to be approved through negative procedures, concerning transitional arrangements for development plans that are in preparation when the new provisions are commenced.
3. The new Act contains more detail on the procedures to be followed in preparing development plans than the Town and Country Planning (Scotland) Act 1997. The draft regulations do not repeat this detail, but pick up on the specific powers to prepare regulations contained in the new Act. In order to provide clarity on how these two sets of requirements fit together, this paper brings together the established requirements of the Act with the proposed requirements of the draft regulations. But it offers discussion and poses questions only on those parts not fixed by the Act.
4. The draft regulations have been designed to provide a minimum set of requirements to ensure that Scottish Ministers’ priorities for the operation of the development planning system are achieved. The aim has been to provide a light regulatory touch. Given the very different circumstances in which plans will be prepared over time and across

Scotland, it would not be possible in any event to set out detailed procedures that would be appropriate in all cases. More advice as to the form, content and procedures for development plans will be provided in due course, and where relevant some of this advice is included in this consultation paper to help illustrate how the new procedures are intended to operate.

5. The processes for the initial stages of the preparation of SDPs and LDPs have been designed to mirror each other as closely as possible, though there are some inevitable differences. In particular, the different ways in which SDPs and LDPs are constituted means that the two processes diverge more significantly from the examination stage on.
6. For information, we expect to consult later this year on draft regulations governing the examination procedures for development plans.

The importance of development plans

7. Development plans are a central part of the planning system and the proposals to modernise the way they are produced and refocus their content are critical to planning's success in the future. The challenge for the new legislation and advice is to help achieve a balance between ensuring plans are produced quickly and are up to date, while still allowing early and effective engagement to take place with all those affected by the plan's proposals and those involved in its delivery. The detailed proposals set out in the draft regulations seek to achieve this balance.

DEVELOPMENT PLAN SCHEMES

8. Section 20B of the Act requires each planning authority and strategic development planning authority to prepare a **development plan scheme** (DPS) at least annually. The DPS is to set out the authority's programme for preparing and reviewing their strategic development plan or local development plan(s). This must include a participation statement stating when, how and with whom consultation will take place, and the authority's proposals for public involvement in plan preparation process. Draft regulation 24 also proposes that the DPS should contain:
 - A list of the elements of the development plan (including statutory supplementary guidance) in each area and the dates on which they were adopted/ approved;
 - A timetable, specifying the month the authority proposes to publish its next main issues report and proposed plan; and
 - A location plan showing the coverage of the plans referred to.
9. Draft regulation 25 proposes that at least 28 days before adopting the DPS, authorities must send a copy to Scottish Ministers. Ministers would then have a power to recommend modifications to the DPS.

Authorities may decline to make these changes, but in these circumstances they would have to give reasons.

10. This is a minimal level of scrutiny that still leaves the ultimate responsibility for the content of DPSs with planning authorities. Any comments by Ministers are likely to be focussed on seeking the inclusion of an appropriate range of participation measures, and a realistic timetable for plan preparation that will meet the statutory requirement for five-yearly review.
11. After adoption, the Act requires the DPS to be published (including electronically), two copies to be sent to Scottish Ministers and copies to be placed in public libraries.

Q1 Are you satisfied that the procedures set out in the draft regulations for adopting development plan schemes will adequately ensure that planning authorities have proper programmes in place for the review of their plans, including their proposals for consultation and public involvement?

STRATEGIC DEVELOPMENT PLANS

12. Strategic development plan authorities (SDPAs) are required by the Act to prepare and review strategic development plans (SDPs), and submit these to Scottish Ministers within four years of the approval of the existing plan.

Monitoring

13. In all cases SDPs will replace one or more existing structure plan. So an early task of the SDPA will be to monitor:
 - changes in the principal physical, economic, social and environmental characteristics of the SDP area that have occurred since the preparation of the existing structure plan(s); and
 - the impact of the policies and proposals of the existing structure plan(s).
14. As a product of this exercise, the Act requires SDPAs to publish a **monitoring statement**. Future generations of SDP must be based on similar monitoring exercises of the existing SDP. The SDPA are to publish the monitoring statement, including electronically, alongside the publication of any main issues report.

Form and content of strategic development plans

15. A SDP must contain a number of elements. Principally these are:
- (1) **A vision statement.** The Act requires that this will be a broad statement of how the development of the area could and should occur and the matters that might be expected to affect that development, including:
 - the principal physical, economic, social and environmental characteristics of the area;
 - the principal land uses in the area;
 - the size, composition and distribution of population in the area;
 - the infrastructure of the area (including communications, transport and drainage systems and systems for the supply of water and energy);
 - how that infrastructure is used; and
 - any anticipated change in these matters.
 - (2) **Policies.** Draft regulation 2 (Annex A) proposes that plans must include policies on the location of housing, economic and retail development, infrastructure improvements and the types of location that should be protected from development.
 - (3) **A spatial strategy.** The Act states that this will be a broadly based statement of proposals as to the development and use of land in the area.
 - (4) The Act also requires the inclusion of an analysis of the relationship with development and land use proposals in **neighbouring areas** that are likely to affect the SDP area.
16. While the Act allows SDPAs to include any other matters in the plan that it considers appropriate, draft regulation 2 specifically requires an SDP to also include:
- the name of the SDP area;
 - a list of the authorities comprising the SDPA;
 - an executive summary;
 - reasoned justification for the policies and proposals of the plan; and
 - a glossary.
17. Overall, our intention has been to maximise the freedom that SDPAs may exercise in preparing SDPs to suit local circumstances, while securing the minimum requirements for meeting Ministers' expectations for the strategic element of the new development plan system. In considering the content of SDPs, regard should also be had to the statutory requirement to exercise development planning functions with

the objective of contributing to sustainable development. Statutory guidance on how to achieve this requirement was published in draft in March 2007 and is due to be finalised around the end of 2007.

Q2 Do the regulations on SDP content need to say more to ensure that SDPs are effective tools for leading and managing change in the largest city-regions?

Q3 Do you support the approach to listing the key topics that need to be covered by policies at the strategic level and do you support the topics listed?

18. The SDP may contain or be accompanied by any maps, diagrams, illustrations or other descriptive matter the SDPA thinks appropriate. But draft Regulation 2 (Annex B) proposes that it must contain a **Proposals Map** describing the spatial strategy. The Proposals Map should be sufficiently detailed to enable the location of proposals to be identified. This would be a significant change in approach from the key diagrams of existing structure plans. The suggestion is not that proposals in SDPs should be site-specific, but that where policies or proposals have a spatial dimension, it should be clear which areas they apply to, even if these are broad areas of search for new development sites. Given the size of SDP areas, such maps would inevitably be relatively small scale. The proposed regulations continue to state that, in the event of any discrepancy between the map and the text of the SDP, the written statement will take precedence.

Q4 Is the move to an accurate map base for SDP Proposals Maps workable?

Q5 Do you support the continuing primacy of the written text of the SDP (or LDP) or would a move to primacy for the Proposals Map help to strengthen the spatial dimension of the plan?

Preparation of the strategic development plan

19. In preparing a SDP or main issues report, the Act requires the SDPA to take into account the National Planning Framework. Draft regulation 3 also proposes it must have regard to:
- The resources available for carrying out the policies and proposals in the plan;
 - Any approved or proposed SDP for a neighbouring SDP area;
 - Any regional transport strategy or river basin management plan relating to the area;

- The national waste management plan; and
- Issues arising out of the European directive on the control of major accident hazards involving dangerous substances.

Q6 Do you support the list of information and considerations that the SDPA must take into account when preparing a SDP or main issues report?

The main issues report

20. With a view to facilitating and informing their work in preparing a SDP, a SDPA must first compile a **main issues report** (MIR). This is not intended to be a draft plan, but should focus on the key issues that are changing from the last plan.
21. The Act requires that the MIR must set out the authority's general proposals for development in the area and in particular proposals as to where development should and should not occur. The proposals must be explained sufficiently clearly and precisely to enable people to understand what is proposed and to make meaningful comments. The MIR must also contain one or more reasonable alternative sets of proposals. Finally, the MIR must draw attention to the ways in which the favoured and alternative proposals differ from the spatial strategy of the existing approved SDP (if any). There is no legal requirement to draw such a comparison with existing structure plans, but it would be good practice to do this within the first generation of main issues reports.
22. SDPs must be fully co-ordinated with other key strategies from the earliest stage with key infrastructure providers signed up to the delivery of the emerging proposals. Therefore, in preparing the MIR (i.e. before its publication), the Act requires SDPAs to consult with, and have regard to the views of:
 - the key agencies; and
 - neighbouring planning authorities.
23. Draft regulation 4 proposes that, at this stage, SDPAs must also engage with:
 - Scottish Ministers; and
 - the Health and Safety Executive;
24. The MIR stage should link closely to the process of Strategic Environmental Assessment (SEA). The intention is for the alternative proposals put forward at this stage to be environmentally appraised and for a draft environmental report to be published alongside the MIR. Further guidance will be provided in due course on how the SEA process and the development plan process can fit together.

25. Draft regulation 5 proposes the following minimum publication requirements to apply at the main issues report, proposed plan and modified plan stages:
- Publication of a notice in the Edinburgh Gazette and a local newspaper, setting out:
 - That the document has been prepared, and where and when it may be viewed;
 - A brief description of the content and purpose of the document;
 - Details of how further information may be obtained; and
 - A statement that representations may be made, and how, to whom and by when they should be made.
 - Sending this information to:
 - The key agencies;
 - Adjoining planning authorities or SDPAs;
 - The Health and Safety Executive; and
 - Community councils
 - Making a copy of the document available to inspect at an office of each of the constituent planning authorities and in all public libraries in the plan area; and
 - Publication on the internet.
26. The Act requires authorities to secure that people who may be expected to want to comment on the MIR are made aware that they can do so, and are given such an opportunity. Draft regulation 6 proposes that this should be done through the sending of a notice containing the same information as the newspaper notice.
27. In publishing the MIR, the SDPA are to send a copy of the report and the monitoring statement (referred to at para 14 above) to Scottish Ministers.
28. The issues around publicity are similar for SDPs and LDPs. To avoid repetition, these are discussed at paras 54 to 58 below, together with consultation questions which apply to both types of plan.

The proposed strategic development plan

29. The SDPA are to have regard to the representations submitted on the MIR, and are then to prepare and publish a **proposed SDP**. The proposed plan is to be published in the same way as for the MIR under regulation 5. Copies of the plan are to be sent to the key agencies and neighbouring planning authorities, and people who commented on the MIR are to be notified. The SDPA are also to consult the key agencies, the Health and Safety Executive and Scottish Ministers.

30. Following the close of consultations on the proposed plan, the SDPA may modify it to take account of representations, matters arising out of consultations or representations, or any minor drafting or technical matters. There are now two possibilities:
- (1) Where the modifications are so significant as to change the underlying aims or strategy of the plan, the SDPA must prepare and publish a new proposed plan.
 - (2) Where this is not the case, the SDPA are to publish the modified plan in the same way as for the MIR under regulation 5.
31. Following a further opportunity for representations to be made on the modifications, the SDPA are to submit the plan to Scottish Ministers. Section 10(3) in the Act requires that, along with the modified plan, the SDPA are to submit:
- a note of the representations made and of whether and how those representations were taken account of in the modified plan;
 - a report as to how far the SDPA, in preparing the plan, has conformed with the commitments made regarding consultation and public involvement in their participation statement; and
 - a copy of their proposed action programme for the plan.
32. Draft regulation 8 sets out the following requirements for publicity around the submission of plan to Ministers:
- Publication of a notice in a local newspaper and electronically;
 - Sending the notice to the key agencies and people who submitted representations on the plan; and
 - Making a copy of the submitted plan available for inspection in planning offices and public libraries.

Examination

33. Proposed procedures for the examination of SDPs will be covered by separate draft regulations which we expect to issue later in the year.

Approval or Rejection

34. Once they have received the proposed SDP from a SDPA, and the report from the person who carried out the examination (if any), Scottish Ministers will approve or reject the plan. Where the plan is approved this may either be in whole or in part, and Ministers may, in approving the plan, modify it. The procedure for making modifications will vary depending on whether an examination has been held:

- Where there has been an examination, Ministers may make modifications in approving the plan, and will set out reasons for these.
- Where there has not been an examination, Ministers will publish any modifications, along with the reasons for making them, and consult with bodies including the key agencies and the SDPA. In these circumstances, there will be an opportunity to make representations on the modifications prior to Ministers approving the plan. Ministers may make further modifications in the light of representations received at this stage, but these will not be subject to further consultation. Scottish Ministers will notify the SDPA of any such representations received.

Publication of and publicity for the approved plan

35. Section 14 of the Act requires that as soon as possible after approval, the SDPA are to publish the plan (including electronically) and send two copies to Scottish Ministers. They are also to place a copy of the approved plan in local libraries, and advertise in a local newspaper and notify people who made representations on the plan that the SDP has been published and is available for inspection.

LOCAL DEVELOPMENT PLANS

36. Section 16 of the Act requires all planning authorities to prepare, and keep under review, one or more local development plans for their area. These must cover the whole of the authority's area, although one location may be covered by more than one LDP if prepared for different purposes (e.g. minerals), and LDPs may extend across the areas of more than one planning authority. Importantly, regardless of how many LDPs cover a local authority area, they must all be reviewed every 5 years.

Monitoring

37. In all cases LDPs will replace one or more existing local plan. So another early task of planning authorities will be to monitor:
- changes in the principal physical, economic, social and environmental characteristics of the area that have occurred since the preparation of the existing local plan(s); and
 - the impact of the policies and proposals of the existing local plan(s).
38. As a product of this exercise, the Act requires the planning authority to publish a **monitoring statement**. Future generations of LDP must be based on similar monitoring exercises of the existing LDP. The planning authority is to publish the monitoring statement, including electronically, alongside the publication of any main issues report.

Form and Content of Local Development Plans

39. Section 15 of the Act requires LDPs to contain a **spatial strategy**, this being a detailed statement of the planning authority's policies and proposals as to the development and use of land. Outside SDP areas, LDPs must also contain a **vision statement**. This will be a broad statement of how the development of the area could and should occur and the matters that might be expected to affect that development, including:
- the principal physical, economic, social and environmental characteristics of the area;
 - the principal land uses in the area;
 - the size, composition and distribution of population in the area;
 - the infrastructure of the area (including communications, transport and drainage systems and systems for the supply of water and energy);
 - how that infrastructure is used; and
 - any anticipated change in these matters.
40. In considering the content of LDPs, regard should also be had to the statutory requirement to exercise development planning functions with the objective of contributing to sustainable development.
41. While the Act allows authorities to include any other matters in the plan that they consider appropriate, draft regulation 10 specifically requires an LDP to include:
- a description of any limited purpose of the plan e.g. whether the plan deals only with minerals;
 - a reasoned justification for the policies and proposals;
 - a summary of the policies and proposals, i.e. an executive summary;
 - a glossary; and
 - within SDP areas, an analysis of the relationship with the SDP and a statement as to the plan's consistency with the SDP.
42. LDPs may contain any maps, diagrams, illustrations and descriptive material the planning authority think appropriate, but draft regulation 12 requires the inclusion of a **proposals map**. Given the Ordnance Survey's quasi-commercial footing, and the potential for other accurate map bases to be developed, the requirement to use an Ordnance Survey base is proposed to be removed. Detailed requirements relating to the use of insets have also been removed.
43. The proposed regulations continue to state that, in the event of any discrepancy between the map and the text of the LDP, the written statement will take precedence. Question 5 above seeks views on

reversing this statement to give primacy to the map and this applies equally to LDPs.

Q7 Are there any other matters which the regulations should require always to be included in LDPs, or on the Proposals Map?

44. The Act also requires LDPs to contain a **schedule of land** that is owned by the planning authority and affected by any of the policies, proposals or views expressed in the plan. Schedule 1 of the draft regulations proposes a form for this purpose.

Preparation of LDPs

45. In preparing the LDP, the Act requires authorities to take into account the National Planning Framework. Draft regulation 13 also proposes that regard must be had to:

- the resources available for implementing the plan;
- any LDPs prepared for other purposes but covering the same area;
- any neighbouring LDPs or SDPs;
- any neighbouring English regional spatial strategies or local development frameworks;
- the regional and local transport strategies;
- the river basin management plan;
- the local housing strategy;
- the national waste management plan; and
- issues arising out of the European directive on the control of major accident hazards involving dangerous substances.

46. Within SDP areas, section 16(6) of the Act also requires LDPs to be consistent with the SDP. As with SDPs, a key intention in the requirements here is to ensure that LDPs are properly integrated with other statutory plans and strategies affecting the development and use of land.

Q8 Are there any other information sources or considerations that planning authorities should be required to have regard to in preparing LDPs and how can planning authorities demonstrate that they have complied with these requirements?

Main Issues Report

47. With a view to facilitating and informing their work in preparing a LDP, Section 17 of the Act requires planning authorities to first compile a **main issues report** (MIR). This is not intended to be a draft plan, but should focus on the key issues that are changing from the last plan.

48. The MIR must set out the authority's general proposals for development in the area and in particular proposals as to where development should and should not occur. The proposals must be explained sufficiently clearly and precisely to enable people to understand what is proposed and to make meaningful comments. The MIR must also contain one or more reasonable alternative sets of proposals. Finally, the MIR must draw attention to the ways in which the favoured and alternative proposals differ from the spatial strategy of the existing adopted LDP (if any). There is no legal requirement to draw such a comparison with existing local plans, but it would be good practice to do this within the first generation of main issues reports.
49. It is important that LDPs are fully co-ordinated with other key strategies from the earliest stage, and that key infrastructure providers are signed up to the delivery of the emerging proposals. Therefore, in compiling the MIR (i.e. before its publication), the Act requires the planning authority to consult with and have regard to any views expressed by the key agencies. Draft regulation 14 proposes that this requirement also applies to:
- the Scottish Ministers;
 - the Health and Safety Executive;
 - any adjoining planning authority (including national park authorities); and
 - any planning authority within the same SDPA as the LDP area.
50. The MIR stage should link closely to the process of Strategic Environmental Assessment (SEA). The intention is for the alternative proposals put forward at this stage to be environmentally appraised and for a draft environmental report to be published alongside the MIR. Further guidance will be provided in due course on how the SEA process and the development plan process can fit together.
51. Draft regulation 15 proposes the following minimum publication requirements to apply at the main issues report, proposed plan and modified plan stages:
- Publication of a notice in the Edinburgh Gazette and a local newspaper, setting out:
 - That the document has been produced and where and when it may be viewed;
 - A brief description of the content and purpose of the document;
 - Details of how further information may be obtained; and
 - A statement that representations may be made, and how, to whom and by when they should be made.
 - Sending this information to:
 - The key agencies;

- neighbouring planning authorities;
 - planning authorities within the same SDPA;
 - the Health and Safety Executive; and
 - community councils.
- Making a copy of the document available to inspect at an office of the planning authority and in public libraries; and
 - Publication on the internet.
52. The Act requires authorities to secure that people who may be expected to want to comment on the MIR are made aware that they can do so, and are given such an opportunity. Draft regulation 16 proposes that this should be done through the sending of a notice containing the same information as the newspaper notice.
53. In publishing the MIR, the authority is to send a copy of the report and the monitoring statement (referred to at para 38 above) to Scottish Ministers.

Discussion of publicity for SDPs and LDPs

54. The publication of the MIR is intended to be the principal opportunity within the plan preparation process for productively consulting stakeholders on the content of the plan and for involving the wider public. It is therefore essential that engagement with the public at this stage is as full and open as it can be.
55. The publication requirements proposed in the draft regulations are intended as a statutory minimum, and the expectation is that authorities would do a lot more than this to publicise the key stages of plan preparation. But we are not minded to state more in regulations for a number of reasons. First, we considered specifying in regulation 16 (and 6 for SDPs) the people who must be notified of the publication of the MIR (i.e. proposing a list of statutory consultees for development planning). But in practice the circumstances when many bodies could usefully be consulted will vary depending on the purpose and content of the plan and on the character of the area. We would rather place the onus on planning authorities to actively consider the local and national groups they feel need to be engaged in the plan preparation process given local circumstances and the particular issues thrown up by the plan, but we do expect to issue further guidance in this area.
56. Secondly, authorities will be required to set out their intentions for engagement in their participation statements. These will be scrutinised by Scottish Ministers but will allow authorities to tailor their activities to local circumstances. A range of innovative techniques, tailored to local circumstances will be expected here.

57. Finally, publication requirements for main issues reports will also apply to proposed plans and modified plans. It may be appropriate for the extent and nature of publicity and consultation to be different at these stages. For instance, the principal focus for open public engagement is intended to be the main issues report stage, whereas by the proposed plan stage the authority's position is more fixed and formal representations that will be considered at examination are being sought.
58. It is no longer proposed to set out the form that public notices must take. Rather, the draft regulations set out a minimum set of information that must be included in any notice. The intention is to allow authorities more discretion as to how to publicise plans, perhaps in a more innovative or user-friendly manner than a traditional public notice.

(The following questions are intended to relate to both the SDP and LDP processes.)

Q9 Are the minimum publication requirements set out in the proposed regulations adequate, or should additional requirements be included, for instance specifying a list of statutory consultees for development planning?

Q10 Is the requirement to place a notice in the Edinburgh Gazette still useful?

Proposed Plan

59. Following the consultation period for the main issues report, the Act requires the planning authority to have regard to the representations received, and then publish a proposed plan. Publication at this stage is subject to the same minimum requirements as for the main issues report as set out in regulation 15. The Act also requires:
- A copy of the proposed plan to be sent to each key agency; and
 - Any person who commented on the main issues report to be notified.
60. In addition, the Act requires authorities to consult the key agencies, and draft regulation 17 also requires consultation with Scottish Ministers and the Health and Safety Executive.
61. As proposed in the White Paper 'Modernising the Planning System', the draft regulations propose that in certain circumstances, the occupiers of neighbouring land to sites proposed for development in the local development plan must be notified by the planning authority at the proposed plan stage. We now propose to extend this requirement to the occupiers of the sites themselves. Draft Regulation 18 proposes that such notification will be required where proposals are site specific

and, if implemented, would be likely to have a significant effect on the use or amenity of the site/ neighbouring land. Draft Regulation 1 proposes that neighbouring land is defined as “*land conterminous with or within 20 metres of the boundary of a specific site in respect of which the LDP includes a proposal*”. The intention is that the notice may be addressed to the owner/occupier or the owner/occupier/lessee, and need not be addressed to a named individual. The draft regulations contain at Schedule 2 a proposed form for this neighbour notification.

Q11 Are the proposed circumstances where neighbour notification would be required and the definitions of neighbouring land appropriate?

Modified Plan

62. The Act requires that authorities must allow at least 6 weeks for representations to be made on the proposed plan, following which there are four possible ways forward:
- (1) Where no representations have been received, or all representations have been withdrawn or fully taken account of by non-notifiable modifications (i.e. only minor modifications), the authority are to publish the plan, submit it to Scottish Ministers and advertise their intention to adopt it.
 - (2) Where the authority decides to make no notifiable modifications (i.e. only minor modifications), they are to publish the plan and submit it to Scottish Ministers.
 - (3) Where the authority decides to make notifiable modifications, they are to publish the modified plan, notify owners and neighbours of new or modified site-specific proposals and specify a date by which further representations may be made. The authority may then further modify the plan or submit it to Ministers.
 - (4) Where the authority makes modifications that change the underlying aims or strategy of the proposed plan, they are required to prepare and publish a new proposed LDP.
63. So the making of more significant modifications (termed ‘notifiable modifications’) brings with it a further opportunity for the public to make representations. Draft regulation 19 proposes that notifiable modifications will be those that add, remove or significantly alter any policy or proposal in the plan. Where notifiable modifications are made, the minimum requirements for publication reflect those at the main issues stage (draft regulation 15).

Q12 Will the broad proposed definition of ‘notifiable’ modifications unnecessarily delay the plan process by subjecting too many modified plans to further consultation?

64. On submitting the plan to Scottish Ministers, the Act also requires authorities to submit their proposed action programme and a report of conformity with their participation statement. Draft regulation 21 requires the authority to notify people who made representations on the proposed or modified plan that the plan has been submitted. The submitted plan must also be published by (draft regulation 20):
- Publishing a notice in the press;
 - Making copies available in an office of the planning authority and public libraries; and
 - Publishing on the internet.

Examination

65. Proposed procedures for the examination of LDPs will be covered by separate draft regulations which we expect to issue later in the year.

Adoption

66. Scottish Ministers intend examination reports to be binding on planning authorities in all but a limited number of exceptional and clear-cut cases. Draft regulation 3 (Annex A) proposes that authorities may only depart from recommendations that:
- Would have the effect of making the LDP inconsistent with the National Planning Framework;
 - Would have the effect of making the LDP inconsistent with any SDP for the same area;
 - Would insert a proposal that has already been identified by the environmental report as likely to have a significant adverse effect on the environment;
 - Are made without regard to the information and considerations set out in regulation 13; and
 - Are based on findings of fact that are manifestly not supported by the evidence considered at the examination.

<p>Q13 Do these proposed exceptions provide an appropriate degree of scope for authorities to depart from the recommendations of examination reports?</p>
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67. S19(11) of the Act also allows authorities to environmentally assess the plan modified in response to recommendations, and to not make modifications that are not acceptable having regard to that assessment.
68. Subject to the exceptions mentioned above, authorities are required by the Act to make the modifications recommended in the examination report, and any other requisite modifications. The intention is that

these other modifications should be wholly consequent on the reporter's recommendations (e.g. to rectify any factual or terminological inconsistencies created by the reporter's recommended modifications), and should not introduce unconnected new material into the plan.

69. Draft regulation 22 sets out how authorities are to publish the plan as they propose to adopt it. They are also required to notify people who made representations on the proposed or modified plan and advertise their intention to adopt.
70. Within 3 months of receiving the examination report, the Act requires authorities to send to the Scottish Ministers:
 - The modifications made following receipt of the examination report;
 - A statement setting out any recommended modifications that the authority has not made and the explanation for this (by reference to the grounds listed above);
 - The proposed plan they wish to adopt;
 - The advertisement of their intention to adopt the plan; and
 - Any environmental assessment carried out into the proposed plan as modified.
71. 28 days after this, the authority may adopt the plan unless directed not to by the Scottish Ministers.
72. After the adoption of the plan, the planning authority are to:
 - Send 2 copies to Scottish Ministers;
 - Publish the plan, including electronically;
 - Place copies in public libraries;
 - Notify people who made representations on the proposed or modified plan of the publication and availability of the adopted plan; and
 - Advertise the publication and availability of the adopted plan in a local newspaper.

PROCEDURES WHERE REPORTERS CONCLUDE THAT AUTHORITIES HAVE UNDERTAKEN UNSATISFACTORY CONSULTATION ON THE PROPOSED PLAN

73. In examining SDPs and LDPs, the Act requires reporters firstly to examine how far the authority has conformed with its participation statement. If he is not satisfied with the authority's actions he is to submit a report to Scottish Ministers setting out his reasons for this conclusion and recommending further steps for the authority to take with regard to consultation or public involvement. The authority is also to receive this report and has 4 weeks to make representations in response to it to Scottish Ministers. Scottish Ministers may then either

require further steps with regard to consultation or public involvement to be taken, or direct the reporter to proceed with the main examination.

74. After taking these additional steps, the authority may modify the plan, in which case they must also republish it. In any event, the authority are to resubmit the plan to Scottish Ministers (draft regulations 9 and 23 set out how this submission is to be advertised) together with:
- a note of the representations received and whether (and to what extent) these have been taken account of; and
 - a report of conformity with the further steps required by Scottish Ministers.
75. But if the modifications are so significant as to change the underlying aims or strategy of the plan, they must prepare and publish a new proposed plan.
76. It is Scottish Ministers' hope and expectation that these procedures will rarely be brought into play. But it is incumbent on authorities to ensure that they fulfil the commitments they made with regard to consultation and public involvement in their participation statement.

ACTION PROGRAMMES

77. SDPAs and planning authorities are required by Section 21 of the Act to prepare action programmes (APs) for SDPs and LDPs. APs set out how the authority proposes to implement the plan. Draft regulation 27 proposes that they should be required to set out:
- A list of actions required to deliver each of the plan's policies and proposals;
 - The name of who is to carry out the action; and
 - The timescale for carrying out each action.
78. As such, the draft regulations do not attempt to specify particular types of action that should be included, though these may be expected to include the delivery of key infrastructure and the preparation of supplementary guidance (see para 81 below). Actions are not limited to those by the planning authority.
79. In preparing APs, authorities are to consult and consider the views of the key agencies and (as proposed in draft regulation 26):
- The Scottish Ministers;
 - The area Health Board; and
 - Anyone the authority proposes specifying by name in the AP.
80. The Act requires proposed APs to be published and submitted to Scottish Ministers alongside proposed SDPs and LDPs. Then the AP

is to be adopted and published within 3 months of the plan to which it relates being approved/ adopted. Thereafter, the authority are to keep the AP under review and update and republish it at least every 2 years. Whenever an AP is published, the authority are to send 2 copies to Scottish Ministers, place copies in local libraries and publish electronically.

Q14 Are you satisfied with the proposed regulations for action programmes?

SUPPLEMENTARY GUIDANCE

81. Section 22 of the Act allows supplementary guidance (SG) to be adopted and issued by a strategic development planning authority in connection with a SDP, or by a planning authority in connection with a LDP. Any such guidance will form part of the development plan. The intention is that this enhanced status will allow much material that was previously contained in old-style structure plans and local plans to be contained instead in supplementary guidance. As a result, the plans themselves will be able to focus on the spatial strategy and the key policies and proposals.
82. Before adopting SG, the Act requires that authorities must first publicise it, giving a date before which representations may be made. Authorities must make people who may wish to comment aware of the guidance, and give them an opportunity to comment. The authority must then consider any comments, and then send Scottish Ministers a copy of the SG they wish to adopt. In addition, draft regulation 28 proposes that authorities send a statement setting out the publicity measures they have undertaken, the comments they received, and an explanation of how these comments were taken into account to Ministers. After 28 days have elapsed, the authority may then adopt the guidance unless Scottish Ministers have directed otherwise.
83. The draft regulations aim to ensure that the public is properly involved in the preparation of SG. Authorities may issue guidance in connection with SDPs or LDPs without going through these procedures, but this will not be termed supplementary guidance and will not form part of the development plan.
84. The Act also allows Scottish Ministers to prescribe the matters which may be dealt with in SG, but there is no proposal to do this. It would be difficult for any list of topics to foresee the variety of issues that may arise in the future or the individual local issues to which SG could respond. We are not therefore proposing to be prescriptive either as to the topics that may be dealt with through supplementary guidance or the form that consultation should take. Authorities should feel confident that this a useful and viable way of efficiently removing a wide range of detailed policy material from SDPs and LDPs. The best ways of

reaching those people likely to be affected by any guidance will vary from case to case. However, there needs to be a means of ensuring that the principles of good public involvement and a proper connection with the SDP or LDP have been achieved consistently, and we propose that this will be through scrutiny by Scottish Ministers at the pre-adoption stage.

Q15 Given its enhanced status, should the draft regulations (as opposed to advice) say more about the content and procedures for adopting supplementary guidance?

KEY AGENCIES

85. Key agencies are bodies specified by Scottish Ministers who are under a duty to co-operate with SDPAs or planning authorities at the following stages in the development plan process:
- The compilation of the MIRs (Sections 9(5) & 17(5) of the Act);
 - The preparation of the proposed SDPs and LDPs (Sections 10(9) & 18(10)); and
 - The preparation of action programmes and proposed action programmes (Section 21(5)).
86. Draft regulation 29 proposes that the key agencies should be:
- Scottish Natural Heritage;
 - Scottish Environment Protection Agency;
 - Scottish Water;
 - Scottish Enterprise (only in its area of jurisdiction);
 - Highland and Islands Enterprise (only in its area of jurisdiction);
 - Regional Transport Partnerships (only in relevant areas of jurisdiction); and
 - Crofters Commission (only in crofting counties).
87. While legislation cannot specify them individually, it is expected that other bodies that are part of The Scottish Government, including Historic Scotland and Transport Scotland, will also have the same level of involvement in the development plan process.
88. The intention is that, through this full and early engagement, plan-making authorities will have early access to much of the key information they need to produce effective plans. The plans themselves will therefore be realistic and deliverable and tie in with the strategic objectives of other agencies, with these agencies 'buying-in' to the strategy and proposals of plans and assisting in their delivery. See also paragraphs 55-58 on the role of other bodies in plan preparation.

Q16 It is The Scottish Government's view that the list of key agencies should be limited to statutory bodies regulated by Scottish Ministers but not forming part of government. On this basis, do you agree with the list of key agencies proposed?

DEFAULT POWERS

89. The Act gives Scottish Ministers a number of default powers which are not core to the plan process and may rarely be required. These include powers:
- To direct one authority to appoint an employee as SDP manager, and other authorities to appoint assistants (section 4(3))
 - To request information from authorities, within 14 days, about the appointment of a SDP manager or assistants (section 4(8))
 - Following a reporter's assessment that a SDPA has not conformed with their participation statement, to direct SDPAs to take further steps with regard to consultation or public involvement, or direct the reporter to proceed with the examination (section 12A(3))
 - Following a reporter's assessment that a planning authority has not conformed with their participation statement, to direct the authority to take further steps with regard to consultation or public involvement, or direct the reporter to proceed with the examination (section 19A(3))
 - To direct the planning authority to consider modifying a LDP, or for Scottish Ministers to approve the plan themselves (section 20).

ALTERATIONS TO DEVELOPMENT PLANS

90. Under the Town and Country Planning (Scotland) Act 1997, planning authorities could put forward alterations to their development plan which sought to review part of the plan. There is no provision for alterations under the 2006 Act, principally because the requirement to update development plans every 5 years will mean that there is little time to alter part of a plan before the whole plan needs to be reviewed. Nevertheless, under the new system, strategic development planning authorities and planning authorities will, in bringing forward new plans, be able to focus on the areas that need to change from the last plan rather than starting afresh each time. In most cases, the underlying strategy will stay the same from one plan to the next, with amendments to some of the policies and proposals.

TRANSITIONAL ARRANGEMENTS

91. On commencement of the new development planning provisions, there is likely to be a number of development plans that have been started

but have not yet been approved/adopted. Annex C sets out a draft order covering the transition between the current legal framework and the new one. The overall aim is to ensure, as much as possible, that plan preparation work is not lost. Therefore, plans (or alterations) that have reached a certain stage under the 1997 Act, i.e. the early consultation stage (in practice this will mean the publication of a consultation draft or issues paper), will be able to proceed to approval/adoption following the provisions in the 1997 Act and the 1983 Regulations. The exception to this will be the examination in public for structure plans and the local inquiry for local plans: where a plan has reached the early consultation stage but no notice of an examination in public or local inquiry has been issued, then the plan would proceed to examination, and on to approval/adoption, following the provisions in the 2006 Act. This will ensure that after commencement all plans will take on board the modernised procedures for examination. The draft order also contains other related exceptions to the provisions to avoid the need for new steps to be undertaken that would not have been required under the current system, for example, the requirement on the authority to submit a report on their participation statement and its subsequent assessment by the reporter to the examination.

92. Where early consultation has been carried out and a notice of an examination in public or local inquiry has already been issued and/or the examination or inquiry has been commenced, proceedings would continue, following the provisions in the 1997 Act and the 1983 Regulations. Any plans that have been started but have not reached the early consultation stage on the date of commencement of the new system will fall, and the authority in question will be required to start a new strategic development plan or local development plan, as appropriate. For information, structure plans and local plans that are started under the current system will continue to be called structure plans and local plans, even if the approval/adoption comes after commencement of the new system. Only those plans started after commencement will be strategic development plans or local development plans.
93. Schedule 1 of the 1997 Act, as amended by Section 53 of the 2006 Act, allows for existing development plans to remain in force on commencement of the new system, until they are replaced by a new strategic development plan or local development plan, whichever may be the case.
94. In terms of timescales for bringing forward the first round of new development plans, Ministers will direct that strategic development planning authorities submit their proposed strategic development plans within 2 years of commencement of the new system. In addition, proposed local development plans will be published within 3 years of commencement. This will ensure that new plans are produced quickly. Thereafter, all plans will be reviewed at least every 5 years.

Q17 Do the proposed transitional arrangements raise any specific issues for particular plans or areas?

CONCLUDING REMARKS

95. This consultation paper sets out the draft regulations on development planning which will sit alongside the new provisions in Part 2 of the Planning etc. (Scotland) Act 2006. We would welcome any comments on the content of the regulations and on the partial Regulatory Impact Assessment and partial Equalities Impact Assessment which are attached as Annexes. Details of how to respond are set out at the front of the consultation paper.

Q18 Are there any potential impacts on the business or voluntary sectors that we should be aware of in finalising these regulations?

Q19 Are there any potential impacts on particular societal groups that we should be aware of in finalising these regulations?

Q20 Do you have any other comments to make on the draft development planning regulations?

Draft Regulations laid before the Scottish Parliament under section 275(7A) of the Town and Country Planning (Scotland) Act 1997, for approval by resolution of the Scottish Parliament.

SCOTTISH STATUTORY INSTRUMENTS

2007 No.

TOWN AND COUNTRY PLANNING

**The Town and Country Planning (Development Plans)
(Scotland) Regulations 2007**

Made - - - - - 2007

Coming into force 2007

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(1)(d) and 19(10)(a)(i) of the Town and Country Planning (Scotland) Act 1997^(a) and of all other powers enabling them to do so. In accordance with section 275(7A) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Development Plans) (Scotland) Regulations 2007 and shall come into force on [] 2007.

(2) In these Regulations—

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“Directive” means Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances;

“local development plan area” means the area of land to which a local development plan relates;

“local housing strategy” means a strategy (and any modified strategy) prepared and submitted to the Scottish Ministers in accordance with section 89 of the Housing (Scotland) Act 2001^(b);

“local transport strategy” has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001^(c);

“national waste management plan” has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007^(d);

“regional transport strategy” means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005^(a);

(a) 1997 c.8. Sections 7(1)(d) and 19(10)(a)(i) were inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17) and section 275 was further amended by section 54(16)(f) of that Act.

(b) 2001 asp 10.

(c) 2001 asp 2.

(d) S.S.I. 2007/251.

“river basin management plan” means a river basin management plan approved by the Scottish Ministers under section 13(1) of the Water Environment and Water Services Act 2003^(b).

(3) Expressions which are used in paragraphs (i) to (j) of regulation 3(2) and which are also used in the Directive have the same meaning as in the Directive.

Content of strategic development plan

2. In addition to those matters specified by the Act, a strategic development plan is to set out the following matters:—

- (a) the name by which the strategic development plan area is to be known for the purposes of the strategic development plan;
- (b) a list of the planning authorities comprising the strategic development planning authority;
- (c) policies regarding the location of housing, economic and retail development, infrastructure improvements and the types of location that should be protected from development;
- (d) a summary of the vision statement, the proposals comprising the spatial strategy and the policies set out in pursuance of paragraph (c);
- (e) a reasoned justification for the policies and proposals contained in the strategic development plan; and
- (f) a glossary.

Grounds for declining to follow recommendations

3.—(1) The grounds, for the purposes of section 19(10)(a)(i) of the Act, on which a planning authority may decline to make modifications to a proposed local development plan as recommended by an appointed person are—

- (a) the recommendation, if followed, would—
 - (i) have the effect of making the proposed local development plan inconsistent with the National Planning Framework;
 - (ii) have the effect that the proposed local development plan would not be consistent with the strategic development plan for the land to which the proposed local development plan relates;
 - (iii) would result in the proposed local development plan containing a proposal which had been identified by the environmental report prepared in connection with the proposed local development plan in accordance with the Environmental Assessment (Scotland) Act 2005^(c) as a proposal which, if implemented, would be likely to have a significant adverse effect on the environment;
- (b) the recommendation is made without regard to information and considerations mentioned in paragraph (2);
- (c) the recommendation is based on findings of fact which are manifestly not supported by the evidence considered in the course of the examination under section 19(3) of the Act.

(2) The information and considerations are—

- (a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan;
- (b) any local development plan prepared for a different purpose for the local development plan area;
- (c) any local development plan or strategic development plan prepared for an area adjoining the local development plan area;

(a) 2005 asp 12.
(b) 2003 asp 13.
(c) 2005 asp 15.

- (d) any regional transport strategy relating to the local development plan area;
- (e) any local transport strategy relating to the local development plan area;
- (f) any river basin management plan relating to the local development plan area;
- (g) any local housing strategy related to the local development plan area;
- (h) the national waste management plan;
- (i) where the local development plan area adjoins land in England, any regional spatial strategy or local development framework published in respect of that land;
- (j) the objectives of preventing major accidents and limiting the consequence of such accidents;
- (k) the need in the long term to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest;
- (l) the need in the case of existing establishments for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

(3) In paragraph (2) references to a local development plan include a reference to a proposed local development plan submitted to the Scottish Ministers in accordance with section 18(4)(a) or section 19A(5)(b)(ii) of the Act.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

2007

SCOTTISH STATUTORY INSTRUMENTS

2007 No.

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Strategic Development Plan and Local Development Plan) (Scotland) Regulations 2007

<i>Made</i>	- - - -	2007
<i>Laid</i>		2007
<i>Coming into force</i>		2007

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 7(2)(a), 8(1)(b), 9(4)(c), 9(6), 10(1)(d), 10(7), 12A(8), 15(1)(b), 15(3), 15(4)(a), 16(2)(b), 17(4)(b), 17(6), 18(1)(d), 18(1)(e), 18(4)(b), 18(5), 19(10)(b), 19A(8), 23D and 275(2A) of the Town and Country Planning (Scotland) Act 1997(a) and of all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Town and Country Planning (Strategic Development Plan and Local Development Plan) (Scotland) Regulations 2007 and come into force on [] 2007.

(2) In these Regulations—

“the Act” means the Town and Country Planning (Scotland) Act 1997;

“Directive” means Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances;

“local development plan area” means the area of land to which a local development plan relates;

“national waste management plan” has the same meaning as in the National Waste Management Plan for Scotland Regulations 2007(b);

“neighbouring land” means land which is conterminous with or within 20 metres of the boundary of a specific site in respect of which a local development plan includes a proposal;

“notifiable modification” has the meaning given in regulation 19(1);

“regional transport strategy” means a transport strategy approved by the Scottish Ministers under section 6 of the Transport (Scotland) Act 2005(c);

(a) 1997 c.8. All of these enabling powers (except section 275(2A)) were inserted by section 2 of the Planning etc. (Scotland) Act 2006 (asp 17). Section 275 (2A) was inserted by section 54(16)(f) of that Act.

(b) S.S.I. 2007/251.

(c) 2005 asp 12.

“river basin management plan” means a river basin management plan approved by the Scottish Ministers under section 13(1) of the Water Environment and Water Services Act 2003(a); and
“supplementary guidance” has the same meaning as in section 22(1) of the Act.

(3) Expressions which are used in regulations 3(2) and 12(2) and which are also used in the Directive have the same meaning as in the Directive.

(4) Unless otherwise provided, references to numbered sections are references to sections of the Act.

PART 1

Strategic Development Plans

Maps to be included in strategic development plan

2.—(1) A strategic development plan must contain a map or maps (together to be known as ‘the Proposals Map’)—

- (a) describing, so far as practicable, the spatial strategy set out in the strategic development plan; and
- (b) showing the boundaries of the strategic development plan area as determined by the Scottish Ministers under section 5(3).

(2) The Proposals Map is to be sufficiently detailed so as to enable the location of proposals for the development and use of land to be identified.

(3) The Proposals Map must—

- (a) be accompanied by or contain an explanation of the meaning of any notations, colouring or other markings used on the map;
- (b) show the direction of north;
- (c) include both a fractional and a bar scale to show the scale of the map;
- (d) contain the title of the strategic development plan; and
- (e) contain, in respect of each policy or proposal, a reference to the part of the strategic development plan where the policy or proposal is set out.

(4) Where the Proposals Map is comprised of more than one map then the strategic development plan must contain a map (“the index map”) illustrating which maps relate to which parts of the strategic development plan area.

(5) In the event of any contradiction between the written statement of the spatial strategy and its description on a map contained in the strategic development plan, then the terms of the written statement are to take precedence.

Information and considerations

3.—(1) In preparing a strategic development plan or a main issues report the strategic development planning authority are to have regard to—

- (a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the strategic development plan;
- (b) any strategic development plan for a strategic development plan area which adjoins the strategic development plan area;
- (c) any proposed strategic development plan prepared for a strategic development plan area which adjoins the strategic development plan area which has been submitted to the Scottish Ministers in accordance with section 10(3)(b) or 12A(5)(b)(ii) of the Act;
- (d) any regional transport strategy relating to the area;

(a) 2003 asp 13.

- (e) any river basin management plan relating to the area; and
- (f) the national waste management plan.

(2) In addition to the matters specified in paragraph (1), the strategic development planning authority when preparing a strategic development plan or main issues report are also to have regard to—

- (a) the objectives of preventing major accidents and limiting the consequence of such accidents;
- (b) the need in the long term to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and
- (c) the need in the case of existing establishments for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

Consultation for main issues report

4. The persons prescribed for the purposes of section 9(4)(c) (persons whose views a strategic development plan authority is to seek and have regard to when compiling a main issues report) are—

- (a) the Health and Safety Executive; and
- (b) the Scottish Ministers.

Publication in accordance with section 9(6)

5.—(1) The manner of publication prescribed for the purpose of section 9(6) is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in the Edinburgh Gazette and a local newspaper circulating in the strategic development plan area a notice containing the following information:—
 - (i) a statement that the document has been prepared and where and at what times it may be inspected;
 - (ii) a brief description of the content and purpose of the document;
 - (iii) details of how further information may be obtained regarding the document, including that it is to be published on the internet under paragraph (2)(d);
 - (iv) a statement that any person wishing to do so may make representations on the content of the document; and
 - (v) information as to how and to whom any representations should be made and the date by which they should be made.
- (b) sending a notice containing that information to—
 - (i) the key agencies;
 - (ii) a strategic development planning authority or a planning authority for a strategic development plan area or a local development plan area (as the case may be) which adjoins the strategic development plan area;
 - (iii) the Health and Safety Executive; and
 - (iv) any community council for the strategic development plan area;
- (c) making a copy of the document available for inspection at an office of each of the planning authorities comprising the strategic development planning authority and in every public library in the strategic development plan area; and
- (d) publishing the document on the internet.

(3) For the purposes of publication in accordance with the following provisions, in paragraph (2) “document” means, as the case may be—

- (a) in section 9(6), a main issues report;
- (b) in section 10(1)(a), a proposed strategic development plan;
- (c) in section 10(6), a proposed strategic development plan as modified under section 10(3); and
- (d) in section 12A(7), a proposed strategic development plan as modified under section 12A(5)(b)(i).

Notification of publication of main issues report

6. Upon publishing a main issues report under section 9(6), a strategic development planning authority are to send a notice containing the information set out in regulation 6(2) to persons mentioned in section 9(3) (persons who may be expected to desire an opportunity of making representations with respect to the main issues report) for the purposes of securing that—

- (a) they are made aware that they are entitled to make such representations; and
- (b) those persons are given an opportunity to do so.

Consultation on proposed strategic development plan

7. The strategic development planning authority must—

- (a) with regard to a proposed strategic development plan consult—
 - (i) the Health and Safety Executive; and
 - (ii) the Scottish Ministers; and
- (b) with regard to a new proposed strategic development plan prepared in accordance with section 10(4) in addition consult all persons who made timeous representation with respect to the original plan.

Publication of submission of proposed strategic development plan

8. On submitting a proposed strategic development plan to the Scottish Ministers [under section 10(3)(b) or section 12A(5)(b)(ii)] the strategic development planning authority are to advertise that they have done so by—

- (a) publishing in a local newspaper circulating in the strategic development plan area a notice containing the following information:—
 - (i) a statement that a proposed strategic development plan has been submitted to the Scottish Ministers;
 - (ii) the date of submission of such proposed plan; and
 - (iii) details of when and where a copy of the proposed plan may be inspected;
- (b) publishing a copy of the notice referred in paragraph (a) together with a copy of the proposed strategic development plan on the internet;
- (c) making a copy of the document available for inspection at an office of each of the planning authorities comprising the strategic development authority and in every public library in the strategic development plan area; and
- (d) sending a copy of the notice to the key agencies and all those persons who submitted representations to such proposed plan.

Advertisement of submission of proposed strategic development plan to Scottish Ministers following direction to take further steps with regard to consultation etc

9. On submitting a proposed strategic development plan to the Scottish Ministers under section 12A(5)(b)(ii) the strategic planning authority are to advertise that they have submitted the plan by–

- (a) publishing in the Edinburgh Gazette and a local newspaper circulating in the strategic development plan area a notice containing the following information–
 - (i) a statement that a proposed strategic development plan has been submitted to the Scottish Ministers;
 - (ii) the date of submission of such proposed plan; and
 - (iii) details of when and where a copy of the proposed plan may be inspected,
- (b) publishing a copy of the notice referred in paragraph (a) together with a copy of the proposed strategic development plan on the internet; and
- (c) sending a copy of the notice together with a copy of the proposed strategic development plan to the key agencies and all those persons who submitted representations to such proposed plan.

PART 2

Local Development Plans

Content of local development plan

10. In addition to those matters specified by the Act, a local development plan is to set out the following matters:–

- (a) where the local development plan has been prepared for limited purposes, a description of such purposes;
- (b) a reasoned justification for the policies and proposals contained in the local development plan;
- (c) a summary of the policies and proposals set out in the local development plan;
- (d) a glossary; and
- (e) where the land to which the local development plan relates is within a strategic development plan area–
 - (i) an analysis of the relationship of the spatial strategy in the local development plan to the vision statement and spatial strategy contained in the strategic development plan for that area; and
 - (ii) a statement as to how the plan complies with the requirement of section 16(6) that the plan is consistent with that strategic development plan.

Schedule of land ownership

11.—(1) The schedule of land ownership required to be appended to the plan by section 15(3) is to be in the form set out in Schedule 1, or in a form to the like effect.

(2) Where a local development plan is prepared by a National Park authority, the schedule of land ownership shall also include land owned by a local authority.

Maps to be included in local development plan

12.—(1) A local development plan is to contain a map or maps, (together to be known as “the Proposals Map”), describing the policies and proposals set out in the local development plan, so far as practicable to illustrate such policies or proposals spatially.

(2) The Proposals Map is to be sufficiently detailed so as to enable the location of proposals for the development and use of land to be identified.

(3) The Proposals Map must—

- (a) be accompanied by or contain an explanation of the meaning of any notations, colouring or other markings used on the map;
- (b) show the direction of north;
- (c) include both a fractional and a bar scale to show the scale of the map;
- (d) contain the title of the local development plan; and
- (e) contain, in respect of each policy or proposal, a reference to the part of the local development plan where the policy or proposal is set out.

(4) Where the Proposals Map is comprised of more than one map then the local development plan must contain a map (“the index map”) illustrating which maps relate to which parts of the local development plan area.

(5) In the event of any contradiction between the written statement of any policy or proposal and its description on a map contained in the local development plan, then the terms of the written statement are to take precedence.

Information and considerations

13.—(1) In preparing a local development plan the planning authority are to have regard to—

- (a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan;
- (b) any local development plan prepared for a different purpose for the local development plan area;
- (c) any local development plan or strategic development plan prepared for an area adjoining the local development plan area;
- (d) any regional transport strategy relating to the local development plan area;
- (e) any local transport strategy relating to the local development plan area;
- (f) any river basin management plan relating to the local development plan area;
- (g) any local housing strategy relating to the local development plan area;
- (h) the national waste management plan; and
- (i) where the local development plan area adjoins land in England, any regional spatial strategy or local development framework published in respect of that land.

(2) In addition to the matters specified in paragraph (1), in preparing a local development plan the planning authority are also to have regard to—

- (a) the objectives of preventing major accidents and limiting the consequence of such accidents;
- (b) the need in the long term to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest;
- (c) the need in the case of existing establishments for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

(3) In paragraph (1) references to a local development plan or a strategic development plan include, as the case may be, a reference to a proposed local development plan submitted to the Scottish Ministers in accordance with section 18(4)(a) or section 19A(5)(b)(ii) or a proposed strategic development plan submitted to the Scottish Ministers in accordance with section 10(3)(b) or 12A(5)(b)(ii).

(4) In this regulation “local housing strategy” means a strategy (and any modified strategy) prepared and submitted to the Scottish Ministers in accordance with section 89 of the Housing

(Scotland) Act 2001(a) and “local transport strategy” has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001(b).

Consultation for main issues report

14. The following persons are prescribed for the purposes of section 17(4) as a person whose views a local development plan authority is to seek and have regard to when compiling a main issues report:–

- (a) the Scottish Ministers;
- (b) the Health and Safety Executive;
- (c) any planning authority whose district adjoins the local development plan area;
- (d) any National Park authority for a National Park which adjoins the local development plan area; and
- (e) where the local development plan area, or any part of it, is within a strategic development plan area, the other planning authorities comprising the strategic development plan authority for that area.

Publication in accordance with section 17(6)

15.—(1) The manner of publication prescribed for the purposes of section 17(6) is as set out in paragraph (2).

(2) Publication is to be by–

- (a) publishing in the Edinburgh Gazette and a local newspaper circulating in the area a notice containing the following information:–
 - (i) a statement that the document has been prepared and where and at what times it may be inspected;
 - (ii) a brief description of the content and purpose of the document;
 - (iii) details of how further information may be obtained regarding the document, including that it is to be published on the internet under paragraph (2)(d);
 - (iv) a statement that any person wishing to do so may make representations on the content of the document; and
 - (v) information as to how and to whom any representations should be made and the date by which they should be made;
- (b) sending a notice containing that information to–
 - (i) the key agencies;
 - (ii) a planning authority for a local development plan area which adjoins the local development plan area;
 - (iii) where the local development plan area, or any part of it, is within a strategic development plan area, the other planning authorities comprising the strategic development planning authority for that area;
 - (iv) the Health and Safety Executive; and
 - (v) any community council for the strategic development plan area;
- (c) making a copy of the document available for inspection at an office of the planning authority and in every public library in the local development plan area; and
- (d) publishing the document on the internet.

(3) For the purposes of publication in accordance with the following provisions, in paragraph (2) “document” means, as the case may be–

(a) 2001 asp 10.
(b) 2001 asp 2.

- (a) in section 17(6), a main issues report;
- (b) in section 18(1)(a), a proposed local development plan; and
- (c) in section 18(5)(a), a proposed local development plan containing notifiable modifications.

Notification of publication of main issues report

16. Upon publishing a main issues report under section 17(6), a planning authority are to send a notice containing the information set out in regulation 14(2) to persons mentioned in section 17(3) (persons who may be expected to desire an opportunity of making representations with respect to the main issues report) for the purpose of securing that—

- (a) they are made aware that they are entitled to make such representations; and
- (b) those persons are given an opportunity to do so.

Consultation on proposed local development plan

17. The planning authority must—

- (a) with regard to a proposed local development plan, consult—
 - (i) the Health and Safety Executive; and
 - (ii) the Scottish Ministers; and
- (b) with regard to a new proposed local development plan prepared in accordance with section 18(9), in addition consult all persons who made timeous representation with respect to the original plan.

Notification of publication of proposed local development plan

18.—(1) Where the proposed local development plan includes proposals relating to a specific site which, if implemented, would be likely to have a significant effect on the use or amenity of that site, the planning authority are for the purposes of section 18(1)(e) to give notice to the occupier of that site.

(2) Where the proposed local development plan includes proposals relating to a specific site which, if implemented, would be likely to have a significant effect on the use or amenity of neighbouring land the planning authority are for the purposes of section 18(1)(e) to give notice to the occupier of that site.

(3) Notice given under paragraphs (1) or (2) is to be in the form set out in Schedule 2 (and completed in accordance with the instructions therein), or a form to the like effect and shall be accompanied by a map showing the location of the site in question.

Notification of modifications

19.—(1) The kind of modifications prescribed for the purposes of section 18(5) (to be known as a “notifiable modification”) are modifications which—

- (a) significantly alter any policies or any proposals relating to a specific site set out in the proposed local development plan published in accordance with section 18(1) or republished in accordance with section 18(5)(a);
- (b) introduce new policies or proposals into the proposed local development plan; or
- (c) remove policies or proposals previously included in the proposed local development plan published in accordance with section 18(1) or republished in accordance with section 18(5)(a).

(2) Notice to be given in respect of notifiable modifications under section 18(5)(b) must be in the form, or in a form to the like effect, as the form set out in Schedule 3 (and completed in accordance with the instructions therein).

(3) Where as a result of modifications made under section 18(3) or (6) the proposed local development plan contains a proposal relating to a specific site which, if implemented, would—

- (a) in the case of a new proposal introduced by such modification, be likely to have a significant effect on the use or amenity of such site; or
- (b) in the case of a significant alteration to an existing proposal, be likely to affect the use or amenity of such site in a manner significantly differently to how such land may be affected under the proposed local development plan before it was so modified,

the planning authority must give notice to the occupier of that site and of neighbouring land.

Publication of proposed local development plan as submitted to the Scottish Ministers

20. The planning authority are to publish the proposed local development plan as submitted to the Scottish Ministers under section 18(4)(a) by—

- (a) publishing in the Edinburgh Gazette and a local newspaper circulating in the area a notice containing the following information:—
 - (i) a statement that a proposed local development plan has been submitted to the Scottish Ministers;
 - (ii) the date of submission of the proposed plan; and details of where and at what times it may be inspected;
- (b) making a copy of the proposed local development plan available for inspection at an office of the planning authority and in every public library in the local development plan area; and
- (c) publishing the proposed local development plan on the internet.

Notification of submission of a proposed local development plan

21. When submitting a proposed local development plan to the Scottish Ministers in accordance with section 18(4)(a), the planning authority must give notice to all persons who made representations with respect to the proposed local development plan following publication of the proposed plan as required by either section 18(1) or 18(5)(a) that the proposed plan has been submitted to the Scottish Ministers.

Publication of proposed local development plan following examination

22. (1) The manner of publication prescribed for the purposes of section 19(10)(b) is as set out in paragraph (2).

(2) Publication is to be by—

- (a) publishing in a local newspaper circulating in the area and in the Edinburgh Gazette a notice containing the following information:—
 - (i) a statement that the planning authority intend to adopt the proposed local development plan;
 - (ii) whether or not the proposed local development plan has been modified following receipt of the report prepared following examination; and
 - (iii) where and at what times the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) may be inspected.
- (b) making copies of the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) available for inspection at an office of the planning authority and in every public library in the local development plan area; and
- (c) publishing the proposed local development plan (as modified if appropriate) and the modifications (if appropriate) on the internet.

Advertisement of submission of proposed local development plan to Scottish Ministers following direction to take further steps with regard to consultation etc

23. On submitting a proposed local development plan to the Scottish Ministers under section 19A(5)(b)(ii) the planning authority are to advertise that they have submitted the plan by—

- (a) publishing in the Edinburgh Gazette and a local newspaper circulating in the area a notice containing the following information—
 - (i) a statement that a proposed local development plan has been submitted to the Scottish Ministers;
 - (ii) the date of submission of such proposed plan; and
 - (iii) details of when and where a copy of the proposed plan may be inspected,
- (b) publishing a copy of the notice referred in paragraph (a) together with a copy of the proposed local development plan on the internet; and
- (c) sending a copy of the notice together with a copy of the local development plan to the key agencies and all those persons who submitted representations to such proposed plan.

Form and content of development plan schemes

24.—(1) In addition to those matters specified by the Act, a development plan scheme must include the following matters:—

- (a) in relation to a development plan scheme prepared by a strategic development planning authority, a list of the provisions of that plan for the time being in force, together with any supplementary guidance issued in connection with that plan;
- (b) in relation to a development plan scheme prepared by a local development planning authority, a list of the provisions of the strategic development plan and local development plans for the time being in force in the district of the planning authority, together with any supplementary guidance issued in connection with those plans;
- (c) the date upon which those provisions and the supplementary guidance were adopted or approved; and
- (d) the authority's proposed timetabling (specifying the proposed month) with regard to—
 - (i) publication of its main issues report; and
 - (ii) publication of its proposed strategic development plan or local development plans.

(2) A development plan scheme shall contain a location plan illustrating the areas covered by each of the plans to which it refers.

Development plan schemes – procedures prior to adoption

25.—(1) Where a strategic development planning authority or a planning authority, as the case may be, propose to adopt a development plan scheme, the authority is to send a copy of the scheme to the Scottish Ministers and shall not adopt the scheme on a date earlier than the expiration of 28 days from the date upon which the copy was sent to the Scottish Ministers.

(2) The Scottish Ministers may during that period of 28 days notify the authority in writing that a later date shall be substituted for the date of expiry of that period.

(3) At any time before the scheme is adopted the Scottish Ministers may by notice in writing require the authority to consider modifying the scheme in accordance with recommendations contained in that notice.

(4) Where a notice has been served under paragraph (3) but the authority do not modify the scheme in accordance with all of the recommendations it contains, upon sending copies of the adopted scheme to the Scottish Ministers under section 20B(5)(a), the authority must give reasons as to why some or all (as the case may be) of the recommendations have not been accepted and the scheme modified accordingly.

Consultation for action programmes

26.—(1) The following persons are prescribed for the purposes of section 21(3)(b) as a person whose views the strategic development planning authority or the planning authority in question is to seek and have regard to when compiling an action programme:—

- (a) the Scottish Ministers;
- (b) the Health Board for the area to which the plan in question relates; and
- (c) any person whom the authority proposes to specify by name in the action programme.

(2) In paragraph (1), ‘Health Board’ means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(a).

Form and content of action programmes

27. An action programme is to set out the following matters:—

- (a) a list of actions required to deliver each of the policies and proposals contained in the relevant plan;
- (b) the name of the person who is to carry out each such action; and
- (c) the proposed timescale for the conclusion of each such action.

Supplementary Guidance

28. When submitting a copy of any proposed supplementary guidance to the Scottish Ministers in accordance with section 22(6) the strategic development planning authority or the planning authority, as case may be, must provide to the Scottish Ministers a statement describing—

- (a) what steps the authority took to secure adequate publicity of the proposal to adopt and issue supplementary guidance in accordance with section 22(3)(a);
- (b) any representations made to the authority; and
- (c) the extent to which such representation were taken account of in the preparation of the proposed supplementary guidance.

Key Agencies

29.—(1) The bodies mentioned in paragraph (2) are, subject to the limitations set out in paragraph (3), specified as key agencies for the purposes of Part 2 of the Act.

(2) The bodies are—

- (a) Scottish Natural Heritage;
- (b) the Scottish Environment Protection Agency;
- (c) Scottish Water;
- (d) Scottish Enterprise;
- (e) Highlands and Islands Enterprise;
- (f) a regional Transport Partnership; and
- (g) the Crofters Commission.

(3) The limitations are—

- (a) Scottish Enterprise is specified as a key agency only where the strategic development plan or local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of the Enterprise and New Towns (Scotland) Act 1990;

(a) 1978 c.29.

- (b) Highlands and Islands Enterprise is specified as a key agency only where the strategic development plan or local development plan in question relates to an area within which or in relation to which the functions of that body are exercisable under or by virtue of section 21(1) of the Enterprise and New Towns (Scotland) Act 1990**(a)**;
- (c) a regional Transport Partnership is specified as a key agency only where the strategic development plan or local development plan in question relates to the region for which that body is constituted as the Transport Partnership by virtue of an order under section 1(1) of the Transport (Scotland) Act 2005**(b)**; and
- (d) the Crofters Commission is specified as a key agency only where the strategic development plan or local development plan in question relates to the crofting counties (within the meaning of the Crofters (Scotland) Act 1993**(c)**).

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

2007

(a) 1990 c.35.
(b) 2005 asp 12.
(c) 1993 c.44.

SCHEDULE 1

Regulation 11

Form of Schedule of land ownership

Description of land owned by planning authority	Reference to policies, proposal or views contained in local development plan which relate to the land
<i>(a)</i>	<i>(b)</i>

- Notes: (a) insert description of land. The description should include the address of the land and be sufficient to identify it;
- (b) insert reference to policies, proposals or views contained in the local development plan which relate to that land.

SCHEDULE 2

Regulation 18(1)

Form of Notice

Notification of publication of proposed local development plan

Proposal for development at *[insert location]*.

Notice is given that *[insert name of Council]* Council has published a proposed local development plan for *[insert name of the local development plan in question]* area which includes a proposal to allocate the above site for a particular use.

Description of the proposal

[insert brief description of the proposal included in the proposed local development plan in respect of which notice is being given]

Summary of the background to the proposal

[insert a brief summary of the background to the inclusion of the proposal in the local development plan]

The proposed local development plan may be viewed at *[insert details of where plan can be viewed]*.

The proposed local development plan is available for inspection from *[date]* until *[date]*.

Any person who wishes to make representations to the Council should *[insert details of how people may make representations and include a reference to Council's Development Plan Scheme]*.

SCHEDULE 3

Regulation 19(2)

Form of Notice

Notification of modifications made to proposed local development plan

Proposal for development at *[insert location]*.

Notice is given that *[insert name of Council]* Council has published modifications to a proposed local development plan for *[insert name of the local development plan in question]* area which includes a proposal to allocate the above site for a particular use.

Description of the proposal

[insert brief description of the proposal included in the proposed local development plan in respect of which notice is being given]

Summary of the background to the proposal

[insert a brief summary of the background to the inclusion of the proposal in the local development plan]

The proposed local development plan and the modifications to it may be viewed at *[insert details of where plan can be viewed]*.

The proposed local development plan and the modifications to it are available for inspection from *[date]* until *[date]*.

Any person who wishes to make representations to the Council should *[insert details of how people may make representations and include a reference to Council's Development Plan Scheme]*.

 SCOTTISH STATUTORY INSTRUMENTS

2007 No.

TOWN AND COUNTRY PLANNING
**The Planning etc. (Scotland) Act 2006 (Development Planning)
 (Saving and Transitional Provisions) Order 2007**
Made - - - -*Laid before the Scottish Parliament**Coming into force* - -

The Scottish Ministers make the following Order in exercise of the powers conferred by section 58(1) and (2) of the Planning etc. (Scotland) Act 2006⁽¹⁹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Planning etc. (Scotland) 2006 (Development Planning) (Saving and Transitional Provisions) Order 2007 and comes into force on [].

(2) In this Order—

“the 2006 Act” means the Planning etc (Scotland) Act 2006;

“the 1983 Regulations” means the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983⁽²⁰⁾;

“the relevant date” means the date on which section 2 of the 2006 Act comes into force.

Structure plans in respect of which notice of examination in public has been given

2.—(1) This article applies to a structure plan or a proposal for the alteration or repeal and replacement of a structure plan in respect of which, before the relevant date—

(a) the planning authority have taken such steps as will in their opinion secure that the requirements of section 8(1) (publicity and consultation) or, as the case may be section 9(4) (alteration and replacement of structure plans) of the principal Act (as those sections applied immediately before the relevant date) are satisfied; and

(b) notice of an examination in public has been given under regulation 17 of the 1983 Regulations.

(2) Where this article applies the provisions of the principal Act and the 1983 Regulations shall continue to have effect as they did immediately before the relevant date.

⁽¹⁹⁾2006 asp 17.
⁽²⁰⁾S.I. 1983/1590.

Structure plans and alterations to structure plans where no notice of examination in public has been served

3.—(1) This article applies to a structure plan or a proposal for the alteration or repeal and replacement of a structure plan in respect of which, before the relevant date, the planning authority have taken such steps as will in their opinion secure that the requirements of section 8(1) (publicity and consultation) or as, the case may be section 9(4) (alteration and replacement of structure plans) of the principal Act (as those sections applied immediately before the relevant date) are satisfied, but notice of an examination in public under regulation 17 of the 1983 Regulations has not been given.

(2) Where this article applies the provisions of—

- (a) the principal Act (other than section 10) and the 1983 Regulations (other than regulations 17 to 19) shall continue to have effect as they did immediately before the relevant date; and
- (b) sections 12, 13, 14, 23, 23A, 24 and 25 of the principal Act as introduced by the 2006 Act, and any regulations made under such provisions, are to apply to the structure plan or, as the case may be the proposal for the alteration or repeal and replacement of a structure plan, if references in those sections and any such regulations to a strategic development plan were references to a structure plan or, as the case may be, a proposal for the alteration or repeal and replacement of a structure plan,

subject to the modifications in paragraph (3).

(3) The modifications referred to in paragraph (2) are in section 12 of the principal Act (as amended by the 2006 Act)—

(a) for subsections (1) and (2) substitute—

“(1) Where a proposed structure plan, or a proposal for the alteration or repeal and replacement of a structure plan, is submitted to the Scottish Ministers, the Scottish Ministers are to direct that a person appointed by them examine under this subsection such proposed plan or such proposal.”.

(b) in subsection (4) for paragraph (c) substitute—

“(c) to serve notice of its making on any persons who make objections to the proposed plan or the proposal for the alteration or repeal and replacement of a structure plan which were not taken account of in the proposed plan or proposal as submitted to the Scottish Ministers and which have not been withdrawn”;

(c) in subsection (7), omit paragraph (a)(ii).

Local plans in respect of which notice of local inquiry has been given

4.—(1) This article applies to a local plan in respect of which, before the relevant date—

- (a) the planning authority have taken such steps as will in their opinion secure that the requirements of section 12(1) of the principal Act (publicity and consultation) (as that section applied immediately before the relevant date) are satisfied; and
- (b) notice of a local inquiry has been given by local advertisement under regulation 34 of the 1983 Regulations.

(2) Where this article applies the provisions of the principal Act and the 1983 Regulations shall continue to have effect as they did immediately before the relevant date.

Local plans where no notice of local inquiry has been served

5.—(1) This article applies to a local plan in respect of which, before the relevant date, the planning authority have taken such steps as will in their opinion secure that the requirements of section 12(1) of the principal Act (publicity and consultation) (as that section applied immediately before the relevant date) are satisfied, but notice of a local inquiry under regulation 34 of the 1983 Regulations has not been given by advertisement.

(2) Where this article applies the provisions of—

- (a) the principal Act (other than sections 15 to 25) and the 1983 Regulations (other than regulations 32 to 40) shall continue to have effect as they did immediately before the relevant date; and

- (b) sections 19, 20, 20A, 23, 23A, 24 and 25 of the principle Act as introduced by the 2006 Act, and any regulations made under such provisions, are to apply to the local plan as if references in those sections and any such regulations to a local development plan were references to a local plan,

subject to the modifications in paragraph (3).

(3) The modifications referred to in paragraph (2) are—

(a) in section 19 of the principal Act (as amended by the 2006 Act)—

(i) for subsections (1) to (4) substitute—

“(1) where a proposed local plan is sent to the Scottish Ministers under section 12(3), and if any objections duly made within the period for making objections to that plan have not been taken account of in the proposed plan and been withdrawn the Scottish Ministers are to appoint a person to examine such proposed plan.”.

(ii) in subsection (6)(b) for “the representations mentioned in subsection (2)” substitute, “representations to the planning authority in respect of the proposed local plan”;

(iii) in subsection (8), omit paragraph (a)(ii);

(b) in section 20A(1)(d)(i) for “under section 18” substitute , “by virtue of section 12”;

(c) references to an examination or an appointment under section 19(3) are to be taken to be references to section 19(1).

Revocation

6. Subject to articles 2 to 4, the following Regulations are revoked—

- (a) the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983⁽²¹⁾; and
- (b) the Designation of Structure Plan Areas (Scotland) Order 1995⁽²²⁾.

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh

2007

⁽²¹⁾S.I. 1983/1590.

⁽²²⁾S.I. 1995/3002.

PARTIAL REGULATORY IMPACT ASSESSMENT

1. Title of Proposal

1.1 The proposed measure is the replacement Development Plan Regulations.

2. Purpose and intended effect

Objectives

2.1 The regulations are required to implement Part 2 of the Planning etc. (Scotland) Act 2006 regarding development plans. The regulations will ensure that development plans are delivered in an effective and consistent manner across Scotland, while minimising the complexity of the preparation process and the regulatory burden on plan-making authorities. They have been drafted to meet the expectations of Scottish Ministers and other stakeholders as expressed during the passage of the Planning etc. (Scotland) Act 2006, particularly as regards improved community engagement with the planning system, and greater transparency in the decision-making process. The aim is to bring regulations into force by the end of 2008. The intention is then for there to be an up-to-date framework of development plans across Scotland within five years at most.

Background

2.2 Currently, the form, content and preparation of development plans, and other related aspects of the development planning system, are regulated by the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983. The passage of the Planning etc. (Scotland) Act 2006 represented the most significant change to the Scottish planning system in over 60 years, and requires the comprehensive replacement of the 1983 regulations.

2.3 Many of the elements of the new planning system that will be introduced through these regulations have already been aired in the following series of consultation papers and research papers, as well as in the course of the Parliamentary scrutiny of the Planning Bill itself:

- Review of Development Planning in Scotland research paper – 1998
- Review of Strategic Planning – June 2001
- Making Development Plans Deliver – April 2004
- Modernising the Planning System White Paper – June 2005
- Neighbour Notification Report on the Working Group – July 2006

Rationale for government intervention

2.4 The regulations are largely required by the Planning etc. (Scotland) Act 2006, and the expectation among parliamentarians and stakeholders in the planning process was that various matters which arose in course of passage of the bill would be dealt

with in secondary legislation. Without these regulations, it would not be clear how the new system would work in practice, and the new system would not be workable.

- 2.5 The regulations will achieve consistency in the delivery of development plans across Scotland. This will help individuals and organisations, including businesses and voluntary organisations, that engage with different local authorities across Scotland.
- 2.6 The regulations are a vehicle for ensuring that national priorities for development planning are delivered. These priorities include better engagement with stakeholders, and more efficient delivery of plans, which should increase the usefulness of the development planning system for businesses and voluntary organisations.
- 2.7 If these regulations were not brought into force the benefits listed above would not be achieved.

3. Consultation

3.1 The changes to the development planning system were extensively trailed in a number of consultation exercises carried out between 2001 and 2005. These included the Review of Strategic Planning in June 2001, which set out the Executive's view on the way forward for structure plans; Making Development Plans Deliver in April 2004, which set out detailed proposals for modernising development planning; and the Modernising the Planning System White Paper which trailed the Government's proposals for modernising the planning system in general and set the context for the 2006 Planning Act. These consultation exercises involved a combination of elements including: direct mailing of the consultation paper to a wide range of public and private bodies and individuals; bilateral and multi-lateral seminars with stakeholders and publication of the consultation paper on The Scottish Government's website to allow for wider awareness and engagement. On the draft regulations themselves, there have been specific discussions:

- **Within government** – The draft regulations have been the subject of discussion and internal consultation with the Directorate of Planning and Environmental Appeals, Historic Scotland and Transport Scotland. Various individual points have been discussed with other relevant parts of The Scottish Government.
- **Wider consultation** – A sounding board was held with professional planners from local authorities, statutory bodies and private consultancies. In general local authority representatives favoured a lighter regulatory touch whereas other representatives favoured more prescription. A meeting was also held with the Development Plan Task Group of the Royal Town Planning Institute which consists of representatives from the public and private sectors.

4. Options

4.1 The revised framework for development planning is set out in some detail in the 2006 Act, so choices as to different approaches to take in the regulations have been necessarily limited. Some of the key areas where choices are to be made are:

- **Content of Strategic Development Plans (SDPs)** – SDPs are only to be required in the main city-regions. The draft regulations propose a number of topics that must be covered by policies in the SDP, including housing, economic and retail development. The choice has been made to keep the list of topics short to focus on the key cross-boundary issues at the strategic planning level. The inclusion of these specific topics should ensure that the need for new housing, business and retail land is properly considered at the regional scale, but may limit the ability of individual authorities to pursue individual approaches.
- **Key agencies** – The draft regulations provide a list of the bodies that will be ‘key agencies’ and required to engage in the development planning process. Scottish Enterprise and Highlands and Islands Enterprise have been included in this list, and this should ensure that development plans are properly integrated with economic development strategies that affect businesses. Other options might be to include a much wider list of bodies and organisations that authorities should consult. However, it is proposed that the list of key agencies should be limited to only those that are considered to offer services or provide information that is critical to the delivery of the development plan.
- **Neighbour notification** – As flagged up in earlier consultations, the draft regulations propose placing a duty on local authorities to notify the owners/occupiers of key site-specific proposals in local development plans (LDPs), and the neighbours of such sites. While the current definition of neighbouring land in use for development management purposes relates to properties within 4 metres of the site in question (with some exceptions), our proposed definition of neighbouring land has been drawn more widely to encompass land with 20 metres of the proposal site. This should ensure that businesses and other organisations that may be affected by proposals are aware of them and can make timeous representations.
- **Publication** – The draft regulations set out a minimum set of publication requirements for plans that authorities must adhere to. We expect most authorities to go beyond this statutory minimum, but are minded to leave it to local consideration how exactly plans should be publicised. The regulations do not set out a list of statutory consultees for development planning.
- **Departures from examination reports** – We have chosen in the draft regulations to propose that the occasions when planning authorities can depart from the recommendations of a report on the examination of a LDP should be strictly limited. It is hoped that this will ensure that there are safeguards against the valid concerns of the public and other stakeholders being ignored.

5. Costs and benefits

Sectors and groups affected

- 5.1 The regulations will mainly impact upon local (and national park) authorities who are responsible for preparing development plans. Impacts on business, charities and the voluntary sector will be secondary and focussed around any requirements for engagement between the plan-making authority and the wider community, and on any impact of the regulations’ success in delivering efficient, high-quality

development plans. The preparation of strategic development plans and local development plans will focus around two stages: early engagement around a report on the key issues, followed by the preparation of a single 'proposed plan.' It is in response to the proposed plan that formal objections or expressions of support can be made.

Benefits

- 5.2 The Government's proposals for modernising development plans were trailed in the consultation paper Making Development Plans Deliver in 2004. 32 responses (22% of the total) came from business and development interests, and most respondents supported the general tenor of the proposals. Many business respondents like the CBI and Homes for Scotland declared that in view of the real urgency for up to date plans, the Executive should see to it that timetables are set and are then fully complied with.
- 5.3 The draft regulations aim to ensure that the 5 yearly reviews of development plans are delivered efficiently. This will ensure that the policies and proposals of the development plan remain relevant and up-to-date. Businesses, charities and voluntary sector organisations should benefit from this clarity as to what the local spatial strategy is, and where development will or will not be supported.
- 5.4 The enhanced requirements for early and effective engagement in the plan-making process will allow businesses and charities to have a stronger input into the content of development plans.
- 5.5 The proposed requirement for SDPs to include policies on the location of housing, economic and retail development will ensure that SDPAs address the needs of these business sectors in their strategic city-regional context.
- 5.6 As regards the impact on local authorities, provisions for the new development planning system are aimed at providing a framework that will both lead to greater confidence and speed in the system. Efficiency savings are expected in terms of the removal of the need for two tiers of development plan across most of Scotland, reducing the number of strategic development plans from 17 to 4. Speeding up plan preparation by replacing the current two stages of draft and finalised plans with one proposed plan, and requiring the preparation of shorter and more focused local development plans that are fit-for-purpose, are also expected to result in efficiency savings. Provisions for the use of model development plan policies for certain topics are estimated to contribute to further efficiency savings, equating to **a saving of £335,300 or an average saving of half a day per week for a senior policy officer in each planning authority.**

Costs

- 5.7 No direct mandatory financial costs on business have been identified. Where businesses and other organisations choose to engage in the development plan process, the new system, as enabled by these draft regulations, should enable them to do so in a more constructive and less repetitious fashion. For instance the 'front-loading' of engagement activities to the new main issues report stage should enable businesses to express their opinions on how areas should develop in a more

informal and fruitful manner. More regular reviews of plans i.e. at least every 5 years, could involve greater effort and cost for businesses and other organisations. It will, however, be for them to decide which plans if any that they wish to engage in. The move to electronic publication will make it easier for them to view the plan and make representations without travelling to a local library or planning office.

- 5.8 Achieving resource efficiency will require development planning teams within local authorities to be much more focused and managed. If this can be achieved, the general conclusion of research carried out by Arup was that authorities could potentially have sufficient staff to resource the development plan system as reformed. This is especially the case outside the city region areas, as resources are being released from work to prepare separate structure plans.
- 5.9 There are costs associated with the provisions for mandatory examination of strategic development plans. We expect to consult on draft regulations governing these examinations later in the year.
- 5.10 The main likely exceptions to the ability of authorities to manage within current resource levels are in terms of specialist skills required to prepare, monitor and review action programmes, ensuring statutory timescales are met, and the costs of neighbour notification of new site specific proposals in local development plans. There are also other resource demands arising from more effective engagement of key stakeholders and members of the public in the preparation of development plans. Research suggests that in total these costs might reach £3.35m per year. The organisation of the transition from the existing to new system will also present significant additional demands in terms of staff training and management.
- 5.11 Overall, research estimates that the additional costs of development plan provisions equates to around one additional middle ranking staff member per authority when savings and reallocation of resources are taken into account. Including local authority overheads this equates to approximately £3.4m across the system as a whole, or on average £100,000 per authority per annum. The extent to which efficiencies can be expected to be achieved in the early years of reform is difficult to predict. To smooth the adjustment process, research suggests that an additional 15%-20% above the total additional cost estimates might be prudent to allow for the time taken to achieve efficiencies.

6. Small/ Micro Firms Impact Test

- 6.1 No specific information is available, or research undertaken, on the impact of these proposals specifically on small businesses. However, the enhanced opportunities for early and effective engagement in the process, particularly as potential neighbours of LDP proposals, should assist small businesses to ensure that development plans reflect their needs and aspirations.

7. Legal Aid Impact Test

- 7.1 This test is not considered relevant to these draft regulations.

8. “Test Run” of business forms

8.1 These draft regulations do not contain business forms.

9. Competition assessment

9.1 The draft regulations are not considered to have any competition impacts.

10. Enforcement, sanctions and monitoring

10.1 Major improvements in development plan performance require a raised profile for development planning, and effective management of the process. We shall therefore require a development plan scheme to be prepared as a means of setting the programme for producing and reviewing local development plans and strategic development plans. This will be updated annually and publicised widely, as well as submitted to Scottish Ministers for information and comment. It will provide greater certainty and predictability for local people and businesses about the timescales for plan revision.

10.2 To ensure that local people's voices are fairly heard, we propose a mandatory examination for strategic development plans and local development plans where objections have not been resolved. In the interests of independence and transparency, reporters for development plan examinations will be appointed by The Scottish Government Directorate of Planning and Environmental Appeals (DPEA) rather than the planning authority.

10.3 The Scottish Government already monitors some aspects of local authorities' development planning performance, for instance the number of plans more than five years old. The Planning etc. (Scotland) Act 2006 introduces a new set of statutory powers for Scottish Ministers to assess and gather information on planning authority performance. This may look across the planning function as a whole, or focus on one part, such as development planning. In March 2007, The Scottish Government consulted on the way in which these powers would be used as part of a new planning performance assessment framework. This included a number of proposed indicators for development planning. We are currently considering the responses to this consultation.

PARTIAL EQUALITIES IMPACT ASSESSMENT

What is the purpose of the proposed policy (or changes to be made to the policy)?

These replacement development planning regulations are intended to provide a modernised set of regulations to govern the content of development plans and related documents, and procedures for their preparation.

Who is affected by the policy or who is intended to benefit from the proposed policy and how?

The proposed regulations will principally affect planning authorities and strategic development planning authorities. They will also affect parties who may wish to engage in the development plan process including landowners, potential developers and people affected by development proposals. The wider population should benefit from the efficient preparation of development plans if these deliver the development society needs in a speedy and co-ordinated manner.

How have you, or will you, put the policy into practice, and who is or will be delivering it?

The draft regulations contain responsibilities for Scottish Ministers and define key agencies who will be required to engage in the development planning process. But the principal responsibility for carrying out the actions required by the regulations lies with planning authorities and strategic development planning authorities.

In addition to the regulations, much of the Government's agenda for modernising the planning system will be taken forward through non-legislative means, including the issuing of revised guidance on development planning. It is hoped that this guidance will be released in the course of 2008.

How does the policy fit into our wider or related policy initiatives?

The draft regulations fit into the Government's strategic aims, in particular by producing a:

- Wealthier and fairer Scotland – up-to-date development plans that effectively lead and manage change should enable businesses and people to increase their wealth and more people to share fairly in that wealth; and
- Greener Scotland – development plans are a key tool for protecting and improving Scotland's natural and built environment and the sustainable use and enjoyment of it.

Most of the resource implications of the modernised planning system derive from the provisions of the 2006 Planning Act itself. The most significant resource implications arising out of the draft regulations are likely to be:

- The requirement on planning authorities to notify the owners and neighbours of site-specific LDP proposals; and
- The identification of the bodies that are proposed to be key agencies and will be required to co-operate at various stages of the plan preparation process.

What we already know about the diverse needs and/or experiences of your target audience

AGE

Evidence: Research contained in *Planning and Community Involvement* indicated that generally the people likely to volunteer their views on a planning application come from a narrow age profile dominated by the middle aged and the elderly.

Consultation: In its pre-legislative consultation on the Planning Bill, the Scottish Parliament's Communities Committee heard from a representative of the Scottish Youth Parliament that there is a need to consider how the planning process can be made more open and transparent so that it is easier to understand and that young people should be consulted in a proactive and non-tokenistic manner.

Summary of Evidence of Getting Involved In Planning

<http://www.scotland.gov.uk/Publications/2002/10/15638/12159>

Planning and Community Involvement in Scotland.

<http://www.scotland.gov.uk/Publications/2004/07/19666/40347>

RACE

Research contained in *Planning and Community Involvement* indicated that white Caucasians dominated the responses to planning consultations in Scotland. Of the 142 responses to the questionnaire, only three (two percent) were from an ethnic minority. This is broadly in line with the ethnic mix across Scotland. However, in two of the three areas there was no involvement from people who were non-white.

Evidence from across Britain indicates that planners have little understanding of the relationship between planning and race equality. English research published in 2004 by the Office of the Deputy Prime Minister found that, 'issues about diversity and planning are not that well understood or a priority in planning practice and procedure.' The research also discovered that while a majority of planning officers had received some training on diversity issues, the training rarely made the link between planning and diversity. Although there is no equivalent research into planning in Scotland, the Commission of Racial Equality's knowledge of individual planning examples indicates that the situation in Scotland is no different. In the Government's experience, Scottish planning authorities have little awareness of the Royal Town Planning Institute's guidance on dealing with racist representations.

<http://www.scotland.gov.uk/Publications/2004/07/19666/40347> - Research highlighting the age, gender and race demographic of those involved in the planning system.

GENDER

The Department for Environment, Food and Rural Affairs funded focus groups (organised by the Women's Network) aimed primarily at looking at environmental decision-making for women. '*Women in decision-making*' sets out views of women on barriers to participation.

In addition, research contained in *Planning and Community Involvement* showed that women were slightly more likely than men to become involved in the planning process, but significantly more likely to oppose a planning application.

Results from the Scottish Household Survey set out in *Getting Involved in Planning: Summary of Evidence* showed that broadly men and women were equally interested in the planning of their area, and equally considered it was important that people should be involved in the planning of their area.

DISABILITY

Local authorities amongst others have a specific duty to prepare and publish a Disability Equality Scheme setting out how they will meet these duties under the Disability Discrimination Act 2005.

The Disability Rights Commission (DRC) supports The Scottish Government's piloting of model development plan policies to ensure more consistency across local authorities. In particular, we feel the model policies relating to the built environment should make explicit reference to the provisions of the Disability Discrimination Act to help ensure that both planners and developers comply with the law.

The DRC responded to the consultation on '*Making Development Plans Deliver*'. They believe that development plans have the potential to improve disabled people's access and involvement in the planning system, as well as access to participation within their neighbourhoods, communities and society as a whole. Their full response is available at: <http://www.scotland.gov.uk/Resource/Doc/26350/0026228.pdf>

RELIGION & BELIEF

The review of development plans every 5 years is supported by the General Trustees of the Church of Scotland as it would end the current system whereby every Local Authority is effectively operating on its own individual review cycle. The new proposal gives applicants a regular opportunity to propose inclusion of land in development plans thus avoiding land being frozen out of development for too long a period.

LGBT

Currently no evidence.

Do we need more information to help us understand the diverse needs and/ or experience of our target audience?

Though a good level of existing information exists in some areas, we recognise that there is scope to increase our knowledge, particularly in some areas. A number of equalities groups have been included in the consultation exercise covering interests relating to age, disability, gender, LGBT, race and religion and belief. We will monitor the responses made to the consultation exercise with a view to thinking more about the potential impact on equalities groups. To assist in this, we have included a specific question in the consultation paper seeking views on whether there are particular impacts on societal groups that we should be aware of.

FULL LIST OF CONSULTATION QUESTIONS

- Q1 Are you satisfied that the procedures set out in the draft regulations for adopting development plan schemes will adequately ensure that planning authorities have proper programmes in place for the review of their plans, including their proposals for consultation and public involvement?
- Q2 Do the regulations on SDP content need to say more to ensure that SDPs are effective tools for leading and managing change in the largest city-regions?
- Q3 Do you support the approach to listing the key topics that need to be covered by policies at the strategic level and do you support the topics listed?
- Q4 Is the move to an accurate map base for SDP Proposals Maps workable?
- Q5 Do you support the continuing primacy of the written text of the SDP (or LDP) or would a move to primacy for the Proposals Map help to strengthen the spatial dimension of the plan?
- Q6 Do you support the list of information and considerations that the SDPA must take into account when preparing a SDP or main issues report?
- Q7 Are there any other matters which the regulations should require always to be included in LDPs, or on the Proposals Map?
- Q8 Are there any other information sources or considerations that planning authorities should be required to have regard to in preparing LDPs and how can planning authorities demonstrate that they have complied with these requirements?

(Q9 and Q10 are intended to relate to both the SDP and LDP processes.)

- Q9 Are the minimum publication requirements set out in the proposed regulations adequate, or should additional requirements be included, for instance specifying a list of statutory consultees for development planning?
- Q10 Is the requirement to place a notice in the Edinburgh Gazette still useful?
- Q11 Are the proposed circumstances where neighbour notification would be required and the definitions of neighbouring land appropriate?
- Q12 Will the broad proposed definition of 'notifiable' modifications unnecessarily delay the plan process by subjecting too many modified plans to further consultation?
- Q13 Do these proposed exceptions provide an appropriate degree of scope for authorities to depart from the recommendations of examination reports?
- Q14 Are you satisfied with the proposed regulations for action programmes?

- Q15 Given its enhanced status, should the draft regulations (as opposed to advice) say more about the content and procedures for adopting supplementary guidance?
- Q16 It is The Scottish Government's view that the list of key agencies should be limited to statutory bodies regulated by Scottish Ministers but not forming a part of government. On this basis, do you agree with the list of key agencies proposed?
- Q17 Do the proposed transitional arrangements raise any specific issues for particular plans or areas?
- Q18 Are there any potential impacts on the business or voluntary sectors that we should be aware of in finalising these regulations?
- Q19 Are there any potential impacts on particular societal groups that we should be aware of in finalising these regulations?
- Q20 Do you have any other comments to make on the draft development planning regulations?



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