

# **Masterplan Consent Areas**

## **Consultation on Draft Regulations**

**February 2024**

## Contents

<b>Introduction</b> .....	3
Legislative Background .....	3
Approach to Regulations .....	4
<b>Why MCAs? - The Benefits</b> .....	5
<b>What?</b> .....	8
What types of authorisations can be provided in a MCA scheme?.....	8
What type of development can be authorised by a MCA scheme? .....	9
Excluding kinds of development from schemes .....	9
<b>Where?</b> .....	11
Potential locations for MCAs.....	11
Places that cannot be included in a scheme .....	11
<b>When?</b> .....	13
Duty to periodically consider making a scheme statement.....	13
<b>How?</b> .....	15
The process of making a MCA scheme .....	15
Project Initiation .....	17
Prepare proposed scheme .....	18
MCA schemes form and content.....	21
Publicity for proposals .....	24
Finalise scheme .....	25
Hearings.....	25
Decision making/notification .....	27
Requirement to notify the Scottish Ministers of certain proposals .....	27
'Make' the scheme.....	28
Prescribed Form.....	31
Electronic Communications .....	31
Environmental Impact Assessment.....	32
<b>Resources</b> .....	33
<b>Impact Assessments</b> .....	34
<b>Annex A – Draft MCA Regulations</b> .....	35
<b>Annex B – Draft MCA EIA Regulations</b> .....	44
<b>Annex C – Different Consents Process Comparisons</b> .....	68
<b>Annex D – Glossary / List of Acronyms</b> .....	80
<b>Annex E – Responding to this Consultation</b> .....	81

## Introduction

1. This consultation paper relates to proposed regulations on the procedures to prepare Masterplan Consent Areas (MCAs).

## Legislative Background

2. The [Planning \(Scotland\) Act 2019](#) (the 2019 Act), which made changes to the [Town and Country Planning \(Scotland\) Act 1997](#) (the 1997 Act), introduces MCAs as a new upfront consenting mechanism for development proposals. Part 2 of the 2019 Act ([Section 15](#)) covers MCAs, although it has not yet been commenced (i.e. it does not yet have legal effect). [Section 15](#) of the 2019 Act amends the 1997 Act to insert new sections 54A-F and new schedule 5A, which relate to MCAs.
3. MCAs are similar to Simplified Planning Zones (SPZs), provided for in [sections 49 to 54](#) and [schedule 5](#) of the 1997 Act (as amended), but refreshed and rebranded with expanded powers. MCAs will be broader in scope, being able to give other types of authorisations than just planning permission, and the procedures for preparing a scheme have been modernised.
4. The 1997 Act provides that planning authorities will be able to prepare a MCA 'Scheme' setting out the detail of what they are giving consent for, through the MCA scheme. MCA schemes can give several types of consent, including planning permission, plus roads construction consent, listed building consent and conservation area consent – where provided for in the particular MCA scheme. The MCA scheme can include conditions, limitations and exceptions which may cover aspects such as development parameters, design and environmental matters.
5. Within adopted MCA areas, development could be brought forward without the need for an application as long as it is in line with the agreed scheme.
6. New [section 54A](#) introduces new schedule 5A which provides more detail on the process for making and altering MCA schemes, and gives the Scottish Ministers powers in connection with such schemes, including regulation making powers to allow the Scottish Ministers to provide further detailed requirements, and direction making powers.
7. While MCAs will not be part of the development plan, they will be a delivery mechanism which can support the spatial strategy and policies and proposals in the development plan.
8. Section 16 of the 2019 Act amends the 1997 Act to provide for a bar to creation of new simplified planning zones (SPZs). It has not yet been commenced, however our intention is to commence that, prior to the new regulations for MCAs coming into force.

## Approach to Regulations

9. A lot of detail on the process of preparing a MCA scheme is already set out in the new Schedule 5A of the 1997 Act.
10. Part of our wider work on planning reform and implementation of the 2019 Act is the preparation of regulations, or secondary legislation, to provide additional necessary detail.
11. It should be noted that there are some aspects in relation to MCAs where there is a legal requirement for Ministers to set out certain provisions in regulations, while some other aspects are at Scottish Ministers' discretion to regulate.
12. Two sets of draft regulations have been prepared:
  - The Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 ([Annex A](#)). These regulations provide additional procedural detail around the requirements set out in the new Schedule 5A for preparing MCA schemes across Scotland.
  - The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 ([Annex B](#)). These seek to mirror the provisions within The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
13. There is benefit in working to the principle that regulations are kept to the minimum necessary. The [Verity House Agreement](#) sets out a collaborative approach, based on mutual trust and respect between the Scottish Government and local authorities. We expect there to be local variation in how planning authorities implement MCAs. To provide for maximum flexibility and resilience, much of the detail of Scottish Ministers' expectations for implementation of the new system will be set out in guidance. Following the emergence of good practice, subsequent guidance may offer more advice on form and content of MCAs and may include templates to assist MCA preparation.




### Question 1:

A) To what extent do you agree with the principle that regulations be kept to the minimum necessary and that more advice be offered in guidance and kept updated?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

## Why MCAs? - The Benefits

<b>Place Leadership</b> 	<b>Streamlined</b> 	<b>Facilitating investment in places</b> 
<ul style="list-style-type: none"> <li>• <b>Proactive approach</b>, local authority takes the lead, set the bar for quality</li> <li>• Agreed <b>shared vision / ambition</b> for the place facilitate the type of development want to see come forward</li> <li>• <b>Collaborative working</b>, align efforts/ new way of working: planners plan, developers develop</li> <li>• <b>Place-based</b> masterplan at core, supporting placemaking</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Co-ordinated, joined up approach</b> can provide different consents in a single authorisation (planning permission, roads construction consent, conservation area consent, listed building consent)</li> <li>• Engagement built into single process focussed on the project / place <b>reduces consultation fatigue</b></li> <li>• Can be used at <b>different scales</b> (strategic, centres, local place)</li> <li>• See <b>all the main conditions together</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Supports delivery of local development plan</b> &amp; developments in the long-term public interest</li> <li>• <b>Provides certainty</b> - saving time, money and effort for developers, enabling delivery of investment &amp; infrastructure</li> <li>• <b>Can co-ordinate masterplanning across areas of different land ownership</b></li> <li>• <b>Promotional tool</b>, can be used as part of marketing sites</li> <li>• <b>Supports delivery of outcomes</b></li> </ul>

14. MCAs are a means to take forward place-based approaches. They are a flexible placemaking tool, grounded in and responding to a place, and how it may change to meet local needs and outcomes. Planning authorities will be able to use MCAs as part of a proactive, placemaking approach to planning and consenting. It is a new way for authorities to shape new development in their places – enabling the type and quality of development they wish to come forward in their places. With the focus on a place-based masterplan, MCAs are an opportunity for the authority to set its expectations around quality. MCAs can incentivise high quality development by providing a streamlined consent process for those proposals which comply with the scheme.

15. MCAs will allow planning authorities to plan; front-loading consideration of design, infrastructure and environmental matters at an earlier stage in the planning process. This can allow local authorities to take a leadership role in the planning of high quality places, rather than just reacting to applications put before them.
16. MCAs can be used as part of collaborative working between the planning authority, land owners, developers and investors, key agencies and the community. With the planning authority taking the lead, it can take account of local needs and aspirations, and work with developers to ensure what the scheme requires is feasible and deliverable.
17. MCAs offer potential to provide a streamlined approach to consenting, providing planning permission, plus roads construction consent, listed building consent, and conservation area consent – where provided for in the particular MCA scheme. It also offers scope to set out the main conditions of the various consents together.
18. By dealing with the issues relating to the different types of consent, and different developments that might come forward in an area in the round, it will offer an opportunity to more meaningfully engage with the community and reduce consultation fatigue.
19. A MCA approach could be used by the planning authority to coordinate development, including on large sites, where there may be different land owners. MCAs could support a range of scales and types of development, from small scale changes up to new major or national developments.
20. MCAs can make their areas more attractive to potential investors and developers by providing certainty and removing much of the risk. If the planning authorities are enabled to put in the work upfront, including community engagement, frontloading site consideration, aligning of consents and granting permission for planned development, it can help bring forward more 'shovel ready' sites. This can help attract investment, deliver services, infrastructure and jobs, as well as creating well-designed places in line with the [Six Qualities of Successful Places](#).
21. MCAs will be able to be used to prioritise investment in particular locations or to secure delivery of local priorities, outcomes and proposals in the local development plan.

22. It is important to note that a MCA is not about over-simplifying the process for developers, nor does it mean a loss of standards of development, amenity or protection for the environment. A number of 'checks and balances' are built into the proposed process:
- The **masterplan** in the scheme can be specifically tailored to take account of designated assets or particular character areas which could be subject to conditions to protect and enhance their unique characteristics.
  - Detailed design guidance / **conditions** can be produced upfront as part of the MCA scheme to ensure that designated assets and other valued features are preserved or enhanced.
  - **Community engagement** is fully built into the proposed process for preparing a MCA scheme, with early engagement required (for MCA schemes which belong to the categories of national developments or major developments), and opportunities to comment on the proposed scheme, and requirement on the planning authority to take representations into account.
  - **Statutory consultees** will be consulted in the preparation of MCA schemes and will have an opportunity to comment on their content and conditions, ensuring heritage, environmental and other issues are appropriately considered upfront.
  - Additionally, in a similar way to the current **Notification Direction**, the 1997 Act includes powers for Ministers to issue directions to authorities requiring them to notify them of proposals for making or altering a scheme. Linked to that the 1997 Act provides that Ministers can **call-in** any MCA scheme for their own consideration, to provide added scrutiny where necessary.

## What?

### What types of authorisations can be provided in a MCA scheme?

23. The 1997 Act, [section 54B](#) will provide that a MCA scheme can grant authorisation for development specified or of a description specified in the scheme, and that authorisation means planning permission and additionally, if the scheme provides, roads construction consent, listed building consent and conservation area consent.

#### [Section 54B](#)

##### **Scheme grants planning permission, etc.**

(1) A masterplan consent area scheme acts as a grant of authorisation for carrying out, within the area to which the scheme relates, development that—

(a) is either—

- i) specified in the scheme, or
- ii) of a description specified in the scheme, and

(b) is begun before the end of the day on which the scheme ceases to have effect.

(2) Authorisation granted by a scheme is subject to—

- (a) any conditions, limitations and exceptions specified in the scheme, and
- (b) any regulations made under paragraph 19 of schedule 5A (read with paragraph 20 of that schedule).

(3) In this section, “authorisation” means—

(a) planning permission, and

(b) if the scheme so provides—

- i) consent to the construction of a new road or an extension of an existing road for the purposes of section 21(1) of the Roads (Scotland) Act 1984
- ii) authorisation for works in relation to a listed building for the purposes of section 6 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, and
- iii) authorisation for works in relation to a building in a conservation area for the purposes of section 66(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and section 6 of that Act as applied by any regulations under section 66(3) of that Act.



## What type of development can be authorised by a MCA scheme?

24. Given MCAs are effectively just a different means of granting consent, they are a flexible tool that could support a wide range of scales and types of development needed across the country.
25. They can provide for new development such as new construction and changes to the use of land and buildings, which can contribute towards regeneration of areas. They can also provide authorisation for infrastructure, new roads and streets, energy developments, business development, new homes and services, and conversions to bring empty buildings, including listed buildings back into use.
26. MCAs have significant potential to enable large scale infrastructure projects, including green freeports and development required to support ScotWind.
27. The 1997 Act at [Section 54C](#) specifically highlights that MCA schemes can authorise self-build housing.

### [Section 54C](#)

#### **Content of schemes: self-build housing**

- (a) A masterplan consent area scheme may, under section 54B(1)(a), specify—
- a) development in the form of self-build housing, or
  - b) a description of development which includes self-build housing.

(2) For the purpose of subsection (1), self-build housing is where an individual commissions or (whether acting alone or with other individuals) is personally involved in the design and construction of a dwelling that is intended to be the individual's main residence once it is built.

(3) Nothing in this section is to be construed as limiting the development or a description of development that may be specified under section 54B(1)(a).

## Excluding kinds of development from schemes

28. Paragraph 19 of new [Schedule 5A](#) gives the Scottish Ministers the power to make regulations setting out the kinds of development that schemes may not grant authorisation for.
29. Restrictions could be in relation to the type of development or development being on land or a type of land that is specified. However those types of restriction are, as set out in subparagraph 19(3), not exhaustive and not to be seen as the only ways in which development can be restricted in the regulations.

30. This power will allow Scottish Ministers to respond to future developments, for example, if there is a desire to exclude particular new types of development or technologies that might emerge, or development on land subject to new designations.
31. At this time we do not consider it necessary to exclude any form of development from having potential to be within a MCA. There are other ways to control development, such as by attaching conditions to individual schemes to control impacts. There is also the scope for Ministerial scrutiny of MCAs through the notification route/call-in option.

**Question 2:**

A) We are not proposing to regulate to exclude any form of development from having potential to be within a MCA. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

## Where?

### Potential locations for MCAs

32. We see potential for MCAs to be used across Scotland - for example in urban centres, strategic growth areas, and in rural and island areas.
33. MCAs have the potential to support delivery of Local Development Plan (LDP) spatial strategies and particular local priorities, by providing upfront consent for development that has been subject to community consultation and so supporting and actively incentivising investment in those planned developments.
34. MCAs have the potential to unlock significant areas, including of brownfield land, for housing development and also support wider objectives including town centre renewal, and town centre living.

### Places that cannot be included in a scheme

35. [Schedule 5A](#) of the 1997 Act sets out a series of designations of international and national importance which cannot be included in a scheme. These include European Sites, SPAs and SACs, Ramsar Sites, marine protected areas, National Scenic Areas, SSSIs, World Heritage Sites and their buffers, and places covered by a nature conservation order or a land management order under the Nature Conservation (Scotland) Act 2004).

#### [Schedule 5A Paragraph 3 \(4\)](#)

(4) This sub-paragraph applies to—

(a) any place that is or forms part of—

- (i) a European site as defined in regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I. 1994/2716),
- (ii) a marine protected area,
- (iii) a National Scenic Area (see section 263A),
- (iv) a Ramsar site as defined in section 37A of the Wildlife and Countryside Act 1981,
- (v) a site of special scientific interest as defined in section 58 of the Nature Conservation (Scotland) Act 2004,
- (vi) a site included in the World Heritage List (“a world heritage site”) or an area identified in the World Heritage List as a buffer zone for a world heritage site, or

(b) any place in respect of which either of the following has effect—

- (i) a nature conservation order made under Part 2 of the Nature Conservation (Scotland) Act 2004,
- (ii) a land management order made under that Part of that Act.

36. This list was subject to consultation with the Key Agencies Group and considered and agreed by the Scottish Parliament during the passage of the 2019 Act. Paragraph 3(6) of [Schedule 5A](#) gives the Scottish Ministers the power to make regulations to modify the list.
37. Conservation areas were specifically and intentionally not excluded, given they frequently cover historic town centres, in order to give greater potential for MCAs to be used to support town centre regeneration.

**Question 3:**

- A) We are not proposing any changes to the designations listed in schedule 5A (paragraph 3(4)). To what extent do you agree with this approach?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

## When?

### Duty to periodically consider making a scheme statement

38. [Schedule 5A Paragraph 5](#) places a duty on planning authorities to consider making a MCA for a part or parts of their area at least once every five years. To provide transparency as to their consideration and decision, planning authorities have to publish a statement as a formal record of how they have fulfilled their duty to consider preparing MCAs.

#### [Schedule 5A Paragraph 5](#)

##### **Duty to periodically consider making a scheme**

5(1) Each planning authority must, at least once in each 5-year period, consider whether it would be desirable to—

- a) make a scheme for a part or parts of their district,
- b) alter a scheme that relates to an area in their district.

(2) In sub-paragraph (1), the “5-year period” means—

- a) the period of 5 years beginning with the day on which the Bill for the Planning (Scotland) Act 2019 received Royal Assent, and
- b) each subsequent period of 5 years beginning with the day on which the authority last published a statement under sub-paragraph (3).

(3) After each occasion on which an authority consider the matters mentioned in sub-paragraph (1), they must publish a statement setting out—

- a) what they decided, and
- b) the reasons for their decision.

(4) The Scottish Ministers may by regulations prescribe requirements in respect of the statement mentioned in sub-paragraph (3).

(5) The requirements that may be specified under sub-paragraph (4) include, in particular, requirements as to—

- a) what information a statement must contain,
- b) how it is to be published, and
- c) to whom copies of it are to be sent.

39. Paragraph 5(5) of new [Schedule 5A](#) allows Ministers to set out requirements as to what a planning authority's statement setting out what their decision on whether to prepare a MCA scheme for part or parts of their district is to contain. However, particularly respecting the Verity House Agreement, we are not intending to regulate on the detailed content of such statements and how they are to be published and who they are sent to. Instead we are suggesting that guidance will set out some considerations in relation to the statement, as in the table below.

<b>Requirements Ministers can prescribe</b>	<b>What guidance may suggest planning authorities to consider</b>
(a) what information a statement must contain	<ul style="list-style-type: none"> <li>○ The areas the planning authority considered bringing a MCA forward for</li> <li>○ The factors that informed its decision whether or not to prepare a MCA scheme(s)</li> <li>○ A summary of any engagement carried out. While not a formal consultation, this would be an opportunity for the planning authority to reflect on any discussions it may have had with stakeholders about the potential for MCAs for particular locations.</li> </ul>
(b) how it is to be published, and	Suggest this is published electronically on the Council's website.
(c) to whom copies of it are to be sent	<p>Suggest it may be good practice for awareness and monitoring purposes, to send links to copies of the statement to</p> <ul style="list-style-type: none"> <li>○ Scottish Ministers (Planning, Architecture &amp; Regeneration Division)</li> <li>○ Key agencies</li> <li>○ Community councils</li> <li>○ Any other person the planning authority considers appropriate.</li> </ul>

**Question 4:**

A) To what extent do you agree that the matters above in relation to the statement be set out in guidance rather than regulations?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

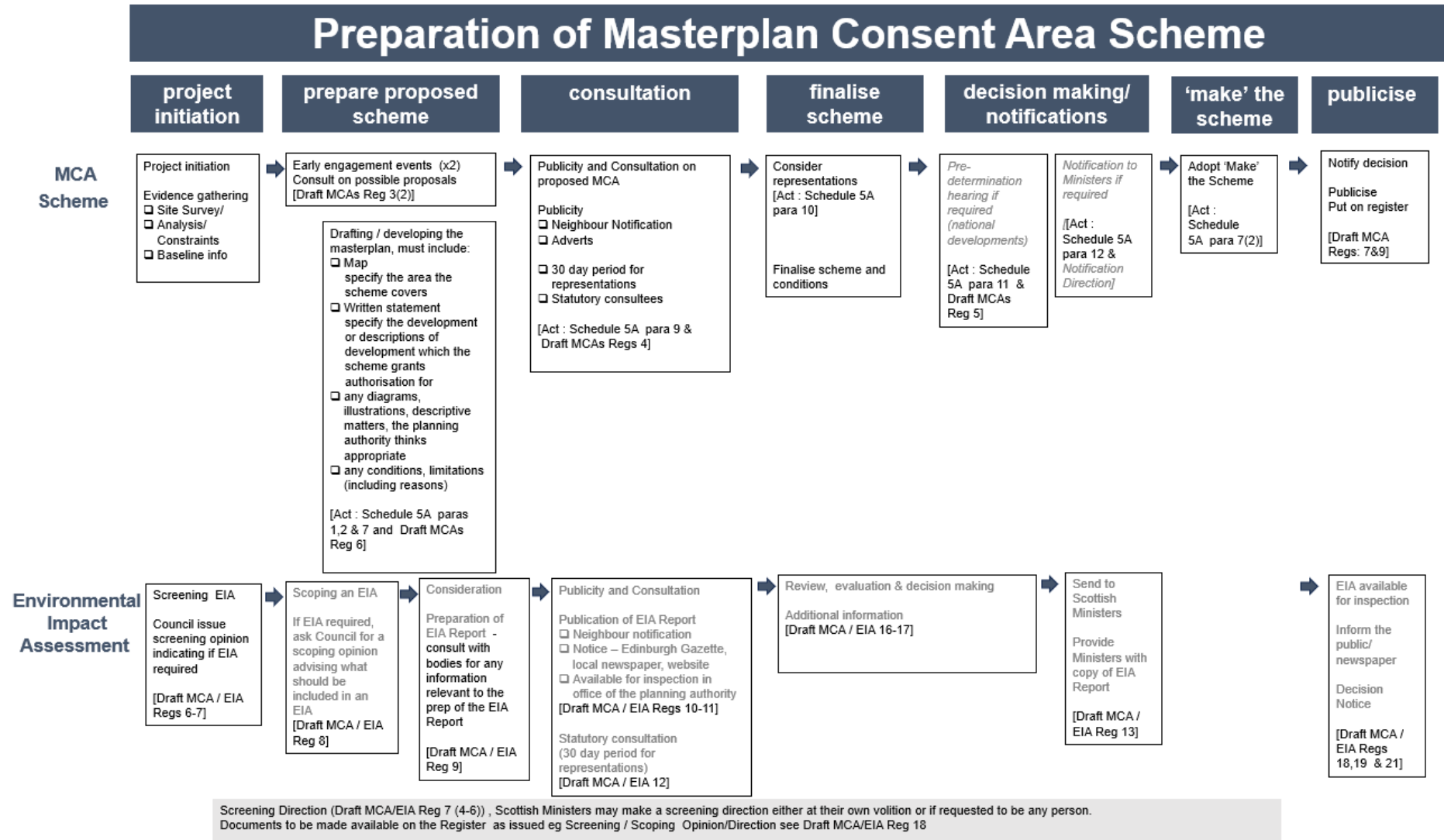
B) Please explain your view.

## How?

### The process of making a MCA scheme

40. The principle behind the MCA process, in terms of it giving consent, is akin to other consenting. Therefore, in developing the proposed provisions in the draft regulations, we have looked at the procedures for the different consents a MCA scheme can include. More detail on that comparison is available in [Annex C](#). We have sought to align with requirements for:
- planning applications - set out in [the 1997 Act](#) and [The Town and Country Planning \(Development Management Procedure\) \(Scotland\) Regulations 2013](#) (the DMR)
  - roads construction consent (RCC) - set out in the [Roads \(Scotland\) Act 1984](#); and
  - listed building consent, and conservation area consent - set out in the [Planning \(Listed Buildings and Conservation Areas\) \(Scotland\) Act 1997](#) and [The Planning \(Listed Building Consent and Conservation Area Consent Procedure\) \(Scotland\) Regulations 2015](#)
41. The draft regulations seek to provide an aligned approach for different consents. This is not about cutting corners nor removing due process. Where there are differences in requirements across the different consent processes, for example the number of days for representations, we adopted the longest period and where one regime had an additional requirement, we have sought to include that in the MCA process.
42. In particular the proposed MCA Scheme (EIA) Regulations have been developed alongside the main MCA regulations to provide an integrated process and ensure environmental assessment principles are followed, as shown in Figure 1. More details are provided under the [Environmental Impact Assessment](#) heading.

Figure 1 : Preparation of Masterplan Consent Area Scheme





## Project Initiation

### Team / Governance / Collaborative Working

43. This is a vital first step, to give the MCA a firm foundation. It is not appropriate to regulate on how planning authorities and any partners initiate the project to develop an MCA, but we would expect authorities will put together an appropriate team. This may consider suitable project management structures and internal processes, including consideration of risks. The process of masterplanning may involve local authorities working together corporately or project teams being set up to work in a coordinated manner; particularly in terms of planning, roads and transport.
44. Planning authorities may also wish to work closely with potential developers and investors to understand market aspirations and aspects around feasibility. In some cases, a partnership approach could be taken forward with a development partner(s) who may provide resources to carry out some of the work for example around site investigations or masterplanning and design.
45. Planning authorities may wish to engage with key agencies early on for advice about the particular location they are considering bringing a MCA forward for, and to explore any potential issues or wider considerations for the masterplan. This is also an opportunity to establish links and processes with statutory consultees around putting the scheme in place, and around compliance checks on any conditions.
46. In particular, where it is being considered that the MCA scheme may give listed building and / or conservation area consent, planning authorities are encouraged to contact HES' Designations team early on. As conservation area consent is in relation to demolition, it will be vital to consider the tests for demolition early on, as further steps may need to be taken well in advance for example around advertising/marketing the property for 6 months.

### Understanding the site/area

47. Good design depends on thoroughly understanding the site and its context. It will be important to put effort into this early evidence gathering stage, and to collate relevant baseline information.
48. Planning authorities would be expected to analyse the site/area, which may include a site survey and ground investigations. This is likely to consider constraints and opportunities and any special features. It should take an infrastructure first approach. In most cases there will be a need to assess its physical/environmental characteristics, social factors and economic needs. Further advice around considering context, identity and connections is available in [Planning Advice Note 83: Masterplanning](#), and within other tools such as the [Place Standard Design Version](#).

49. Planning authorities may also wish to engage early on with infrastructure providers, utility companies, and local communities and groups.

**Prepare proposed scheme**

**Consultation on possible proposals for a masterplan consent area scheme**

50. The 1997 Act includes a requirement for planning authorities to consult on possible proposals for a MCA scheme. Paragraph 8(2) of new [Schedule 5A](#) requires that Ministers must regulate on the consultation requirements for possible proposals for MCA schemes.

**Act - Schedule 5A paragraph 8**

“8 (1) Before publicising, in accordance with paragraph 9, proposals for making or altering a scheme, a planning authority must—

- a) comply with any requirements as to consultation prescribed in regulations under this paragraph, and
- b) have regard to any valid representations received from anyone consulted in compliance with those requirements.

51. Draft Regulation 3(6) proposes that this applies where the planning authority considers that its proposals for a MCA scheme may include national or major developments. In such circumstances the planning authority must hold two public events. This is an equivalent requirement to pre-application consultation (PAC) which applies to applications for planning permission for national and major developments. Details of the legislative requirements are covered in both the 1997 Act and the proposed Draft Regulations, as set out in the table below. Draft regulation 3 is in some respects similar to the PAC requirements set out in [Reg 7 of the DMR](#).

<b><u>Schedule 5A Paragraph 8(2) Requirements</u></b> <b>Ministers are to prescribe</b>	<b>Proposed Requirements within draft Regulation 3</b>
(a) who a planning authority must consult before determining the content of any proposals which may be publicised	Draft Regulation 3(4) requires the planning authority to send a notice containing that information to the community council, if any, for an area in respect of which the planning authority are considering making a masterplan consent area scheme.

<p>(b) how that consultation is to be undertaken</p>	<p><u>Notice</u> Draft Regulation 3(3) requires that the planning authority must publish on the internet—</p> <p>(a) a map showing the area in respect of which the planning authority are considering making a masterplan consent area scheme, and</p> <p>(b) a notice containing the information specified in paragraph (5).</p> <p>(5) The information is—</p> <p>(a) a description in general terms of the development in respect of which the planning authority are considering the formulation of proposals for a masterplan consent area scheme,</p> <p>(b) a description of the area in respect of which the planning authority are considering making a masterplan consent area scheme and a statement that that a map showing that area is to be published on the internet under paragraph (3)(a),</p> <p>(c) information as to how, to whom and by what date representations may be made in respect of proposals to make a masterplan consent area scheme,</p> <p>(d) the date and place of the public events.</p> <p><u>Events</u></p> <ul style="list-style-type: none"> <li>• planning authority must hold at least two public events where members of the public may make comments in respect of the proposals to make a MCA scheme [Draft Reg 3(2)]</li> <li>• appropriate notice of the events must be given: the first event is not to be held earlier than 7 days after the notification of the event and the final event must be held at least 14 days after the first event [Draft Reg 3(7)]</li> <li>• At the final public event, the planning authority must provide feedback to members of the public in respect of comments received as regards proposals to make the MCA scheme. [Draft Reg 3(8)]</li> </ul>
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<p>(c) how representations to the planning authority must be made by anyone consulted if they are to be treated as valid representations</p>	<p>Draft Reg 3 (9)</p> <p>For a representation to be treated as valid for the purposes of paragraph 8(1)(b) of new schedule 5A it must be made on or before the date specified in the notice in accordance with paragraph (5)(c).</p> <p>The requirement for publicising and inviting representations is similar to the consultation requirements for planning applications under <a href="#">The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013</a>.</p>
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**Question 5:**

- A) Draft Regulation 3(4) specifies that planning authorities must consult with community councils before determining the content of any MCA proposals which may be publicised. To what extent do you agree with this?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

**Question 6:**

- A) Draft Regulation 3 provides how consultation for possible proposals for a MCA scheme is to be undertaken, including notification and the requirement to undertake two public events, with opportunity to make comments to the planning authority. To what extent do you agree with this approach?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

## MCA schemes form and content

52. There is already significant detail on the form and content and schemes in the Act, as shown in the table below. The Act provides at new Schedule 5A, paragraph 1(3) that the Scottish Ministers may by regulations prescribe further information that must be included in a scheme. However, we do not consider it necessary to add a lot of further prescription in regulations at this stage.

### Act - Schedule 5A paragraph 1

1 (1) A scheme is to consist of—

- a) a map,
- b) a written statement, and
- c) such diagrams, illustrations and other descriptive matter as the relevant planning authority think appropriate for explaining or illustrating the scheme's provisions.

(2) A scheme must specify—

- a) the area to which the scheme relates,
- b) the development, or descriptions of development, for which the scheme grants authorisation,
- c) the date on which the scheme comes into effect,
- d) the date on which the scheme ceases to have effect.

(4) A scheme may not specify as the date on which it ceases to have effect a date that falls more than 10 years after it comes into effect.

53. Draft Regulation 6 sets out that MCA schemes must provide reasons for any conditions, limitations or exceptions that are included in the scheme. This is in the interests of transparency and to reflect the requirement for reasons attached to planning application consents.
54. Guidance could reflect good practice, in terms of other aspects planning authorities may consider including in their MCA schemes. This could suggest the inclusion of informatives or annexes in the MCA schemes directing developers to other consents that may be required e.g. Advertisements, Building Standards Warrant or Hazardous Substances Consent. As noted above (para 48) advice on masterplanning is provided through other Scottish Government policies, advice and tools, so it is not our intention to repeat that for MCAs.

### **Question 7:**

- A) To what extent do you agree that the regulations should require reasons for conditions to be set out in the MCA scheme?  
a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

**Question 8:**

Are there any further aspects you consider should be required to be included in a MCA scheme? Please specify and explain why.

**Consultation on proposals for a masterplan consent area scheme**

55. While there is no requirement specified within the Act to regulate on the consultation requirements of a proposed MCA scheme, it is considered necessary to include regulation on this to provide clarity and consistency.

<b>Consultation Component</b>	<b>Proposed Requirements within draft Regulation 4</b>
Who a planning authority must notify about the proposed MCA scheme	<p>Draft Regulation 4(3) requires the planning authority to send a notice to</p> <ul style="list-style-type: none"> <li>(a) any person (other than the planning authority) who is an owner of land to which the proposed masterplan consent area scheme relates,</li> <li>(b) where there are premises situated on neighbouring land to which the notice can be sent, to the owner, lessee or occupier of those premises,</li> <li>(c) to persons, authorities and bodies in accordance with schedule 1. →(the list of consultees in Schedule 1 is similar to the consultee list for planning applications, set out within Schedule 5 of <a href="#">The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013</a>))</li> </ul> <p>Draft Regulation 4(6) provides that a notice required to be sent to the owner, lessee or occupier of premises under paragraph (3)(b) may be sent by sending the notice to the premises addressed to “the Owner, Lessee or Occupier”.</p>
How that consultation is to be undertaken	<p>Draft Regulation 4(2) requires that the planning authority must publish on the internet—</p> <ul style="list-style-type: none"> <li>(a) a copy of the proposed masterplan consent area scheme,</li> <li>(b) a notice containing the information specified in paragraph (4).</li> </ul>

	<p>Draft Regulation 4(4) The information is—</p> <ul style="list-style-type: none"> <li>(a) a statement that the proposed masterplan consent area scheme has been prepared and how it may be inspected,</li> <li>(b) a brief description of the content and purpose of the proposed masterplan consent area scheme,</li> <li>(c) details of how further information may be obtained regarding the proposed masterplan consent area scheme, including that it is to be published on the internet under paragraph (2)(a),</li> <li>(d) a statement that any person wishing to do so may make representations on the content of the proposed masterplan consent area scheme before the end of the period for representations, and</li> <li>(e) information as to how and to whom any representations should be made including information stating when the period for representations expires.</li> </ul>
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**Question 9:**

A) Draft Regulation 4(3) and Schedule 1 of the draft MCA Regulations specify those who a planning authority must consult with before determining the content of any MCA proposals which may be publicised. To what extent do you agree with these groups?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

**Question 10:**

A) Draft Regulation 4(2) provides how consultation in relation to a MCA scheme is to be undertaken. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

## Publicity for proposals

56. The Act, at paragraph 9 of new [Schedule 5A](#), requires that before making or altering a MCA scheme, the planning authority must –
- (a) comply with the requirements for publicising, and inviting representations in relation to, their proposal for making or altering the scheme, and
  - (b) wait until the period for representations has expired.

Publicity requirements	Draft Regulation 4
<p>Schedule 5A, paragraph 9(2)</p> <p>(2)The Scottish Ministers are to prescribe by regulations—</p> <ul style="list-style-type: none"> <li>a) the requirements for publicising and inviting representations in relation to proposals for making or altering a scheme, and</li> <li>b) the period for representations.</li> </ul>	<p>Draft regulation 4(5) provides that</p> <p>(5) The period for representations for the purposes of paragraph 9 of schedule 5A of the Act is the period of 30 days beginning with the date on which notice is, as the case may be, published under paragraph ((2)(b) or sent under paragraph (3).</p> <p>In terms of the period for representations, under the <a href="#">SPZ Regulations (Regulation 5 (1))</a> there is a 6 week period.</p> <p>The period for representations on planning applications under the DMR is to be specified by the planning authority but must be not less than 21 days. We are intending to make the period for MCA schemes 30 days as this is the period allowed for representations in relation to EIA applications.</p>

### Question 11:

A) Draft Regulation 4(5) sets a 30 day period for representations if they are to be treated as valid representations. To what extent do you agree with this period?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.



## Finalise scheme

### Consideration of representations

57. Paragraph 10 of new [Schedule 5A](#), requires the planning authority to consider valid representations before making or altering a MCA Scheme.

#### [Schedule 5A Paragraph 10](#)

10(1) Where a planning authority have received validly submitted representations in relation to their proposals for making or altering a scheme, they may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until they have considered the representations.

(2) For the purpose of this paragraph, representations are validly submitted if—

- a) they are submitted within the period for representations prescribed under paragraph 9(2), and
- b) they comply with any requirements prescribed by the Scottish Ministers in regulations under this sub-paragraph about how representations must be submitted.

### Hearings

58. Paragraph 11 of new Schedule 5A provides that Scottish Ministers may set out the details of which persons should be given the opportunity of a hearing before a committee of the authority before a MCA scheme is made, and in what circumstances.

#### **Requirement to hold hearings**

#### [Schedule 5A Paragraph 11](#)

11(1) The Scottish Ministers may by regulations prescribe circumstances in which, to fulfil the requirement under paragraph 10(1), a planning authority must give a person of a description prescribed in the regulations an opportunity to appear before and be heard by a committee of the authority.

(2) The requirement under paragraph 10(1) for a planning authority to consider representations includes any representations made at a hearing required by regulations under sub-paragraph (1).

(3) Each planning authority is to make such rules as they consider appropriate in relation to—

- a) the procedures in accordance with which any hearing required by regulations under sub-paragraph (1) is arranged and conducted (including, without prejudice to the generality of this sub-paragraph, procedures for ensuring relevance and avoiding repetition),

- b) any other procedures consequent upon such a hearing,
- c) any right of attendance at such a hearing (other than for the purpose of appearing before, and being heard by, a committee).

(4) Any requirement to hold hearings created by regulations under subparagraph (1) is subject to paragraph 14(3)(b).

59. Draft Regulation 5(1) sets out that the circumstances in which a planning authority must hold a hearing under paragraph 11(1) of schedule 5A of the Act are that the proposed masterplan consent area scheme would authorise development belonging to the category of national developments (as designated in the National Planning Framework).
60. Draft Regulation 5(2) provides that an 'interested party' must be given an opportunity to appear before and be heard by a committee of the planning authority. Draft Regulation 5(3) defines an interested party as a person from whom the planning authority received representations (which were not subsequently withdrawn) in response to a notice published or sent in accordance with regulation 4 in connection with the proposed masterplan consent area scheme.

**Question 12:**

A) To what extent do you agree with the required circumstances, i.e. that where the scheme would authorise a national development, that there be a requirement for a hearing, as set out within Draft Regulation 5(1)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

**Question 13:**

A) To what extent do you agree with the proposals for those who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing as set out within Draft Regulations 5(2) and (3)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view

## Decision making/notification

### Requirement to notify the Scottish Ministers of certain proposals

61. Paragraph 12(1) and (3) of new Schedule 5A includes notification powers to Scottish Ministers to provide proportionate checks and scrutiny of particular schemes, prior to them being made. It allows the Scottish Ministers to issue a general notification direction, with triggers for schemes to be notified to them.

#### Schedule 5A Paragraph 12

12 (1) The Scottish Ministers may direct a planning authority to notify them, as soon as reasonably practicable, of any proposals for making or altering a scheme that the authority have publicised in accordance with paragraph 9.

(2) Where a planning authority are required by a direction under this paragraph to notify the Scottish Ministers of their proposals, the authority may not make the proposed scheme or alteration (whether in the terms proposed or otherwise) until the period provided for in the direction has ended.

(3) A direction under this paragraph may—

- a) be addressed to a particular authority or all authorities,
- b) require that the Scottish Ministers be notified of proposals if—
  - (i) the proposals are of a description specified in the direction, or
  - (ii) an event specified in the direction occurs in connection with the proposals,
- c) provide for the period in the direction to be either—
  - (i) a specified period of time, or
  - (ii) an indefinite period that ends only when the Scottish Ministers tell the authority it has ended.

62. Scottish Ministers intend to issue a Direction to accompany the MCA regulations coming into force, that requires that MCA schemes should be notified to Ministers in the following circumstances. This will ensure consistency with scrutiny on planning applications.

<b>Proposed circumstance in which notification to Ministers required</b>	<b>Reason</b>
<ul style="list-style-type: none"><li>• Development in which planning authorities have an interest</li></ul>	In line with triggers in the <a href="#">Town And Country Planning (Notification Of Applications) (Scotland) Direction 2009</a> .
<ul style="list-style-type: none"><li>• Objection by government agency</li></ul>	
<ul style="list-style-type: none"><li>• Opencast coal and related minerals</li></ul>	
<ul style="list-style-type: none"><li>• <a href="#">historic battlefields</a></li><li>• <a href="#">unconventional oil and gas</a></li><li>• <a href="#">conventional oil and gas</a></li><li>• <a href="#">neighbouring authorities</a></li></ul>	In line with existing specific Directions issued

• <a href="#">spaceport notifications</a>	
• <a href="#">commercial peatland notifications</a>	
• <a href="#">energy from waste</a>	
• <a href="#">safeguarded aerodromes, technical sites and military explosives storage areas</a>	
• <a href="#">electricity generation, transmission or distribution developments</a>	

**Question 14:**

A) To what extent do you agree that a Notification Direction be issued requiring that in the above circumstances such MCA schemes be notified to the Scottish Ministers?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

**‘Make’ the scheme**

63. ‘Making’ is the legal term for adopting a MCA scheme, once ‘made’ the scheme will be in force.

64. Paragraph 7 (2) of new Schedule 5A provides that:

Having considered any responses received to the consultation on their proposals (as paragraph 10 requires), the planning authority may (subject to any direction under paragraph 12 or Chapter 1 of Part 4)—

(a) make the proposed scheme or alteration,

(b) make a scheme or alteration which, in light of the consideration given to responses received to the consultation and any other matters which appear to the authority to be material, differs from what they proposed, or

(c) decide not to make any scheme or alteration.

## Publicise

65. Draft Regulation 7 covers the publication of the MCA scheme and decision notice.

### **Draft Regulation 7**

7. (1) Where a masterplan consent area scheme is made by a planning authority, the planning authority must publish a notice of the decision to make the scheme (“the decision notice”) containing the information specified in paragraph (2).

(2) Publication of the decision notice is to be by publishing in a local newspaper circulating in the area and on the internet a notice containing the following information—

- (a) a statement that the masterplan consent area scheme has been made and how it may be inspected,
- (b) the main reasons and considerations on which the decision is based including reasons for any conditions, limitations or exceptions,
- (c) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures,
- (d) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) The planning authority must make a copy of the masterplan consent area scheme available for inspection at an office of the planning authority.

### **Question 15:**

A) To what extent do you agree with the proposed requirements in relation to the publication of MCA schemes and the decision notice as set out in Draft Regulation 7?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

## Planning Register

66. Draft Regulation 9 provides for the DMR to be amended, to insert a new regulation 5A, in those regulations, to update the requirements in relation to the planning register. This is to ensure that information in relation to MCA schemes is made available on the register. This would provide there be a copy on the register of the:
- proposed scheme or alteration
  - decision notice
  - MCA scheme made, or as altered.

**Draft Regulation 9** would insert the following provision into the DMR:

**“5A.** The register kept by the planning authority must also contain the following information in respect of every masterplan consent area scheme made, or proposed to be made, in respect of land in the district of the planning authority—

- (a) a copy of the proposed scheme or proposed alteration to a scheme published under regulation [4] of the Town and Country Planning (Masterplan Planning (Masterplan Consent Areas) (Scotland) Regulations 2024,
- (b) a copy of the decision notice published under regulation 7 of those Regulations,
- (c) a copy of the masterplan consent area scheme made, or as altered, under paragraph 4, 15 or 16 of Schedule 5A of the Act”

### Question 16:

A) To what extent do you agree with the proposed requirements in relation to the planning register as set out in Draft Regulation 9?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

## Alteration of a MCA scheme

67. Draft Regulation 8 provides details of the process to be followed when a MCA scheme is to be altered. The principle behind this proposed provision is that much of the requirements apply to the alteration of a MCA scheme as apply to the making of a MCA scheme, subject to some modifications, so that references relate to an alteration, and to remove the requirement for public PAC-style events.

**Question 17:**

- A) To what extent do you agree with the proposals for the procedures for altering a MCA scheme, as set out in Draft Regulation 8?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

**Prescribed Form**

68. The [SPZ Regulations](#) supplied seven prescribed forms which set out templates for newspaper advertisements to follow for particular stages associated with preparing a SPZ. We are not proposing to specify in the regulations the text or otherwise what must be covered within advertisements associated with making a MCA scheme.
69. We do not intend to include any prescribed forms as part of the Draft Regulations, but this is something we could offer suggestions on in future guidance to assist planning authorities in the making of a MCA scheme, if helpful.

**Question 18:**

- A) To what extent do you agree with the approach not to prescribe forms of notices within the Draft Regulations?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

**Electronic Communications**

70. Our expectation is that electronic communications will be widely used throughout the procedures to prepare MCAs. The Draft Regulations set out the requirement to publish information associated with the MCA on the internet. We do not propose to include a provision within the Draft Regulations to cover electronic communications, as our understanding is that this is not necessary given current widespread use of electronic communications.

## Environmental Impact Assessment

71. The aim of an Environmental Impact Assessment (EIA) is to ensure that prior to consent for a qualifying project being taken, that it is done so in the full knowledge of any likely significant effects on the environment any steps to avoid or minimise adverse effects have been considered.
72. [The SPZ Regulations](#) excluded any EIA development from being included within SPZ schemes, however EIA development can be included within MCAs. This enables a wider range of development types and uses to make use of MCAs.
73. The draft Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 were developed alongside the main MCA Regulations, to provide an integrated process and ensure environmental assessment principles are followed (see Figure 1). These Regulations resemble the process and procedures within The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and set out how MCA schemes can meet EIA requirements, where required.
74. The draft regulations set out certain procedures that have to be considered and followed to ensure compliance. As the lead for the preparation of the MCA scheme rests with the planning authority, it will be for the planning authority to prepare an EIA where a MCA includes EIA development. This differs from requirements for planning applications where the EIA is prepared by a developer. However we want to promote a collaborative approach to the production of MCA schemes including EIA work, with planning authorities working in partnership with those who will benefit from the certainty of the MCA scheme (including developers and investors).
75. In terms of benefits, EIA can help to identify the likely significant environmental effects of a particular development at an early stage. This can help produce improvements in the planning and design of the development by avoiding significant adverse effects or enhancing positive ones.

### Question 19:

A) To what extent do you agree with the proposed process set out in the Draft Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 contained within [Annex B](#)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.



## Resources

### Discretionary Charging

76. We are aware of previous concerns over resources required for planning authorities to set up SPZs (the predecessor to MCAs) and a loss of planning application fees. We are also very mindful of the current pressures on planning authority resources.
77. A consultation on Planning Performance and Fees was undertaken between December 2019 and February 2020. It included two questions relating to MCAs, asking:
- whether an authority should be able to charge for development within a MCA in order to recoup the costs involved in setting one up. From the responses received:
    - a substantial majority (87%) supported the proposal for planning authorities to be able to recoup the costs involved in setting up a MCA. The principle of recouping costs was supported by all groups.
    - there was a suggestion that the fees should be left to the discretion of the planning authority to reflect their costs at a local level.
  - whether the Scottish Government should set a fee or an upper limit in the regulations. From the responses received:
    - there was 58% support for the setting of a fee or upper limit in regulations.
78. A separate [Scottish Government consultation focusing on wider resourcing](#) considerations is running concurrently with this consultation and will include a number of questions covering MCAs and discretionary charging.

## Impact Assessments

79. The Scottish Government is required to consider the impacts of proposed policies, plans or strategic decisions in relation to equalities, various societal groups and sectors, data protection and the environment, under a range of legislation and commitments.
80. The following impact assessments or relevant screening for them have been completed in relation to the Draft MCA Regulations:
- Equalities Impact Assessment (EQIA)
  - Child Rights and Wellbeing Impact Assessment (CRWIA)
  - Fairer Scotland Duty (FSD)
  - Islands Communities Impact Assessment (ICIA)
  - Business Regulatory Impact Assessment (BRIA) – Partial
  - Strategic Environmental Assessment (SEA)
  - Data Protection Impact Assessment (DPIA)
81. Given the regulations will be procedural, we have screened out most of the impact assessments, as the impacts of the wider documents and policies have been considered through previous assessments for the 2019 Planning Act. Further details of this and the assessments themselves are set out in the Impact Assessments paper published alongside this consultation paper. The following question relates to those impact assessments.

**Question 20:**

- A) To what extent do you agree with our approach to the impact assessments?
- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree
- B) Please explain your view.

**2024 No.**

## **TOWN AND COUNTRY PLANNING**

### **The Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024**

<i>Made</i> - - - -	2024
<i>Laid before the Scottish Parliament</i>	2024
<i>Coming into force</i> - -	2024

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 36 and paragraphs 1(3), 8(1)(a) and (2), 9(2), 11(1) and 22 of schedule 5A of the Town and Country Planning (Scotland) Act 1997<sup>(a)</sup> and all other powers enabling them to do so.

#### **Citation and commencement**

1. These Regulations may be cited as the Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 and come into force on [ ] 2024.

#### **Interpretation**

2. In these Regulations—

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

“community council” means a community council established under Part IV of the Local Government (Scotland) Act 1973<sup>(b)</sup>,

“neighbouring land” means an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the area in respect of which the planning authority propose to make a masterplan consent area scheme,

“period for representations” is the period specified in regulation 4(5).

#### **Consultation on possible proposals for a masterplan consent area scheme**

3.—(1) The requirements as to consultation for the purposes of paragraph 8(1)(a) of schedule 5A of the Act are specified in paragraphs (2) to (5)

(2) The planning authority must hold at least two public events where members of the public may make comments to the planning authority in respect of proposals to make a masterplan consent area scheme.

(3) The planning authority must publish on the internet—

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(a) 1997 c. 8. Sections 54A to 54F and schedule 5A were inserted by section 15 of the Planning (Scotland) Act 2019 (asp 13).

(b) 1973 c. 65.

- (a) a map showing the area in respect of which the planning authority are considering making a masterplan consent area scheme, and
- (b) a notice containing the information specified in paragraph (5).

(4) The planning authority must send a notice containing that information to the community council, if any, for an area in respect of which the planning authority are considering making a masterplan consent area scheme,

(5) The information is—

- (a) a description in general terms of the development in respect of which the planning authority are considering the formulation of proposals for a masterplan consent area scheme,
- (b) a description of the area in respect of which the planning authority are considering making a masterplan consent area scheme and a statement that that a map showing that area is to be published on the internet under paragraph (3)(a),
- (c) information as to how, to whom and by what date representations may be made in respect of proposals to make a masterplan consent area scheme,
- (d) the date and place of the public events.

(6) Paragraph (2) and (5)(d) only apply where the planning authority considers that development in respect of which the planning authority are considering the formulation of proposals for a masterplan consent area scheme may belong to the categories of national developments or major developments.

(7) A public event held by the planning authority in accordance with paragraph (2) is not to be held earlier than 7 days after notification of the date and place of the public event is given under paragraph (5)(d) and the final public event must be held at least 14 days after the first public event.

(8) The planning authority must at the final public event provide feedback to members of the public in respect of comments received by the planning authority as regards proposals to make a masterplan consent area scheme.

(9) For a representation to be treated as valid for the purposes of paragraph 8(1)(b) of schedule 5A it must be made on or before the date specified in the notice in accordance with paragraph (5)(c).

### **Consultation on proposals for a masterplan consent area scheme**

**4.—**(1) For the purposes of paragraph 9(1)(a) of schedule 5A, the requirements for publicising and inviting representations in relation to proposals for making a masterplan consent area scheme are specified in this regulation and schedule 1.

(2) The planning authority must publish on the internet—

- (a) a copy of the proposed masterplan consent area scheme,
- (b) a notice containing the information specified in paragraph (4).

(3) The planning authority must send a notice containing that information—

- (a) to any person (other than the planning authority) who is an owner of land to which the proposed masterplan consent area scheme relates,
- (b) where there are premises situated on neighbouring land to which the notice can be sent, to the owner, lessee or occupier of those premises,
- (c) to persons, authorities and bodies in accordance with schedule 1.

(4) The information is—

- (a) a statement that the proposed masterplan consent area scheme has been prepared and how it may be inspected,
- (b) a brief description of the content and purpose of the proposed masterplan consent area scheme,
- (c) details of how further information may be obtained regarding the proposed masterplan consent area scheme, including that it is to be published on the internet under paragraph (2)(a),
- (d) a statement that any person wishing to do so may make representations on the content of the proposed masterplan consent area scheme before the end of the period for representations, and

(e) information as to how and to whom any representations should be made including information stating when the period for representations expires.

(5) The period for representations for the purposes of paragraph 9 of schedule 5A of the Act is the period of 30 days beginning with the date on which notice is, as the case may be, published under paragraph ((2)(b) or sent under paragraph (3).

(6) A notice required to be sent to the owner, lessee or occupier of premises under paragraph (3)(b) may be sent by sending the notice to the premises addressed to “the Owner, Lessee or Occupier”.

### **Consideration of representations: hearings**

**5.—**(1) The circumstances in which a planning authority must hold a hearing under paragraph 11(1) of schedule 5A of the Act are that the proposed masterplan consent area scheme would authorise development belonging to the category of national developments.

(2) For the purposes of paragraph 11(1) of schedule 5A of the Act the persons who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing under that paragraph are any person who is an interested party.

(3) In this regulation “interested party” means a person from whom the planning authority received representations before the end of the period for representations (and which were not subsequently withdrawn) in response to a notice published or sent in accordance with regulation 4 in connection with the proposed masterplan consent area scheme.

### **Information to be included in a masterplan consent area scheme**

**6.** Where a masterplan consent area scheme specifies any condition, limitation or exception to which the scheme is subject the scheme must also set out the reasons for specifying such condition, limitation or exception.

### **Publication of masterplan consent area scheme and decision notice**

**7.—**(1) Where a masterplan consent area scheme is made by a planning authority, the planning authority must publish a notice of the decision to make the scheme (“the decision notice”) in accordance with paragraph (2).

(2) Publication of the decision notice is to be by publishing in a local newspaper circulating in the area and on the internet a notice containing the following information—

- (a) a statement that the masterplan consent area scheme has been made and how it may be inspected,
- (b) the main reasons and considerations on which the decision is based including reasons for any conditions, limitations or exceptions,
- (c) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures,
- (d) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) The planning authority must make a copy of the masterplan consent area scheme available for inspection at an office of the planning authority.

### **Alteration of a masterplan consent area scheme**

**8.—**(1) Regulations 2 to 4 and 6 and 7 apply to the alteration of a masterplan consent area scheme by a planning authority as they apply to the making of a masterplan consent area consent area scheme by a planning authority with the modifications specified in paragraphs (2) to (4).

(2) References to—

- (a) proposals to make a masterplan consent area scheme are treated as if they were references to proposals to alter a masterplan consent area scheme,

- (b) a proposed masterplan consent area scheme are treated as if they were references to a proposed alteration to a masterplan consent area scheme,
  - (c) to the making of a masterplan consent area scheme are treated as if they were references to the alteration of a masterplan consent area scheme.
- (3) Regulation 3 applies as if paragraphs (2), (5)(d), (6), (7) and (8) were omitted and as if the reference in paragraph (1) to paragraphs (2) and (5) were a reference to paragraphs (3), (4) and (5)(a), (b) and (c).
- (4) Regulation 7 applies as if—
- (a) for paragraph (2)(a) there were substituted—
    - “(a) a statement that the masterplan consent areas scheme has been altered and how the scheme as altered may be inspected,” and
  - (b) in paragraph (3) the reference to a copy of the masterplan consent area scheme were a reference to a copy of the masterplan consent area scheme as altered

**Amendment of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013**

**9.**—(1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 are amended in accordance with paragraph (2).

(2) In schedule 2 (registers under section 36(1)) after paragraph 5 (certificates of lawful use or development) insert—

“**5A.** The register kept by the planning authority must also contain the following information in respect of every masterplan consent area scheme made, or proposed to be made, in respect of land in the district of the planning authority—

- (a) a copy of the proposed scheme or proposed alteration to a scheme published under regulation 4 of the Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024,
- (b) a copy of the decision notice published under regulation 7 of those Regulations,
- (c) a copy of the masterplan consent area scheme made, or as altered, under paragraph 4, 15 or 16 of Schedule 5A of the Act.”.

St Andrew’s House,  
Edinburgh

2024

Authorised to sign by the Scottish Ministers

## SCHEDULE 1

Regulation [4]

The planning authority must give notice of a proposed masterplan consent area scheme to a person, authority or body mentioned in a paragraph below in the circumstances specified in that paragraph.

### 1. SEPA—

(1) where the development to be authorised by the proposed masterplan consent area scheme is likely to result in a material increase in the number of buildings at risk of being damaged by flooding, or

(2) where that development consists of or includes—

- (a) fish farming,
- (b) mining operations,
- (c) the carrying out of building or other operations or use of land for the purposes of providing or storing mineral oils and their derivatives,
- (d) the carrying out of building or other operations (other than the laying of sewers, the construction of pump-houses in a line of sewers, the construction of septic tanks and cesspools serving single dwellinghouses, single caravans or single buildings in which not more than 10 people will normally reside, work or congregate, and works ancillary thereto) or use of land for the retention, treatment or disposal of sewage, trade-waste, or effluent,
- (e) the carrying out of works or operations in the bed or on the banks of a river or stream,
- (f) the use of land as a cemetery, or
- (g) the use of land for the deposit of any kind of refuse or waste, including slurry or sludge.

### 2. Scottish Natural Heritage where—

- (a) the development to be authorised by the proposed masterplan consent area scheme may affect a site of special scientific interest, or
- (b) that development consists of or includes the winning and working of peat.

**3.—**(1) The Health and Safety Executive where the development to be authorised by the proposed masterplan consent area scheme is within an area which has been notified to the planning authority by the Health and Safety Executive for the purpose of this provision or for the purposes of paragraph 3 of schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances (otherwise than on a relevant nuclear site) and which involves the provision of—

- (a) residential accommodation,
- (b) more than 250 square metres of retail floor space,
- (c) more than 500 square metres of office floor space, or
- (d) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

(2) The Office for Nuclear Regulation where the development to be authorised by the proposed masterplan consent area scheme is within an area which has been notified to the planning authority by the Office for Nuclear Regulation for the purpose of this provision or for the purposes of paragraph 3 of schedule 5 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances on a relevant nuclear site and which involves the provision of—

- (a) residential accommodation,
- (b) more than 250 square metres of retail floor space,
- (c) more than 500 square metres of office floor space, or
- (d) more than 750 square metres of floor space to be used for an industrial process, or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

**4.** Scottish Natural Heritage, the Health and Safety Executive and SEPA where the development to be authorised by the proposed masterplan consent area scheme—

- (a) involves the siting of new establishments,
- (b) consists of modifications to establishments covered by Article 11 of Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC (OJ L 197, 24.7.2012, p.1), as Directive 2012/18/EU had effect immediately before IP completion day, or
- (c) includes transport routes, locations of public use and residential areas in the vicinity of an establishment, where the siting or development may be the source of or increase the risk or consequences of a major accident, and, in relation to development falling within paragraph [(c)], any person who is, according to the register held by the planning authority under regulation 41 of the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015, the person who is in control of the land on which the establishment is located.

**5.—(1)** The Scottish Ministers, where the development to be authorised by the proposed masterplan consent area scheme—

- (a) would be within 67 metres of the middle of, or is development comprising the formation, laying out or alteration of any means of access to—
  - (i) a trunk road,
  - (ii) a proposed trunk road or a proposed special road, being a road the route of which is shown as such in the development plan, or in respect of which the Scottish Ministers have given notice in writing to the planning authority of their proposal, together with the maps or plans sufficient to identify the proposed route of the road,
  - (iii) any road which is comprised in the route of a special road to be provided by the Scottish Ministers in accordance with a scheme under section 7 of the Roads (Scotland) Act 1984 relating to special roads, and which has not for the time being been transferred to them, or
  - (iv) any road which has been or is to be provided by the Scottish Ministers in pursuance of an Order under the provisions of that Act relating to trunk roads and special roads and has not for the time being been transferred to any roads authority,
- (b) would be likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a trunk road,
- (c) consists of or includes the winning and working of peat, or
- (d) is marine fish farm development.

**6.** The community council, if any, within whose area the development to be authorised by the proposed masterplan consent area scheme is to take place.

**7.** The Coal Authority where the development to be authorised by the proposed masterplan consent area scheme consists of—

- (a) the erection of a building, other than an alteration, extension or re-erection of an existing building or the erection of a building of a temporary character, or
- (b) the provision of a pipeline, in an area of coal working or former or proposed coal working notified by the Coal Authority to the planning authority.

**8.** Any adjoining planning authority, where the development to be authorised by the proposed masterplan consent area scheme is likely to affect land in the district of that authority

**9.** Network Rail Infrastructure Limited or any other railway undertakers likely to be affected where—

- (a) some part of the development to be authorised by the proposed masterplan consent area scheme is to be situated within 10 metres of a railway line forming part of the national railway network, or



- (b) the development to be authorised by the proposed masterplan consent area scheme is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.

**10.** The roads authority concerned, where the development to be authorised by the proposed masterplan consent area scheme involves—

- (a) the formation, laying out or alteration of any means of access to, or is likely to create or attract traffic which will result in a material increase in the volume of traffic entering or leaving, a road (other than a trunk road) for which the planning authority are not also the roads authority, or
- (b) the formation, laying out or alteration of any means of access to land affording access to a toll road.

**11.** The Theatres Trust where the development to be authorised by the proposed masterplan consent area scheme involves any land on which there is a theatre as defined in the Theatres Trust Act 1976.

**12.** Scottish Water where the development to be authorised by the proposed masterplan consent area scheme is likely to require a material addition to or a material change in the services provided by that authority.

**13.** A district salmon fishery board where the development to be authorised by the proposed masterplan consent area scheme consists of fish farming.

**14.** The Scottish Ministers and the Secretary of State where development to be authorised by the proposed masterplan consent area scheme is marine fish farm development which may affect a site designated as a controlled site under section 1 of the Protection of Military Remains Act 1986.

**15.** The Crofting Commission where the development to be authorised by the proposed masterplan consent area scheme may have an adverse effect on the continued use of land for crofting.

**16.** sportscotland where the development to be authorised by the proposed masterplan consent area scheme is likely to—

- (a) result in the loss of an outdoor sports facility,
- (b) prejudice the use of an existing outdoor sports facility for that purpose, or
- (c) prevent the use of land, which was last used as an outdoor sports facility, from being used again for that purpose.

**17.** Historic Environment Scotland, where development to be authorised by the proposed masterplan consent area scheme—

- (a) is situated within 800 metres from any Royal Palace or Park, and might affect the amenities of that Palace or Park,
- (b) would include works—
  - (i) for the demolition of a listed building,
  - (ii) for the alteration or extension of a listed building,
  - (iii) for the demolition of a building in a conservation area,
- (c) may affect—
  - (i) a World Heritage Site,
  - (ii) a historic garden or designed landscape,
  - (iii) the site of a scheduled monument or its setting,
  - (iv) a category A listed building or its setting, or
  - (v) a historic battlefield.

## **Interpretation of Schedule 5**

**18.**—(1) In this Schedule—

“category A listed building” means a listed building specified as being category A in a list of buildings compiled or approved under section 1 of the Listed Buildings Act (listing of buildings of special architectural or historic interest),

“conservation area” means an area for the time being designated under section 61 of the Listed Buildings Act (designation of conservation areas),

“district salmon fishery board” has the meaning assigned to it by section 40 of the Salmon Act 1986,

“historic battlefield” means a battlefield which is included in the inventory of battlefields compiled and maintained under section 32B of the Ancient Monuments and Archaeological Areas Act 1979,

“listed building” means a listed building within the meaning of section 1(4) of the Listed Buildings Act,

“Listed Buildings Act” means the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997(c),

“outdoor sports facility” means land used as—

- (a) an outdoor playing field extending to not less than 0.2ha used for any sport played on a pitch,
- (b) an outdoor athletics track,
- (c) a golf course,
- (d) an outdoor tennis court, other than those within a private dwelling, hotel or other tourist accommodation, and
- (e) an outdoor bowling green,

“relevant nuclear site” means a site which is—

- (a) a nuclear site (within the meaning given in section 112(1) of the Energy Act 2013),
- (b) an authorised defence site (within the meaning given in regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998),
- (c) a new nuclear build site (within the meaning given in regulation 2A of those 1998 Regulations),

“roads authority” has the same meaning as in section 151 of the Roads (Scotland) Act 1984,

“SEPA” means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995,

“site of special scientific interest” has the same meaning as in section 58(1) of the Nature Conservation (Scotland) Act 2004,

“slurry” means animal faeces and urine (whether or not water has been added),

“special road” means a road provided or to be provided in accordance with a scheme under section 7 of the Roads (Scotland) Act 1984,

“sportscotland” means the Scottish Sports Council,

“toll order” has the same meaning as in Part II of the New Roads and Street Works Act 1991,

“toll road” means a road which is the subject of a toll order,

“trunk road” means a road or proposed road which is a trunk road within the meaning of section 151 of the Roads (Scotland) Act 1984 that is to say, a road which is a trunk road by virtue of section 5 of that Act or of an Order or direction under that section or section 202 of the Act,

“World Heritage Site” means a site included in the World Heritage List kept under article 11(2) of the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at Paris on 16 November 1972.

(2) Expressions which are used in paragraph 4 and in Council Directive 96/82/EC of the European Council on the control of major accident hazards involving dangerous substances have the same meaning in that paragraph as in that Directive, as it had effect immediately before IP completion day.

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(c) 1997 c. 9.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in connection with the preparation of masterplan consent area schemes under schedule 5A of the Town and Country Planning (Scotland) Act 1997 (“the Act”).

## Annex B – Draft MCA EIA Regulations

*Draft Regulations laid before the Scottish Parliament under section 5(2) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 for approval of the Scottish Parliament*

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### SCOTTISH STATUTORY INSTRUMENTS

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**2024 No.**

## **TOWN AND COUNTRY PLANNING**

### **The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024**

*Made* - - - - 2024

*Coming into force* - - 2024

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 40 and 275 of the Town and Country Planning (Scotland) Act 1997<sup>(a)</sup>, section 1(1) of UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021<sup>(b)</sup> and all other powers enabling them to do so.

In accordance with section 5(2) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

## **PART 1**

### **Introductory**

#### **Citation and commencement**

**1.**—(1) Regulations may be cited as the Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 and come into force on [ 2024 ].

#### **Interpretation**

**2.** In these Regulations—

“the 2017 Regulations” means the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017<sup>(c)</sup>,

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<sup>(a)</sup> 1997 c. 8. Section 275 was relevantly amended by section 54(16) of the 2006 Act. Section 277 contains a definition of prescribed relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State under the Town and Country Planning (Scotland) Act 1997 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

<sup>(b)</sup> 2021 asp 4.

<sup>(c)</sup> S.S.I. 2017/102.

“the Act” means the Town and Country Planning (Scotland) Act 1997 and references to sections without reference to the Act are references to sections of that Act,

“additional information” has the meaning given in regulation 16(2),

“the CCS Directive” means Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No. 1013/2006(d) as Directive 2009/31/EC had effect immediately before IP completion day,

“the consultation bodies” means—

- (a) any adjoining planning authority, where the proposed development is likely to affect land in their area,
- (b) Scottish Natural Heritage (Naturescot),
- (c) Scottish Water,
- (d) the Scottish Environment Protection Agency,
- (e) Historic Environment Scotland,

“decision notice” has the meaning given in regulation 19;

“development” has the same meaning as in section 54F of the Act,

“the Development Management Procedure Regulations” means the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013(e);

“the Directive” means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment(f) as it had effect immediately before IP completion day,

“EIA development” means proposed development which is either—

- (a) Schedule 1 development; or
- (b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location,

“EIA report” has the meaning given in regulation 5,

“electronic communication” has the meaning given in section 15(1) (general interpretation) of the Electronic Communications Act 2000(g),

“environmental impact assessment” has the meaning given in regulation 4,

“environmental information” means—

- (a) the EIA report prepared in respect of the proposed development,
- (b) any additional information obtained in respect of the proposed development,
- (c) any representations made by any consultation body, or other public body, consulted in respect of the proposed development in accordance with these Regulations; and
- (d) any representations duly made by any other person about the environmental effects of the proposed development,

“exempt development” means development in respect of which the Scottish Ministers have made a direction under regulation 6(4) or (6),

“fish farming” means the breeding, rearing or keeping of fish, excluding shellfish,

“fish farm development” means the placing or assembly of any equipment in marine waters for the purposes of fish farming (“equipment” having the same meaning as in section 26(6))(h) and any material change of use of equipment so placed or assembled,

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(d) OJ No L 140, 5.6.2009, p. 114.

(e) S.S.I. 2013/155, as amended by S.S.I. 2014/469, S.S.I. 2015/181, S.S.I. 2015/237 and S.S.I. 2015/249.

(f) OJ L 26, 28.1.2012, p. 1 as amended by Directive 2014/52/EU.

(g) 2000 c. 7, as amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(h) Section 26(6) was amended by section 24(2)(a) of the Water Environment and Water Services (Scotland) Act 2003 (asp 3) and section 3(1)(c) of the Planning etc. (Scotland) Act 2006 (asp 17).

“the land” means the land on which the proposed development would be carried out,

“marine waters” means the waters described in paragraphs (b) and (c) of subsection (6) of section 26 (meaning of development),

“multi-stage condition” means a condition specified in a masterplan consent area scheme, where (in terms of the condition) the approval, consent or agreement of the planning authority must be obtained before all or part of the development authorised by the scheme may be begun,

“planning authority website” means a website maintained by the planning authority, *inter alia* for the purpose of making publicly available information relating to proposed development to which these Regulations apply,

“proposed development” in respect of a proposed masterplan consent area scheme, means development for which authorisation would be granted by the scheme if the scheme is made,

“register” means a register kept pursuant to section 36(i) (registers of applications etc.),

“relevant assessment” means, in relation to a proposed development, an assessment, or verification, of effects on the environment carried out pursuant to national legislation which is relevant to the assessment of the environmental impacts of the proposed development,

“Schedule 1 development” has the same meaning as in the 2017 Regulations,

“Schedule 2 development” has the same meaning as in the 2017 Regulations,

“scoping direction” means a direction made by the Scottish Ministers as to the scope and level of detail of information to be provided in the EIA report,

“scoping opinion” means the opinion of the planning authority as to the scope and level of detail of information to be provided in the EIA report,

“screening direction” means a direction made by the Scottish Ministers as to whether development is, or is not, EIA development,

“screening opinion” means a written statement of the opinion of the planning authority as to whether development is, or is not, EIA development.

(2) Subject to paragraph (3), expressions used both in these Regulations and in the Act have the same meaning for the purposes of these Regulations as they have for the purposes of the Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations, where a planning authority prepares a revised, updated or supplementary EIA report (or a report which the planning authority refers to as such) references to an EIA report are to be treated as including a reference to that revised, updated or supplementary EIA report.

### **Prohibition on making a masterplan consent area scheme without an environmental assessment**

3. The planning authority or the Scottish Ministers, as the case may be, must not make a masterplan consent area scheme which grants authorisation for EIA development unless an environmental impact assessment has been carried out in respect of that proposed development and in carrying out such assessment the planning authority or the Scottish Ministers, as the case may be, must take the environmental information into account.

### **Environmental impact assessment**

4.—(1) An environmental impact assessment is a process consisting of—

- (a) the preparation of an EIA report,
- (b) the carrying out of consultation, publication and notification as required by Parts 4 and 5 and, where relevant, Part 7,

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(i) Section 36 was amended by the Planning etc. (Scotland) Act 2006 (asp 17), section 12, by S.S.I. 2007/268 and by S.S.I. 2009/256.

- (c) the examination by the planning authority or the Scottish ministers, as the case may be, of the information presented in the EIA report and any other environmental information,
- (d) the reasoned conclusion by the planning authority or the Scottish Ministers, as the case may be, on the significant effects of the development on the environment, taking into account the results of the examination referred to in sub-paragraph (c) and, where appropriate, their own supplementary examination, and
- (e) the integration of that reasoned conclusion into the decision notice in accordance with regulation 29.

(2) The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development (including, where the proposed development will have operational effects, such operational effects) on the factors specified in paragraph (3) and the interaction between those factors.

(3) The factors are—

- (a) population and human health,
- (b) biodiversity, and in particular species and habitats protected under Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(j)</sup> and Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds<sup>(k)</sup> as that Directive had effect immediately before IP day,
- (c) land, soil, water, air and climate, and
- (d) material assets, cultural heritage and the landscape.

(4) The effects to be identified, described and assessed under paragraph (2) include the expected effects deriving from the vulnerability of the development to risks, so far as relevant to the development, of major accidents and disasters.

(5) Unless paragraph (6) applies, the environmental impact assessment to be carried out in relation to the making of a masterplan consent area scheme which authorises EIA development must identify the likely significant effects of the proposed development on the environment before a decision to make the masterplan consent area scheme is made.

(6) This paragraph applies where the planning authority or the Scottish Ministers, as the case may be—

- (a) consider that the likely significant effects of the proposed development on the environment are not fully identifiable at the time of their decision to make the scheme, and
- (b) are minded to make the authorisation to be granted by the scheme for EIA development subject to a multi-stage condition.

(7) The planning authority or the Scottish Ministers, as the case may be, must ensure that they have, or have access as necessary to, sufficient expertise to examine the EIA report.

### **Environmental Impact Assessment Report**

**5.—**(1) An environmental impact assessment report (“EIA report”) is a report prepared in accordance with this regulation in relation to proposed development to be authorised by a masterplan consent area scheme which includes (at least)—

- (a) a description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development,
- (b) a description of the likely significant effects of the proposed development on the environment,
- (c) a description of the features of the proposed development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment,
- (d) a description of the reasonable alternatives studied by the planning authority or the Scottish Ministers, as the case may be, which are relevant to the proposed development and its specific

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(j) OJ L 206, 22.7.1992, p. 7.

(k) OJ L 20, 26.1.2010, p. 7.

characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment,

- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d), and
- (f) any other information specified in schedule 2 relevant to the specific characteristics of the proposed development and to the environmental features likely to be affected.

(2) Where a scoping opinion (or scoping direction) is issued, the EIA report must be based on that scoping opinion (or scoping direction, as the case may be), and include the information that may reasonably be required for reaching a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment.

(3) With a view to avoiding duplication of assessments, account is to be taken of the available results of other relevant assessments in preparing the EIA report.

(4) In order to ensure the completeness and quality of the EIA report—

- (a) the planning authority or the Scottish Ministers, as the case may be, must ensure that the EIA report is prepared by competent experts; and,
- (b) the EIA report must be accompanied by a statement from the planning authority outlining the relevant expertise or qualifications of such experts.

## PART 2

### Determining whether environmental impact assessment is required

#### **EIA Development**

**6.—**(1) Subject to paragraphs (3), (4) and (6) the occurrence of an event mentioned in paragraph (2) will determine for the purpose of these Regulations that proposed development is EIA development.

(2) The events referred to in paragraph (1) are—

- (a) the adoption of a screening opinion by the planning authority to the effect that the proposed development is EIA development,
- (b) the making by the Scottish Ministers of a screening direction to the effect that the proposed development is EIA development, or
- (c) if no screening opinion has been adopted by the planning authority and no screening direction has been made by the Scottish Ministers, the preparation by the planning authority (or the Scottish Ministers) of an EIA report in relation to the proposed development.

(3) A screening direction by the Scottish Ministers determines for the purpose of these Regulations whether the proposed development is or is not EIA development (whether or not an EIA report has been prepared) and a later screening direction supersedes the terms of an earlier screening direction or screening opinion.

(4) The Scottish Ministers may direct that these Regulations do not apply in relation to a particular proposed development specified in the direction if the development comprises a project having the response to civil emergencies as its sole purpose and where in the opinion of the Scottish Ministers compliance with these Regulations would have an adverse effect on that purpose.

(5) Where a direction is given under paragraph (4) the Scottish Ministers must send a copy of the direction to the planning authority.

(6) The Scottish Ministers may in exceptional cases direct that these Regulations do not apply in relation to a particular proposed development specified in the direction where in the opinion of the Scottish Ministers compliance with these Regulations would have an adverse effect on the purpose of the proposed development.

(7) Before making a direction under paragraph (6) the Scottish Ministers must consider whether another form of assessment would be appropriate and where a direction is given the Scottish Ministers must—

- (a) send a copy of the direction to the planning authority,



- (b) make available to the public concerned the information considered in making the direction and the reasons for making the direction, and
- (c) take such steps as are considered appropriate to bring the information obtained under the other form of assessment to the attention of the public concerned.

### **General provisions relating to screening**

7.—(1) When making a determination as to whether Schedule 2 development is EIA development, a planning authority or the Scottish Ministers, as the case may be, must take into account—

- (a) such of the selection criteria set out in schedule 1 as are relevant to the proposed development, and
- (b) the available results of any relevant assessment.

(2) Where a planning authority adopt a screening opinion or the Scottish Ministers make a screening direction—

- (a) that screening opinion or screening direction must be accompanied by a written statement giving, with reference to the criteria set out in schedule 1 as are relevant to the proposed development, the main reasons for their conclusion as to whether the proposed development is, or is not, EIA development, and
- (b) where the screening opinion or the screening direction is to the effect that proposed development is not EIA development, the statement referred to in paragraph (a) must state any features of the proposed development or proposed measures envisaged to avoid or prevent significant adverse effects on the environment.

(3) As soon as possible after adopting a screening opinion the planning authority must publish a copy of the screening opinion and a copy of the written statement referred to in paragraph (2)(a) on the internet and place a copy of the screening opinion and written statement on the register.

(4) The Scottish Ministers may make a screening direction either—

- (a) at their own volition, or
- (b) if requested to do so in writing by any person.

(5) The Scottish Ministers may make a screening direction that a particular development of a description mentioned in Column 1 of the table in Schedule 2 of the 2017 Regulations is EIA development in spite of the fact that none of the conditions contained in sub paragraphs (a) and (b) of the definition of “Schedule 2 development” in regulation 2(1) of the 2017 Regulations is satisfied in relation to that development.

(6) As soon as possible after adopting a screening direction, the Scottish Ministers must send a copy of the screening direction and a copy of the written statement referred to in paragraph (2) to—

- (a) the planning authority, and
- (b) where the screening direction is made following a request, to the person who made the request.

## **PART 3**

### **Preparation of environmental impact assessment reports**

#### **Scoping opinions**

8.—(1) A planning authority or the Scottish Ministers may adopt a scoping opinion.

(2) A planning authority or the Scottish Ministers, as the case may be, must not adopt a scoping opinion until they have consulted—

- (a) the consultation bodies,
- (b) the Health and Safety Executive where they would be required to be consulted under paragraph 3 or 4 of schedule 5 to the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development,

- (c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 to the Development Management Procedure Regulations in relation to an application for planning permission for the proposed development, and
- (d) any other public body which the planning authority considers is likely to have an interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.

(3) A later scoping opinion supersedes the terms of an earlier scoping opinion and a scoping direction supersedes the terms of an earlier scoping opinion or earlier scoping direction.

### **Procedure to facilitate preparation of EIA reports**

**9.**—(1) Subject to paragraphs (4) and (5), any body specified in paragraph (2) must, if requested by the planning authority or the Scottish Ministers—

- (a) enter into consultation with the planning authority or the Scottish Ministers, as the case may be, to determine whether the body have in their possession any information which the planning authority (or the Scottish Ministers) or they consider relevant to the preparation of the EIA report, and
- (b) make such information available to the planning authority or the Scottish Ministers, as the case may be.

(2) The bodies are—

- (a) the consultation bodies, and
- (b) any other public body which the planning authority or the Scottish Ministers, as the case may be, consider is likely to have a interest in the proposed development by reason of that body's specific environmental responsibilities or local and regional competencies.

(3) A request under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the proposed development and must indicate the main environmental consequences to which the planning authority or the Scottish Ministers, as the case may be, propose to refer in the EIA report.

(4) In relation to a person to which the Environmental Information (Scotland) Regulations 2004<sup>(l)</sup> apply, paragraph (1) does not require disclosure of information which the person—

- (a) may refuse to disclose under regulation 10(1) (exceptions to the duty to disclose environmental information) of those Regulations, or
- (b) is prevented from disclosing by regulation 11(1) (personal data) of those Regulations

(5) In relation to a person to which the Environmental Information Regulations 2004<sup>(m)</sup> apply, paragraph (1) does not require disclosure of information which the person—

- (a) may refuse to disclose under regulation 12(1) (exceptions to the duty to disclose environmental information) of those Regulations, or
- (b) is prevented from disclosing by regulation 13(1) (personal data) of those Regulations.

(6) A reasonable charge reflecting the cost of making the relevant information available may be made by any person who makes information available in accordance with paragraph (1).

## **PART 4**

### **Publicity and notification of environmental impact assessment reports**

#### **Notification of EIA Report**

**10.**—(1) Where, in relation to proposed development—

- (a) the planning authority or the Scottish Ministers, as the case may be, prepare an EIA report, and

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(l) S.S.I. 2004/520.  
(m) S.I. 2004/3391.

- (b) there are premises situated on the neighbouring land to which the notice can be sent,

the planning authority or the Scottish Ministers, as the case may be, must give notice to the owner, lessee or occupier of such premises in accordance with this regulation.

(2) Notice under paragraph (1) is to be—

- (a) in the form set out in, and completed in accordance with the notes in, schedule 3 (or in a form substantially to the like effect); and
- (b) given by sending to such premises a notice addressed to “the Owner, Lessee or Occupier”.

(3) For the purposes of this regulation, “neighbouring land” has the same meaning as in regulation 3(1) (interpretation) of the Development Management Procedure Regulations.

### **Publication of EIA report**

**11.**—(1) Where, in relation to a masterplan area consent scheme the planning authority prepare an EIA report (including where the EIA report is prepared following a notice under regulation 14(2)) the planning authority must publish a notice in accordance with this regulation.

(2) Notice under paragraph (1) must—

- (a) state that it is proposed to make a masterplan consent area scheme authorising the proposed development to which the EIA report relates,
- (b) state that the proposed development is subject to environmental impact assessment and, where relevant, state that it is likely to have significant effects on the environment in an EEA State,
- (c) state that the EIA report is available for inspection free of charge and the times and places at which, and the means by which, the EIA report is available for inspection,
- (d) state how copies of the EIA report may be obtained,
- (e) state the cost of a copy of the EIA report,
- (f) state how and by what date representations may be made (being a date not earlier than 30 days after last date on which the notice is published),
- (g) provide details of the arrangements for public participation in the decision making procedure including a description of how notice is to be given of any subsequent additional information and how representations in relation to that additional information may be made, and
- (h) state the nature of possible decisions to be taken in relation to the masterplan consent area scheme and provide details of the authority by which such decisions are to be taken.

(3) Notice under paragraph (1) must be published—

- (a) on the planning authority website,
- (b) in The Edinburgh Gazette, and
- (c) in a newspaper circulating in the locality in which the proposed development is situated.

(4) The planning authority must—

- (a) place a copy of the EIA report in Part I of the register together with a copy of the related proposed masterplan consent area scheme, and
- (b) make copies of the EIA report and the proposed masterplan consent area scheme available for inspection—
  - (i) on the planning authority website, and
  - (ii) at an office of the planning authority where the register may be inspected.

### **Consultation on EIA report**

**12.**—(1) Where a planning authority prepare an EIA Report in connection with a proposed masterplan consent area scheme (including where the EIA report is prepared following a notice under regulation 14(2)), they must—

- (a) send a copy of the EIA report to the bodies mentioned in paragraph (2), and
- (b) consult the bodies mentioned in paragraph (2) about the EIA report and inform them how and by what date representations may be made (being a date not earlier than 30 days after the date on which the copy of the EIA report was sent).

(2) The bodies are—

- (a) the consultation bodies,
- (b) the Health and Safety Executive where it would be required to be consulted under paragraph 3 or 4 of schedule 5 of the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development,
- (c) the Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 of the Development Management Procedure Regulations in relation to the application for planning permission for the proposed development, and
- (d) any other public body which the planning authority considers are likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies.

(3) Where a body which a planning authority are required to consult under this regulation considers that consultation with that body is not required in respect of any EIA report relating to any case or class of case or relating to any specified area and so inform the planning authority in writing then the planning authority are not required to consult that body under this regulation.

### **Copy of EIA report for the Scottish Ministers**

**13.** Where an EIA report is prepared by a planning authority in relation to a proposed masterplan consent area scheme which is subject to a call-in direction under paragraph 14 of schedule 5A of the Act, the planning authority must provide the Scottish Ministers with a copy of the EIA report and, where relevant, a copy of any additional information.

### **Proposed masterplan consent area scheme for EIA development called in by the Scottish Ministers**

**14.—(1)** This regulation applies where a proposed masterplan consent area scheme which is subject to a call-in direction under paragraph 14 of schedule 5A of the Act relates to EIA development and is not accompanied by an EIA report.

(2) Where this regulation applies the Scottish Ministers must notify the planning authority in writing that the submission of an EIA report is required.

(3) A planning authority who receives notice under paragraph (2) may within the period of 21 days beginning with the date of the notice write to the Scottish Ministers stating that an EIA report will be provided and may request the Scottish Ministers to make a scoping direction.

(4) If the planning authority does not write in accordance with paragraph (4), the Scottish Ministers are under no duty to deal with the proposed masterplan consent area scheme, and at the end of the 21 day period the Scottish Ministers must inform the planning authority in writing that no further action is being taken on the proposed masterplan consent area scheme.

### **Availability of copies of EIA report**

**15.—(1)** Where an EIA report is prepared by a planning authority in relation to a proposed masterplan consent area scheme, the planning authority must ensure that a reasonable number of copies of the EIA report are available for inspection at any place named (by virtue of regulation 11(2)(c)) in the notice published under regulation 11(1) as a place at which copies of the EIA report may be inspected.

(2) The planning authority must provide copies of the EIA report in accordance with the terms of the notice published under regulation 11(1) and where that notice includes an address at which copies of the EIA report may be obtained a reasonable number of copies of the EIA report are to be available at that address.

(3) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an EIA report provided in accordance with paragraph (2).

## PART 5

### Additional Information

#### **Additional information and evidence relating to EIA reports**

**16.**—(1) This regulation applies where the planning authority or the Scottish Ministers, as the case may be, are considering making a masterplan consent area scheme which authorises EIA development.

(2) In order to ensure the completeness and quality of the EIA report, the planning authority or the Scottish Ministers, as the case may be, must (having regard in particular to current knowledge and methods of assessment) obtain supplementary information about a matter to be included in the EIA report in accordance with regulation 5(2) which in the opinion of the planning authority or the Scottish Ministers, as the case may be, is directly relevant to reaching a reasoned conclusion on the significant effects of the development on the environment and such information is referred to in these Regulations as “additional information”.

(3) The Scottish Ministers may in writing require [the planning authority to provide] [to be produced to them] such evidence in respect of any EIA report or additional information as they may reasonably call for to verify any information contained in the EIA report or such additional information, as the case may be.

#### **Publication of additional information**

**17.**—(1) Where additional information is obtained by the planning authority or the Scottish Ministers, regulations 10 to 12, 14 and 15 apply to such additional information as they apply to an EIA report as if references to the EIA report were references to that additional information.

(2) Paragraph (1) does not apply in relation to additional information to the extent that—

- (a) the information is provided for the purposes of an inquiry held under the Act,
- (b) the written requirement for the information states that it is to be provided for such purposes, and
- (c) the information is required to be publicised as part of that inquiry.

## PART 6

### Availability of directions etc. and notification of decisions

#### **Availability of opinions, directions etc. for inspection**

**18.**—(1) Where any document mentioned in paragraph (2) is received, issued or adopted by the planning authority, the planning authority must make copies of that document available for inspection—

- (a) on the planning authority website,
- (b) at all reasonable hours at an office of the planning authority where the register may be inspected.

(2) The documents are—

- (a) direction given under regulation 6(4) or (6),
- (b) screening opinion,
- (c) screening direction,
- (d) scoping opinion,
- (e) scoping direction,
- (f) EIA report and any additional information, and
- (g) statement of reasons accompanying any of the above.

(3) Where particulars of a proposed masterplan consent area scheme are placed on the register, the planning authority must take steps to secure that there is also placed on the register a copy of any document mentioned in paragraph (2) which is relevant to that masterplan consent area scheme.

(4) Documents made available under paragraph (1) must remain so available for a period of two years.

## Decision notice

**19.**—(1) Where a masterplan consent area scheme is made [or altered] by a planning authority or the Scottish Ministers, the planning authority or the Scottish Ministers, as the case may be, must publish notification of the decision to make, or alter, the scheme (“the decision notice”) and the decision notice must include the information specified in paragraph (2).

(2) The information is—

- (a) the main reasons and considerations on which the decision is based including reasons for any conditions, limitations or exceptions,
- (b) information about the arrangements taken to ensure the public had the opportunity to participate in the decision making procedures,
- (c) a summary of—
  - (i) the environmental information, and
  - (ii) the results of the consultations and information gathered pursuant to Parts 4 and 5 and, where relevant, Part 7 and how those results, in particular comments received from an EEA State pursuant to consultation under regulation 23, have been incorporated or otherwise addressed,
- (d) if the decision is to make a masterplan consent area scheme—
  - (i) any conditions, limitations or exceptions to which the scheme is subject,
  - (ii) the reasoned conclusion referred to in regulation 4(1)(d),
  - (iii) a statement that the planning authority or the Scottish Ministers, as the case may be, are satisfied that the reasoned conclusion is still up to date,
  - (iv) a description of any mitigation measures, and
  - (v) a description of any monitoring measures required under regulation 20, and
- (e) information regarding the right to challenge the validity of the decision and the procedures for doing so.

(3) Where regulation 4(6) applies the decision notice must describe the matters in respect of which the planning authority or the Scottish Ministers, as the case may be, consider that the effects of the proposed development are not fully identifiable at the time of their decision to make the masterplan consent area scheme.

(4) For the purposes of paragraph (2)(d)(iii) the reasoned conclusion referred to in regulation 4(1)(d) is still up to date if, the planning authority or the Scottish Ministers, as the case may be, are satisfied, having regard to current knowledge and methods of assessment, that the reasoned conclusion addresses the likely significant effects of the proposed development on the environment.

(5) In this regulation “planning obligation” has the meaning given in section 75 and in this regulation and in regulation 20—

“mitigation measures” means any features of the proposed development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment including any such features or measures required by virtue of—

- (a) a condition or limitation to which the authorisation given by the masterplan consent area scheme is subject, or
- (b) a planning obligation;

“monitoring measures” means measures requiring the monitoring of any significant adverse effects on the environment of the proposed development including any such measures required by virtue of—

- (a) condition or limitation to which the authorisation given by the masterplan consent area scheme is subject, or
- (b) a planning obligation.

## **Monitoring measures**

**20.**—(1) Where a planning authority or the Scottish Ministers are determining whether to make a masterplan consent area scheme, the planning authority or the Scottish Ministers, as the case may be, must consider whether it is appropriate to require monitoring measures to be carried out.

(2) When considering whether to require monitoring measures to be carried out, and the nature of any such monitoring measures, the planning authority or the Scottish Ministers, as the case may be, must consider—

- (a) whether monitoring measures are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment having regard in particular to the type of parameters to be monitored and the duration of the monitoring,
- (b) in order to avoid duplication of monitoring, whether monitoring arrangements required under legislation applicable in Scotland are more appropriate, and
- (c) if monitoring measures are to be required, whether provision should be made to require appropriate remedial action.

(3) Where the planning authority or the Scottish Ministers consider that it is appropriate to require monitoring measures they must do so.

(4) Where mitigation measures or monitoring measures are required the planning authority must take steps to ensure that those measures are implemented.

## **Notification of decision**

**21.**—(1) Where a planning authority make a masterplan consent area scheme, the planning authority must, as soon as reasonably practicable—

- (a) send a copy of the decision notice to the Scottish Ministers,
- (b) inform the public and those bodies consulted in accordance with regulation 12(2) of the decision and where a copy of decision notice may be inspected, by publishing a notice on the planning authority website or in a newspaper circulating in the locality in which the land is situated or by such other means as are reasonable in the circumstances, and
- (c) make a copy of the decision notice available for public inspection—
  - (i) at an office of the planning authority where the register may be inspected; and
  - (ii) on the planning authority website.

(2) Where an masterplan consent area scheme is made by the Scottish Ministers, they must send a copy of the decision notice to the planning authority.

(3) The planning authority must, as soon as reasonably practicable after notification of the decision under paragraph (2), comply with paragraph (1)(b) and (c) in relation to the decision so notified as if it were a decision of the planning authority.

## **PART 7**

### **Special cases**

#### **Marine fish farming**

**22.**—(1) These Regulations apply to an proposed development which is fish farm development subject to the following modifications.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “the consultation bodies” after paragraph (e) insert—
  - “(f) any district salmon fishery board in whose area the proposed development is to be situated, and
  - (g) the Scottish Ministers;”, and

(b) after the definition of “the Directive” insert—

““district salmon fishery board” has the meaning given in section 43 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003( ).”.

(3) References to the land on which the proposed development is situated are to be treated as references to the location of the proposed development.

(4) Regulation 10 does not apply.

(5) Where an application for planning permission relates in part to fish farm development and in part to other development, the modifications specified in this regulation apply only for the purposes of the application to the extent that it relates to fish farm development.

### **Development in Scotland likely to have significant effects in an EEA State**

**23.**—(1) This regulation applies where—

- (a) it comes to the attention of the Scottish Ministers that the proposed development proposed is EIA development and is likely to have significant effects on the environment in an EEA State, or
- (b) an EEA State likely to be significantly affected by such development so requests.

(2) Where this regulation applies, the Scottish Ministers must—

- (a) send to the EEA State, as soon as possible and no later than their date of publication in The Edinburgh Gazette referred to in paragraph (b), the particulars mentioned in paragraph (3) and, if they think fit, the information referred to in paragraph (4),
- (b) publish the information in paragraph (a) in a notice placed in The Edinburgh Gazette indicating the address where further information is available, and
- (c) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(3) The particulars referred to in paragraph (2)(a) are—

- (a) a description of the development, together with any available information on its possible significant effect on the environment in the EEA State, and
- (b) information on the nature of the decision which may be taken.

(4) Where an EEA State indicates, in accordance with paragraph (2)(c), that it wishes to participate in the procedure for which these Regulations provide, the Scottish Ministers must as soon as possible send to that EEA State the following information—

- (a) a copy of the proposed masterplan consent area scheme concerned,
- (b) a copy of the EIA report in respect of the proposed development, and
- (c) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (2)(a).

(5) The Scottish Ministers, insofar as they are concerned, must also—

- (a) arrange for the particulars and information referred to in paragraphs (3) and (4) and any additional information in relation to the proposed development to be made available, within a reasonable time, to the authorities designated in accordance with Article 6(1) of the Directive and the public concerned in the territory of the EEA State likely to be significantly affected, and
- (b) ensure that those authorities and the public concerned are given an opportunity, before the masterplan consent area scheme is made, to forward to the Scottish Ministers, within a reasonable time, their opinion on the information supplied.

(6) The Scottish Ministers must—

- (a) enter into consultations with the EEA State concerned regarding, amongst other things, the potential significant effects of the proposed development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects, and



- (b) determine in agreement with the other EEA State a reasonable period of time for the duration of the consultation period.

(7) Where an EEA State has been consulted in accordance with paragraph (6), on the making of a masterplan consent area scheme the Scottish Ministers must inform the EEA State of the decision and forward to it a copy of the decision notice.

## PART 8

### Alteration of a Masterplan Consent Area Scheme

#### **Alteration of a masterplan consent area scheme**

**24.**—(1) These Regulations apply in relation to alteration of, and a proposal to alter, a masterplan consent area scheme as they apply in relation to the making, and a proposal to make, a masterplan consent areas scheme with the modifications specified in paragraph (2).

(2) The modifications are—

(a) references (however worded)—

- (i) to the making of a masterplan consent area scheme are to be treated as if they are references to the alteration of a masterplan consent area scheme,
- (ii) references to a proposal to make a masterplan consent area scheme are to be treated as if they are references to a proposal to alter a masterplan consent area scheme,
- (iii) to the proposed development and to the development in respect of which masterplan consent area scheme relates are to be treated as references to the proposed varied development to which the alteration of the scheme relates; and

(b) Schedule 2 is to be read as requiring the inclusion in an EIA report of—

- (i) the main respects in which the planning authority consider that the likely significant effects on the environment of the proposed varied development would differ from those described in any EIA report, that was prepared in connection with the relevant masterplan consent area scheme, and
- (ii) a non-technical summary of the differences referred to in sub-paragraph (i).

(2) In this regulation, “proposed varied development” means the development which would be authorised by the masterplan consent area scheme if it were to be altered and which would not be authorised by the masterplan consent area scheme, or would not be authorised to be carried out in the same manner, under the masterplan consent area scheme if it were not so altered.

## PART 9

### Miscellaneous

#### **Electronic communications – general**

**25.**—(1) In these Regulations, and in relation to the use of electronic communications for any purpose in these Regulations which is capable of being effected electronically—

- (a) the expression “address” includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation will not be fulfilled unless the person on whom it is imposed provides a postal address, and
- (b) references to applications, reports, statements, notices, directions or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(2) Paragraphs (3) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any report, statement, notice or other document to any other person (“the recipient”).

(3) The requirement is deemed to be fulfilled (except in a case referred to in paragraph (4)) where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(4) In paragraph (3), “legible in all material respects” means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(5) Where the electronic communication is received by the recipient—

- (a) at any time before the end of a day which is a working day, it is deemed to have been received on that day,
- (b) at any time during a day which is not working day, it is deemed to have been received on the next working day,

and for these purposes, “working day” means a day which is not a Saturday, Sunday, Christmas Eve, a bank holiday in Scotland under the Banking and Financial Dealings Act 1971( ), a day appointed for public thanksgiving or mourning or any other day which is a local or public holiday in an area in which the electronic communication is received.

(6) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and “written” and cognate expressions are to be construed accordingly.

(7) Where electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any report, statement or document, any such requirement may be complied with by sending one copy only of the report, statement or other document in question.

### **Electronic communications – deemed agreement**

**26.**—(1) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically, and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(2) Deemed agreement under paragraph (1) subsists until that person gives notice under regulation 27 to revoke the agreement.

### **Withdrawal of consent to use of electronic communications**

**27.** Where a person is no longer willing to accept the use of electronic communications for any purpose which, under these Regulations, is capable of being carried out using such communications, that person must give notice in writing—

- (a) withdrawing any address notified to the planning authority or, as the case may be, to the Scottish Ministers for that purpose, or
- (b) revoking any agreement entered into or deemed to have been entered into with the planning authority or, as the case may be, with the Scottish Ministers for that purpose,

and such withdrawal or revocation will be final, and will take effect on a date specified by the person in the notice, being a date occurring after the period of seven days, beginning with the date on which the notice is given.

### **Service of notice etc.**

28. Subject to regulations 25 to 27, any notice or other document to be served or given under these Regulations may be served or given in a manner specified in section 271 (service of notices).

### **Application to Court of Session**

29. For the purposes of Part XI of the Act (validity), the references in section 239(1)(b) and (2) to action of the Scottish Ministers or a planning authority which is not within the powers of the Act are to be taken to extend, as the case may be, to the making of a masterplan consent area scheme by the planning authority or by the Scottish Ministers in contravention of regulation 3.

### **Directions as to whether development is EIA development**

30. The Scottish Ministers may give directions that development which is both of a description set out in Column 1 of the table in schedule 2, and of a class described in the direction, is EIA development for the purposes of these Regulations.

### **Competent authority – avoidance of conflict of interest**

31.—(1) The planning authority or the Scottish Ministers, as the case may be, are to perform their duties arising under these Regulations in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where the planning authority or the Scottish Ministers, as the case may be, are to consider the making of a masterplan consent area scheme for EIA development, they are to implement within their organisation of administrative competences an appropriate separation between conflicting functions when performing their duties under these Regulations.

### **Co-ordination of assessments**

32.—(1) Where in relation to EIA development there is, in addition to the requirement for an environmental impact assessment to be carried out in accordance with these Regulations, also a requirement to carry out a Habitats Regulation Assessment, the planning authority (or the Scottish Ministers, as the case may be) must where appropriate ensure that the Habitats Regulation Assessment and the environmental impact assessment are co-ordinated.

(2) In this regulation, a “Habitats Regulation Assessment” means an assessment under regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994<sup>(n)</sup>.

### **Offences**

33.—(1) Any person who, for the purpose of procuring a particular decision to which these Regulations apply—

- (a) knowingly or recklessly makes a statement which is false or misleading in a material particular,
- (b) with intent to deceive, uses any document which is false or misleading in a material particular, or
- (c) with intent to deceive, withholds any material information,

commits an offence.

(2) A person who commits an offence under paragraph (1) above is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

(3) No act or omission of the Crown constitutes an offence under this regulation.

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(n) S.I. 1994/2716.

(4) The Court of Session may, on the application of the Scottish Ministers, the chief constable or any other public body or office-holder having responsibility for enforcing the provision, declare unlawful any act or omission of the Crown which would but for paragraph (3) have constituted an offence under this regulation.

(5) Despite paragraph (3), this regulation applies to a person in the public service of the Crown as it applies to other persons.

### **Offences by bodies corporate etc**

**34.**—(1) Subsection (2) applies where—

(a) an offence under regulation 3 has been committed by—

(i) a body corporate,

(ii) a Scottish partnership, or

(iii) an unincorporated association other than a Scottish partnership, and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—

(i) a relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual.

(2) The individual (as well as the body corporate, partnership or (as the case may be) association) commits the offence and is liable to be proceeded against and punished accordingly.

(3) In subsection (1), “relevant individual” means—

(a) in relation to a body corporate (other than a limited liability partnership)—

(i) a director, manager, secretary or similar officer of the body,

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a limited liability partnership, a member,

(c) in relation to a Scottish partnership, a partner,

(d) in relation to an unincorporated association other than a Scottish partnership, an individual who is concerned in the management or control of the association.

## **PART 9**

### **Amendments**

#### **Amendment of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017**

**35.**—(1) The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 are amended in accordance with paragraph (2).

(2) In regulation 2(1) (interpretation) in the definition of “multi-stage condition” after paragraph (c) insert—

“(ca) a condition specified in a masterplan consent area scheme, where (in terms of the condition) the approval, consent or agreement of the planning authority must be obtained before all or part of the development authorised by the scheme may be begun.”.

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh

2024

## SELECTION CRITERIA FOR SCREENING SCHEDULE 2 DEVELOPMENT

**Characteristics of proposed development**

1. The characteristics of the proposed development must be considered having regard, in particular, to—
  - (a) the size and design of the development;
  - (b) cumulation with other existing development and/or approved development;
  - (c) the use of natural resources, in particular land, soil, water and biodiversity;
  - (d) the production of waste;
  - (e) pollution and nuisances;
  - (f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
  - (g) the risks to human health (for example due to water contamination or air pollution).

**Location of proposed development**

2. The environmental sensitivity of geographical areas likely to be affected by the proposed development must be considered having regard, in particular, to—
  - (a) the existing and approved land use;
  - (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
  - (c) the absorption capacity of the natural environment, paying particular attention to the following areas—
    - (i) wetlands, riparian areas, river mouths;
    - (ii) coastal zones and the marine environment;
    - (iii) mountain and forest areas;
    - (iv) nature reserves and parks;
    - (v) European sites and other areas classified or protected under national legislation;
    - (vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in national legislation and relevant to the project, or in which it is considered that there is such a failure;
    - (vii) densely populated areas;
    - (viii) landscapes and sites of historical, cultural or archaeological significance.

**Characteristics of the potential impact**

3. The likely significant effects of the proposed development on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the proposed development on the factors specified in regulation 4(3), taking into account—
  - (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
  - (b) the nature of the impact;
  - (c) the transboundary nature of the impact;
  - (d) the intensity and complexity of the impact;
  - (e) the probability of the impact;
  - (f) the expected onset, duration, frequency and reversibility of the impact;

- (g) the cumulation of the impact with the impact of other existing and/or approved development;
- (h) the possibility of effectively reducing the impact.

## INFORMATION FOR INCLUSION IN ENVIRONMENTAL IMPACT ASSESSMENT REPORTS

1. A description of the proposed development, including in particular:
  - (a) a description of the location of the proposed development;
  - (b) a description of the physical characteristics of the whole proposed development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases;
  - (c) a description of the main characteristics of the operational phase of the proposed development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;
  - (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.
  
2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the planning authority, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
  
3. A description of the relevant aspects of the current state of the environment (the “baseline scenario”) and an outline of the likely evolution thereof without implementation of the proposed development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of relevant information and scientific knowledge.
  
4. A description of the factors specified in regulation 4(3) likely to be significantly affected by the proposed development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
  
5. A description of the likely significant effects of the proposed development on the environment resulting from, inter alia:
  - (a) the construction and existence of the development, including, where relevant, demolition works;
  - (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;
  - (c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;
  - (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);
  - (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;
  - (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
  - (g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 4(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium- term and long-

term, permanent and temporary, positive and negative effects of the proposed development. This description should take into account the environmental protection objectives which are relevant to the project.

**6.** A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

**7.** A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

**8.** A description of the expected significant adverse effects of the proposed development on the environment deriving from the vulnerability of the proposed development to risks of major accidents and/or disasters which are relevant to the project concerned. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

**9.** A non-technical summary of the information provided under paragraphs 1 to 8.

**10.** A reference list detailing the sources used for the descriptions and assessments included in the EIA report.



SCHEDULE 4

Regulation 10(2)(b)

Form of Notice under regulation 10

THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL  
IMPACT ASSESSMENT) SCOTLAND REGULATIONS 2017

*NOTICE UNDER REGULATION 10*

The proposed development at (a) is subject to environmental impact assessment under the Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024.

Notice is hereby given that [\*an EIA report] [\*additional information in relation to an EIA report] has been prepared to [\*obtained by] (b) relating to the proposed [masterplan consent area scheme] (c) in respect of (d).

Possible decisions relating to the proposed masterplan consent area scheme are:—

- Making of the scheme without conditions;
- Marking of the scheme with conditions;
- Decision not to make the scheme.

A copy of the [\*EIA report] [\*additional information together with the EIA report], the proposed masterplan consent area scheme and other documents submitted with the proposed scheme may be inspected at all reasonable hours at the place where the register of planning applications is kept by the planning authority for the area at (e) and also at (f) during the period of [30] days beginning with the date of this notice.

Copies of the [\*EIA report] [\*additional information] may be purchased from (g) at a cost of (h).

Any person who wishes to make representations to (b) about the [\*EIA report] [\*additional information] should make them in writing within that period [\*to the Council at (e)] [\*to the Scottish Ministers at (i)].

Signed

\*On behalf of

Date

Notes

- (a) Insert address for location of the development.
- (b) Insert name of planning authority or insert the Scottish Ministers as appropriate.
- (c) Insert name of the proposed masterplan consent area scheme.
- (d) Insert description of proposed development.

- (e) Insert address of planning authority.
- (f) Insert the website address and any other address in the locality at which the EIA report and additional information may be inspected.
- (g) Insert how a copy of the EIA report or of the additional information may be obtained.
- (h) Insert cost of a copy of the EIA report or additional information.
- (i) Address to be supplied by the Scottish Ministers

\*Delete where inappropriate.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

## Annex C – Different Consents Process Comparisons

Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
<b>Supporting Legislation</b>	<p><a href="#">Section 15 of Planning (Scotland) Act 2019</a></p> <p>The Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024</p>	<p><a href="#">The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017</a></p> <p>The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024</p>	<p><a href="#">The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.</a></p>	<p><a href="#">Sections 21, 22 and 23 of the Roads (Scotland) Act 1984.</a></p>	<p><a href="#">Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (legislation.gov.uk)</a></p> <p><a href="#">The Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015 (legislation.gov.uk)</a></p>	<p><a href="#">Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (legislation.gov.uk)</a></p> <p><a href="#">The Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015 (legislation.gov.uk)</a></p>
<b>Events</b>  <b>Early engagement</b>	Where the MCA scheme may include national or major developments the planning authority must hold at least two public events where members of the public may make comments	N/A	Where the development belongs to the categories of national development or major development, the prospective applicant must, amongst other things, hold at	N/A	N/A	N/A

Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
	to the authority on the proposed scheme  (Draft Reg 3)		least two public events where members of the public may make comments to the prospective applicant on the proposed development.			
<b>Publicity</b>  Neighbour Notification	The planning authority must send a notice "where there are premises situated on neighbouring land to which the notice can be sent, to the owner, lessee or occupier of those premises"  (Draft Reg 4 (3))	Notice is to be sent to premises on "neighbouring land"  (Draft Reg 10)	Notice is to be sent by the planning authority to premises on "neighbouring land"  Neighbouring land defined within DMR as  "an area or plot of land (other than land forming part of a road) which, or part of which, is conterminous with or within 20 metres of the boundary of the land for which the development is proposed"	The developer is required to notify any person who owns land which fronts, abuts or is comprehended in the new roads, or which lies within 50m of the road for which Road Construction Consent is being sought.	N/A	N/A

<b>Consent Stage</b>	<b>Masterplan Consent Area (Draft MCA Regs)</b>	<b>Environmental Impact Assessment (Draft MCA EIA Regs)</b>	<b>Planning Permission</b>	<b>Roads Construction Consent</b>	<b>Conservation Area Consent</b>	<b>Listed Building Consent</b>
Notification to landowners	The planning authority must send a notice  “to any person (other than the planning authority) who is an owner of land to which the proposed masterplan consent area scheme relates”  (Draft Reg 4 (3))	(Requirement to notify landowners within Draft MCA Regs)	The applicant must send notice to any person (other than the applicant) who is an owner or agricultural tenant of the proposal site.	The developer is required to notify any person who owns land which fronts, abuts or is comprehended in the new roads, or which lies within 50m of the road for which Road Construction Consent is being sought	The applicant must send notice to any person (other than the applicant) who is owner of the building to which the application relates.	The applicant must send notice to any person (other than the applicant) who is owner of the building to which the application relates.
Online	Authorities would share details of the MCA scheme and any engagement events on the internet.  (Draft Reg 3 (3))	The EIA report and proposed MCA scheme should be published online  (Draft Reg (11) (4) (b) (i))	Electronic means can be used by the prospective applicant as part of the requirement to make further information available to the public on proposals, and details of this must be included in the required newspaper notices.  Planning Authorities are required to hold a public register	N/A	N/A	N/A

Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
			(Section 36(1) of the 1997 Act, DMR regulation 16 and Schedule 2) and place application related information on their websites (DMR 2013 Regulations 21-22)			
Press adverts	N/A	Advert required in Edinburgh Gazette and local newspaper (Draft Reg 11 (3))	As part of the pre-application consultation, the prospective applicant must publish newspaper notices which include details of the proposal and any engagement. (DMR 2013, Reg 7)  When an application is submitted, certain applications may require newspaper notices (DMR 2013, regulation 20)	N/A	Advert required in Edinburgh Gazette and local newspaper	Advert required in Edinburgh Gazette and local newspaper

<b>Consent Stage</b>	<b>Masterplan Consent Area (Draft MCA Regs)</b>	<b>Environmental Impact Assessment (Draft MCA EIA Regs)</b>	<b>Planning Permission</b>	<b>Roads Construction Consent</b>	<b>Conservation Area Consent</b>	<b>Listed Building Consent</b>
Site Notices	N/A	N/A	Only certain Minerals applications require site notices during the application process (DMR 2013 – regulation 19)	N/A	Site notice required to be displayed on or near the building for not less than 7 days.	Site notice required to be displayed on or near the building for not less than 7 days.
Hard Copies	A planning register containing information relating to every masterplan consent area application information must be held by the planning authority  Draft Reg 9	Copy of the EIA report and the proposed masterplan consent area scheme would be available for inspection at an office of the planning authority.  (Draft Reg (11) (4) (b) (ii))	A planning register containing application information must be kept for public inspection in the planning authority office – Section 36(1) of the 1997 Act, DMR regulation 16 and Schedule 2)	N/A	N/A	N/A
<b>Representations</b>	Sets a 30 day minimum period for representations.  (Draft Reg 4 (5))	A date not earlier than 30 days after the date on which the copy of the EIA report was sent/notice published  (Draft Reg 12 (1) (b))	Sets a 21 day minimum period from issue of neighbour notification (minimum 14 days from publication of any required newspaper notice) for representations.	Any person who has been notified in this way has 28 days to make written representation	Sets a 21 day minimum period for representations.	Sets a 21 day minimum period for representations.



Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
<b>Statutory Consultees</b>	<p>To persons, authorities and bodies in accordance with schedule 1</p> <ul style="list-style-type: none"> <li>• SEPA</li> <li>• NatureScot</li> <li>• HSE</li> <li>• Office for Nuclear Regulation</li> <li>• Community council,</li> <li>• Coal Authority</li> <li>• Any adjoining planning authority,</li> <li>• Network Rail Infrastructure Limited</li> <li>• The roads authority</li> <li>• The Theatres Trust</li> <li>• Scottish Water</li> <li>• A district salmon fishery board</li> <li>• The Scottish Ministers</li> <li>• The Crofting Commission</li> </ul>	<ul style="list-style-type: none"> <li>• Any adjoining planning authority, where the proposed development is likely to affect land in their area,</li> <li>• NatureScot</li> <li>• Scottish Water,</li> <li>• SEPA</li> <li>• HES</li> </ul> <p>(Draft Reg 2)</p> <p>Health and Safety Executive where it would be required to be consulted under paragraph 3 or 4 of schedule 5 of the DMR,</p> <p>Office for Nuclear Regulation where it would be required to be consulted under paragraph 3A of schedule 5 of the DMR.</p>	<p>Schedule 5 of DMR 2013 plus any directions requiring consultation on planning applications, e.g. in relation to NatureScot and proposals in National Scenic Areas and relevant bodies in relation to 'safeguarded areas', such as those around aerodromes. Also Nature Scot in regard to Conservation (Natural Habitats &amp; c.) Regulations 1994</p>	<p>Such persons, if any, as the authority may, for the purposes of the application, specify.</p>	<p>HES</p>	<p>HES</p>

Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
	<ul style="list-style-type: none"> <li>• Sportscotland</li> <li>• HES</li> </ul> (Draft Reg 4 (3) (c))	Any other public body which the planning authority considers are likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies  (Draft Reg 8 (2))				

<b>Consent Stage</b>	<b>Masterplan Consent Area (Draft MCA Regs)</b>	<b>Environmental Impact Assessment (Draft MCA EIA Regs)</b>	<b>Planning Permission</b>	<b>Roads Construction Consent</b>	<b>Conservation Area Consent</b>	<b>Listed Building Consent</b>
<b>Hearings</b>  Type of Development	National developments  Draft Reg 5 (1)	N/A	National developments  Major developments which are significantly contrary to the development plan.	RCC	N/A	N/A
<b>Who</b>	Interested parties  In this regulation “interested party” means any person from whom the planning authority received representations.  (Draft Reg 5(3))	N/A	The applicant and those who submitted representations	Before granting the consent subject to a condition or refusing consent, the authority shall allow the person applying for the consent an opportunity to be heard by them as regards his application.	N/A	N/A

<b>Notification to Ministers</b>	Ministers intend to issue a Direction, to accompany the MCA regulations coming into force, that requires that MCA schemes should be notified to Ministers in the same circumstances as planning applications	N/A – any notified any MCA scheme would be expect to provide relevant EIA documentation to Ministers.	<p>In line with triggers in the Town And Country Planning (Notification Of Applications) (Scotland) Direction 2009.</p> <ul style="list-style-type: none"> <li>• Development in which planning authorities have an interest</li> <li>• Objection by government agency</li> </ul> <p>As in specific Directions issued</p> <ul style="list-style-type: none"> <li>• Opencast coal and related mineral</li> <li>• historic battlefields</li> <li>• unconventional oil and gas</li> <li>• conventional Oil and Gas</li> <li>• neighbouring authorities</li> <li>• spaceport notifications</li> <li>• commercial peatland notifications</li> </ul>	N/A	N/A	N/A
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			<ul style="list-style-type: none"><li>• energy from waste</li><li>• safeguarded aerodromes technical sites and military explosives storage areas</li><li>• electricity generation, transmission or distribution developments</li></ul>			
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Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
<b>Length of Consent</b>	A scheme may not specify as the date on which it ceases to have effect a date that falls more than 10 years after it comes into effect	N/A	Development must be begun within three years from the date of grant of permission or such other period as the planning decision-maker may specify when granting permission. For planning permission in principle, the period is five years.	It shall be a condition of any construction consent that the construction be completed within such period, being a period of not less than three years from the date on which the consent is given, as the local roads authority may specify in writing in the consent; but the authority may subsequently by notice extend the period so specified.	Generally three years	Generally three years

Consent Stage	Masterplan Consent Area (Draft MCA Regs)	Environmental Impact Assessment (Draft MCA EIA Regs)	Planning Permission	Roads Construction Consent	Conservation Area Consent	Listed Building Consent
<b>Amendments to Consent</b>	Alterations of a MCA scheme  (Draft Reg 8)	Alterations of a MCA scheme  (Draft Reg 24)	Section 64 of the 1997 Act allows a planning authority to agree non-material variations to a planning permission. Section 65 allows a planning authority to modify or revoke a planning permission through an order process. Otherwise changes to planning permission would need another application for planning permission – including such an application under section 42 of the 1997 Act where a new permission for the development but with different conditions was sought.	Should the Developer, for any reason, wish to depart from the construction or layout details for which Construction Consent has been granted, he must first seek the approval of the Local Roads Authority Representative for the amendment – for which there is a charge. Major changes may require the submission of a new application for Construction Consent.	N/A	N/A

## Annex D – Glossary / List of Acronyms

the 1997 Act	<a href="#">Town and Country Planning (Scotland) Act 1997 (as amended)</a>
the 2019 Act	<a href="#">Planning (Scotland) Act 2019</a>
the DMR	<a href="#">The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013</a>
BRIA	Business Regulatory Impact Assessment
CRWIA	Child Rights and Wellbeing Impact Assessment
DPIA	Data Protection Impact Assessment
DPS	Development Plan Schemes
EIA	Environmental Impact Assessment
EQIA	Equalities Impact Assessment
FSD	Fairer Scotland Duty
HES	Historic Environment Scotland
ICIA	Islands Communities Impact Assessment
LDP	Local Development Plan
MCA	Masterplan Consent Area
NPF	National Planning Framework
PAC	Pre-application consultation
Reg	Regulation
RCC	Roads Construction Consent
SEA	Strategic Environmental Assessment
SPZ	Simplified Planning Zone



## Annex E – Responding to this Consultation

We are inviting responses to this consultation by 22 May 2024.

Please respond to this consultation using the Scottish Government's consultation hub, [Citizen Space](#). Access and [respond to this consultation online](#). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 22 May 2024.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

[MCA@gov.scot](mailto:MCA@gov.scot) or

Planning Architecture and Regeneration Division (PARD)  
Scottish Government  
2F South  
Victoria Quay  
Edinburgh,  
EH6 6QQ

### Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. 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.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

### Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, [responses will be made available to the public](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [MCA@gov.scot](mailto:MCA@gov.scot)

## Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our [consultations](#) online. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. 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.

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.

## Respondent Information Form

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

To find out how we handle your personal data, please see our privacy policy:  
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email Address

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

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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

- Yes  
 No



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