

# **The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024**

**Impact Assessments**

**February 2024**

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## Introduction

Scotland's planning system is plan-led. Development planning is required to manage the development and use of land in the long-term public interest. To achieve this, development should contribute to sustainable development and seek to achieve the national outcomes.

The statutory 'development plan' comprises of the National Planning Framework (NPF) and the Local Development Plan (LDP) for each planning authority.

Procedures for full reviews and preparation of the NPF are set out in the [Town and Country Planning \(Scotland\) Act 1997 \(as amended\)](#), while those for full reviews and preparation of LDPs are set out between both the [Town and Country Planning \(Scotland\) Act 1997 \(as amended\)](#) and [The Town and Country Planning \(Development Planning\) \(Scotland\) Regulations 2023](#).

Section 12 of the Planning (Scotland) Act 2019 inserts new sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the National Planning Framework and local development plans. Regulations are required to set out the procedures to be followed when amending NPF or LDPs.

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.

The impacts of the overall reforms of the planning system have been considered during earlier stages of the reform programme:

- [Full impact assessments](#) of the Planning (Scotland) Bill (which introduced the procedures for preparing and adopting the NPF and LDPs, and introduced the principle of amendments and the scope of the amendment regulations) were published when the Bill was introduced to the Scottish Parliament.
- [Impact assessments](#) also considered the impacts of the development planning regulations which came into force in May 2023.

Given the amendment regulations will be procedural and technical in nature, we have screened out most of the impact assessments, as the impacts have been considered through previous assessments, listed in the bullets above. Further detail is set out throughout this document.

These impact assessments relate to the proposed procedures for preparing amendments to NPF and LDPs. The plans prepared using those procedures will themselves be subject to assessments of the impact of their content. An example of this is the [Integrated Impact Assessment](#) which informed the drafting of NPF4.

## **What are the impact assessments?**

### **What is an Equalities Impact Assessment (EQIA)?**

An EQIA aims to consider how a policy (a policy can cover: activities, functions, strategies, programmes, and services or processes) may impact, either positively or negatively, on different sectors of the population in different ways.

The Equality Act 2010 harmonised existing equality legislation. It covers the characteristics of age, disability, gender reassignment, sex including pregnancy and maternity, race, religion and belief, and sexual orientation.

The Equality Act 2010 includes a public sector equality duty ('the general Duty') which requires public authorities to pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- Advance equality of opportunity; and
- Foster good relations between different groups – by tackling prejudice and promoting understanding.

In 2012 Scottish Ministers made regulations that placed specific duties on Scottish public bodies to help them meet the general Duty. These include a requirement to assess the impact of new policies or practices.

### **What is the Child Rights and Wellbeing Impact Assessment (CRWIA)?**

The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of a proposed policy on children's human rights and wellbeing. CRWIA helps the Scottish Government consider whether it is: advancing the rights of children in Scotland; and protecting and promoting the wellbeing of children and young people.

CRWIA is a Ministerial duty under the Children and Young People (Scotland) Act 2014 and in relation to the United Nations Convention on the Rights of the Child (UNCRC).

### **What is the Fairer Scotland Duty (FSD) assessment?**

The Fairer Scotland Duty is set out in legislation as Part 1 of the Equality Act 2010, and came into force in Scotland from April 2018. The aim of the duty is to help the public sector to make better policy decisions and deliver fairer outcomes. The duty focuses on socio-economic inequality issues such as low income, low wealth, and area deprivation.

The Fairer Scotland Duty applies to 'decisions of a strategic nature' – these are the key, high-level choices or plans that the public sector makes.

## **What is an Island Communities Impact Assessment (ICIA)?**

An Island Communities Impact Assessment (ICIA) tests any new policy, strategy or service which is likely to have an effect on an island community which is significantly different from the effect on other communities. This became a legal duty in December 2020 under the Islands (Scotland) Act 2018.

## **What is the Business and Regulatory Impact Assessment (BRIA)?**

A Business and Regulatory Impact Assessment (BRIA) looks at the likely costs, benefits and risks of any proposed primary or secondary legislation. It also covers voluntary regulation, codes of practice, guidance, or policy changes that may have an impact on the public, private or third sector.

The BRIA explains:

- the reason why the Scottish Government is proposing to intervene;
- options the Scottish Government is considering, and which one is preferred;
- how and to what extent new policies may impact on Scottish Government, business and on Scotland's competitiveness;
- the estimated costs and benefits of proposed measures.

## **What is a Strategic Environmental Assessment (SEA)?**

In Scotland, public bodies and private companies operating in a public character, such as utility companies, are required to assess, consult on, and monitor the likely impacts their plans, programmes and strategies will have on the environment. This process is known as Strategic Environmental Assessment (SEA), and is required under the Environmental Assessment (Scotland) Act 2005.

SEA helps to better protect the environment, aims to ensure that any development is sustainable, and increases opportunities for public participation in decision-making. It ensures that expert views are sought at various points in the preparation process from the public and the consultation authorities, who are:

- NatureScot
- Scottish Environment Protection Agency
- Historic Environment Scotland.

## **What is a Data Protection Impact Assessment (DPIA)?**

A Data Protection Impact Assessment (DPIA) is required under the UK General Data Protection Regulation to consider the privacy implications associated with any arrangements involved in introducing new regulations. A DPIA helps to identify and minimise the data protection risks of such a project.

## Equalities Impact Assessment (EQIA)

### EQUALITY IMPACT ASSESSMENT NOT REQUIRED DECLARATION

Policy title	The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024
Which National Outcome(s) does the policy contribute to?	<p>A plan-led approach is central to supporting the delivery of Scotland’s national outcomes and broader sustainable development goals.</p> <p>These regulations, setting out procedures for making amendments to both the National Planning Framework and Local Development Plans, contribute to the national outcomes identified within these plans including:</p> <ul style="list-style-type: none"> <li>• We live in communities that are inclusive, empowered, resilient and safe.</li> <li>• We have a globally competitive, entrepreneurial, inclusive and sustainable economy.</li> <li>• We value, enjoy, protect and enhance our environment.</li> <li>• We are healthy and active.</li> </ul>
Directorate:  Division:  Team	<p>Local Government and Housing Directorate.</p> <p>Planning, Architecture and Regeneration Division</p> <p>Planning Transformation</p>
Policy lead responsible for taking the decision	Ruairidh Anderson

Please record why you are not carrying out an EQIA and what your justification is for making that decision.

An EQIA was previously undertaken to support the Planning (Scotland) Bill, which introduced the principle for amending NPF and LDPs and for the procedures to be set in regulations.

In January 2020 we published our Integrated Impact Assessment (IIA) screening/scoping report, for NPF4 and published our initial evidence base and invited feedback. In November 2021 we published our IIA Reports for comment alongside 'Scotland 2045 - Our Fourth National Planning Framework - Draft'.

The Town and Country Planning (Development Planning) (Scotland) Regulations 2023 set out the procedures for preparing a LDP and were accompanied by an [EQIA](#). It found that since the Regulations and associated guidance were intended to be of positive benefit to Scotland's communities, regardless of whether they fall into one or more protected groups, the EQIA did not identify any policy impacts that would adversely impact on such groups.

In developing these proposals, the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

We do not believe this position has changed based on the proposed procedures for amendments to NPF and LDPs. At this stage, we do not believe there is an indication that a further full EQIA is required.

**I confirm that the decision to not carry out an EQIA has been authorised by:**

Name and job title of Deputy Director (or equivalent)	Date authorisation given
Fiona Simpson Chief Planner	06/02/2024

# **Child Rights and Wellbeing Impact Assessment (CRWIA)** for Town and Country Planning (National Planning Framework and Local Development Plan Amendment)(Scotland) Regulations 2024

## **Disclaimer**

This draft document is an initial assessment of The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024 and Scottish Government will continue to review and update this document where required during the parliamentary process. Any future iterations will reflect an increased understanding of these impacts as the amount of data and research available continues to grow.

This impact assessment screening should be read in conjunction with the Equality Impact Assessment and the Fairer Scotland Duty Assessment.



## CRWIA Stage 1 – Screening

### 1. Brief Summary (Guidance Section 2.1)

#### **The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024**

The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of a proposed policy on children's human rights and wellbeing. CRWIA helps the Scottish Government consider whether it is: advancing the rights of children in Scotland; and protecting and promoting the wellbeing of children and young people. CRWIA is a Ministerial duty under the Children and Young People (Scotland) Act 2014 and in relation to the United Nations Convention on the Rights of the Child (UNCRC).

Section 12 of the Planning (Scotland) Act 2019 inserts new sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the National Planning Framework and local development plans.

Full impact assessments of the Planning 2019 Act (which introduced the procedures for preparing and adopting the NPF and LDPs) were undertaken previously.

A range of Impact Assessments informed the drafting of NPF4, including a CRWIA. As far as possible, these assessments were integrated into the plan preparation process.

Impact assessments also considered the impacts of the development planning regulations which came into force in May 2023, which set out the procedures for a full review of a LDP. No negative impact was found for any area of rights or any group of children and young people.

These regulations will provide procedural process by which the Scottish Ministers and/or planning authorities are able to amend the NPF/LDP. The aim is for procedures to amend both the NPF and LDP to be proportionate and to provide a process that is more responsive and streamlined, whilst balancing the need for robust justification, engagement and scrutiny. The proposed regulations will aim to give decision makers some flexibility of process, based on the scale and significance of the amendments.

Both the NPF and LDPs have the potential to have a positive impact on the rights of all children as they will help to deliver a fairer and more inclusive Scotland, where every child and young person has the opportunity to fulfil their potential.

Start date of relevant proposal: 04/10/2023\*

Start date of CRWIA process: 04/10/2023\*

\*Date work started on preparing secondary legislation

2. Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18? (Guidance Section 2.1)

We believe that any aspects affecting children and young people up to the age of 18 have been covered by a CRWIA that was previously undertaken to support the Planning (Scotland) Bill (which introduced changes to the planning system, such as making the National Planning Framework a part of the statutory development plan) and within the range of impact assessments conducted to inform the drafting of NPF4. The proposed regulations to amend NPF and LDPs are procedural regulations and will not directly impact children and young people.

The proposal offers opportunities for consultation with the public at large along with relevant groups which, where appropriate, will include with children and young people and representative groups.

3. Which groups of children and young people are currently or will be affected by the relevant proposal? (Guidance Section 2.1)

We consider that any aspects affecting groups of children or young people have been covered by a CRWIA that was previously undertaken to support the Planning (Scotland) Bill. These are procedural regulations and will not have a direct impact on children and young people.

The proposal offers opportunities for consultation with the public at large along with relevant groups which, where appropriate, will include with children and young people and representative groups.

## Declaration

### 4. Is a Stage 2 Children’s Rights and Wellbeing Impact Assessment required? (Guidance Section 2.1)

- CRWIA required  No explanation required, please complete questions 5 and 6
- CRWIA not required  Please explain why below and contact the children’s rights unit to discuss this decision [crwia@gov.scot](mailto:crwia@gov.scot)

#### Explanation why CRWIA is not required:

A CRWIA was previously undertaken to support the Planning (Scotland) Bill, (which introduced changes to the planning system, such as making the National Planning Framework a part the statutory development plan) and was considered as part of the drafting of NPF4. Therefore we do not consider that a further CRWIA is required for these regulations.

Sign & Date:

Policy Lead Signature & Date of Sign Off:	Ruairidh Anderson Local Government and Housing Directorate. 05/02/2024
Deputy Director Signature & Date of Sign Off:	Fiona Simpson 06/02/2024
Date SGLD contacted:	22/01/2024

## Fairer Scotland Duty (FSD) Assessment

### Assessment not required declaration

Policy title	The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024
Directorate: Division: Team:	Local Government and Housing Planning, Architecture and Regeneration Division Planning Transformation
Policy lead responsible for taking the decision	Ruairidh Anderson

#### Rationale for decision:

We consider that a FSD assessment is not necessary for the proposed regulations for the amendment of National Planning Framework and Local Development Plans.

A previous FSD assessment was undertaken to support the Planning (Scotland) Act 2019, which laid out the details of NPF4 and changes to the planning system, including provision to amend NPF and LDPs. A FSD assessment was also developed as part of the drafting process for NPF4, drawing on a range of primary and other source documents including a Call for Ideas plus a public consultation on a Position Statement. Additionally, a FSD for the Development Planning Regulations and Guidance found they were drafted to help ensure people have opportunities to be meaningfully involved in plan making, and to provide a fairer, more inclusive and equalities based approach to planning the future, tackling spatial aspects of inequalities by promoting use of place-based approaches. Amendment provisions will allow plans to be updated to address issues.

We do not believe that a further FSD assessment is required for these regulations. The amendment regulations are procedural in nature, and do not represent a strategic decision. Their provisions should not have any direct implications for inequalities arising from socio-economic disadvantage or other similar issues that have not already been covered elsewhere.

### I confirm that the decision to not carry out a Fairer Scotland assessment has been authorised by:

Name and job title of Deputy Director (or equivalent)	Date authorisation given
Fiona Simpson, Chief Planner	06/02/2024

## Island Communities Impact Assessment (ICIA)

<b>Title of policy, strategy or programme</b>	The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024
<b>Impact assessment process</b>	
1 – Understand your objective	<p>The Planning (Scotland) Act 2019 inserts a new section 12 which introduces sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the National Planning Framework and local development plans.</p> <p>The proposed regulations will set out further detailed provisions around procedures for amending such plans. The regulations follow on from the Planning (Scotland) Act 2019 and are procedural in nature.</p> <p>These regulations will not make changes or have any impact on existing policy or framework specifically, as preparation and full review procedures will remain. These regulations will set out the process for bringing forward amendments in future, and such changes would require appropriate consideration of their impacts.</p>
2 – Assess impact on islands	<p>The proposals will provide for maximum flexibility for all authorities, offering flexibility for local circumstances including the islands and island communities.</p> <p>The potential to amend new place-based local development plans will enable tailoring specific to island circumstances / local communities and this is likely to have benefits for island communities in terms of increased flexibility to tailor plans to respond to local circumstances.</p> <p>We do not envisage that the provisions proposed will have significant, or different effects on island communities.</p>

<p>3 – Consultation</p>	<p>Previous consultation and engagement on the Planning Bill included an island proofing exercise undertaken through a collaborative workshop, held on 29 September 2017. It informed the <a href="#">Island Communities Impact Assessment</a>, which was updated following Stage 2 of the Planning (Scotland) Bill. That assessment indicated the main theme from discussions was the need to allow flexibility for the islands – acknowledging that their needs were very different to that of towns and cities.</p> <p>In preparation and development of NPF4, The Scottish Government conducted two rounds of consultation.</p> <p>An NPF4: Call for Ideas was undertaken over Spring 2020. This was followed by consultation on an NPF4: Position Statement over Winter 2020 / Spring 2021. Accompanying these two documents was an NPF4: Integrated Impact Assessment which provided the evidence base for societal impacts, including potential impacts on island communities.</p> <p>Additionally, desk top analysis was undertaken of the evidence gathered for the development of the Planning Bill, including the equality impact assessment and ICIA, plus the integrated impact assessment accompanying the early engagement on NPF4. Additional information was drawn from Rural Planning Policy to 2050: Research to Inform Preparation of NPF4.</p> <p>A Draft ICIA was consulted upon for the LDP Regulations and Guidance, views were sought on the potential impacts on Island communities through the consultation and the responses informed the final ICIA.</p> <p>A public consultation on the proposals for the Amendment Regulations will also be conducted, allowing communities and representatives across all of Scotland to voice their views on the proposals.</p>
<p>4 – Assessment</p>	<p>We consider that the implementation of amendment regulations for NPF and LDPs is procedural in nature, and therefore will not have a significantly different effect on island communities.</p> <p>As such, we believe that any impacts are adequately addressed through previous ICIA's and do not believe that a full ICIA is required for these regulations.</p>

# Business and Regulatory Impact Assessment (BRIA) - Partial

## Title of Proposal

Development Plan Amendment Regulations: Consultation on proposed secondary legislation

## Purpose and Intended Effect

### Background

The purpose of planning is to manage the development and use of land in the long-term public interest. The decisions we make today will have implications for future generations. We must embrace and deliver radical change so we can tackle and adapt to climate change, restore biodiversity loss, improve health and wellbeing, reduce inequalities, build a wellbeing economy and create great places.

The National Planning Framework (NPF) is a long-term plan for Scotland, that sets out where development and infrastructure is needed. It guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities. The current NPF, [NPF4](#) which looks to Scotland in 2045, was adopted by Scottish Ministers in February 2023.

Local development plans (LDPs) are prepared by each planning authority. They set out how places will change into the future, including where development should and shouldn't happen. They show where new homes and workplaces will be built, how services and facilities such as schools and travel will be provided, and identify the places and buildings we value and want to protect.

NPF and the LDP for each planning authority comprise the statutory development plan. Decisions on planning applications are legally required to be made in accordance with the 'development plan' unless there are material considerations that indicate otherwise.

In the consultation '[Places, People and Planning](#)' (January 2017) it was proposed that the review cycles of NPF and LDPs be extended from 5 years to 10 years, and that provisions for interim updates be made. This proposal sought to achieve stronger and more flexible development plans. The Analysis of Consultation Responses indicated there was general agreement that should a 10 year plan life be introduced, it must include a mechanism to amend.

In responding to the feedback, the June 2017 '[Places, People and Planning Position Statement](#)' confirmed that we would progress with the 10-year timeframe and the provision for plans to be amended between full review cycles in a way that is proportionate and avoids delays, whilst ensuring significant change is subjected to robust scrutiny.

The [Planning \(Scotland\) Act 2019](#) (the 2019 Act), made changes to the [Town and Country Planning \(Scotland\) Act 1997](#) (the 1997 Act). [Section 12 of the 2019 Act](#) (not yet fully in force) inserts new sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the NPF and LDPs. It also provides powers for Scottish Ministers to provide further provisions on the procedures for amendments in regulations

## **Objective**

The aim is to implement the provisions in the Planning (Scotland) Act 2019 on the procedures to make amendments to both the NPF and LDPs. Sections 3CC and 20AA of the Town and Country Planning (Scotland) Act 1997 (inserted by the 2019 Act) provide for the NPF and LDPs to be amended, and give Scottish Ministers powers to make regulations about the procedure for doing so.

The amendment powers are a core element of the reformed planning system, important to address any emerging policy issues that need to be reflected in the NPF or LDPs.

## **Rationale for Government Intervention**

Regulations, or secondary legislation, are necessary to provide additional detail to the requirements set out in primary legislation. The proposed new provisions are necessary to ensure that the legislative requirements operate effectively and in a way that is compatible with the Scottish Government's wider policy objectives for the planning system.

Preparing regulations is part of our wider work on planning reform and implementation of the 2019 Act. The [National Planning Framework 4 Delivery Programme \(September 2023\)](#) identifies that National Planning Framework and local development plan amendment regulations are to be prepared.

These regulations will ensure that Scottish Ministers and planning authorities are able to make amendments to the development plan where required, as part of a proactive, place-making approach to planning and consenting. These powers are important to address any emerging policy issues that need to be reflected in the NPF or in LDPs.

This will contribute to the National Outcomes identified within both the NPF and LDPs and contained in the [National Performance Framework](#):

- We live in communities that are inclusive, empowered, resilient and safe.
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We have thriving and innovative businesses, with quality jobs and fair work for everyone,
- We value, enjoy, protect and enhance our environment.
- We are healthy and active.



## **Public Consultation**

### **Within Government**

As procedural matters falling under the Planning Act, responsibility for preparing these regulations lies primarily with the Scottish Government's Planning, Architecture and Regeneration Division (PARAD). The proposals have been developed by a core team with assistance from colleagues across the Division.

### **Public Consultation**

The preparation of the consultation on the proposals for regulations follows on from the extensive engagement undertaken prior to the Planning (Scotland) Bill being considered by the Scottish Parliament and as the NPF and the Town and Country Planning (Development Planning) (Scotland) Regulations (2023) were prepared. We have taken into account comments made in relation to procedures for amendment at earlier stages of our planning reform process.

We have had discussions with the Chair of Heads of Planning Scotland (HoPS) Development Planning sub-committee and we anticipate engaging with any other stakeholders likely to have an interest in this upon request.

There will be a public consultation for 12 weeks between February 2024 and May 2024 on the proposals for Regulations. This consultation will highlight the process by which the NPF can be amended, the criteria applicable for formal review of the framework and the process by which LDPs can be amended once adopted. This will allow planning authorities and relevant stakeholders the opportunity to comment on the process and consider the implications before the final regulations are drafted.

### **Business**

We will invite views on this partial BRIA as part of the public consultation. We also intend to promote the consultation to business organisations representing a range of sectors for awareness and comment where appropriate.

## Options

### Option 1: Do nothing

This is not our preferred option. The Planning (Scotland) Act 2019 includes provision for the NPF and LDPs to be amended, and Scottish Ministers are expected to implement the legislation passed by the Scottish Parliament. The legislation requires Scottish Ministers to make regulations setting out the circumstances in which they consider an amendment to the NPF would require a full review of the Framework. In addition, if the provisions on amendments to the NPF and LDPs were commenced without regulations on procedures, it would be unclear how such amendments could be made.

Failure to progress regulations would remove the ability to make changes to keep pace with wider and emerging Scottish Government policies and strategies. For example, the Scottish Government has committed to developing new bespoke planning policy on onshore wind to be applied in new National Parks.

The [National Planning Framework 4 Delivery Programme](#) (Sept 2023) sets out the approach for implementing NPF4 and includes key actions to be taken forward over the short and medium term. The delivery programme identifies Amendment Regulations as a short term action (for 2023) and medium term action (2024-28). Failure to deliver on this may impact negatively on stakeholder expectations.

### Option 2 - Implement Amendment provisions within the Act through regulations, with amendments requiring a full review

This would not be a preferred option as, while it meets our approach towards the implementation laid out above and is in line with the provisions included in The Planning (Scotland) Act 2019, it places an unreasonable resource burden on all involved where amendments might be considered minor.

### Option 3: Implement Amendment provisions within the Act through regulations, with a streamlined procedure for amendments (Preferred option)

Under this option, regulations will implement the provisions in the Planning (Scotland) Act 2019 on the procedures for making amendments to both the NPF and LDPs once adopted. Proposals to inform the regulations are included within the consultation paper.

The approach taken looks to balance the benefit of maintaining a long-term, stable planning framework at national and local levels to promote investment and confidence in decision making, with the ability to address pressing matters more quickly. Amendments have the potential to take a variety of forms, from amending references and terminology to introducing new policies and proposals. We have therefore sought to appropriately balance time and costs with engagement, justification and scrutiny.

## **Sectors and Groups Affected**

### **Businesses**

Developers across a range of business sectors interact with the development plan and planning authorities on a regular basis. This particularly involves those seeking land allocations or businesses potentially affected by land allocations.

Businesses looking to expand, build new property, develop local infrastructure or explore other forms of permission with the planning authority have to have due regard to what is laid out in both the NPF and in any relevant parts of their planning authority's LDPs.

### **Planning authorities**

Whilst it will be for Scottish Ministers to lead on the progression of any amendment to NPF, there will be scope for planning authorities to input to the process, and respond to consultation on any proposed amendment to NPF.

Once in force, section 20AA will provide that a planning authority may at any time amend their local development plan. Scottish Ministers will also have the power to direct a planning authority to amend their local development plan.

The regulations will provide procedural requirements for planning authorities to amend their LDP. This will include minimum consultation requirements, and requirements around the holding of examinations into any unresolved representations on proposed amendments to the LDP. The proposed regulations are necessary to provide additional detail to the requirements set out in primary legislation.

The proposals offer flexibility to planning authorities enabling an amendment to a LDP with a more proportionate process with less intensive resource implications than are required for a full review of the LDP. They provide minimums, which allow for authorities some scope to shape the procedures in practice, depending on the significance of the amendment proposed. We will update the local development planning guidance to provide details of Scottish Ministers' expectations for amendments.

### **Communities**

Development plans impact on communities as they focus on the future of the places where people live, work, learn and play. The proposed amendment procedures will provide opportunities for public involvement, including through responding to public consultations. The extent that the proposals will impact on members of the community will be dependent on their willingness and need to become involved.

As set out above, the proposals provide minimums, which allow authorities some scope to shape the procedures in practice, depending on the significance of the amendment proposed. We will update the development planning guidance to provide details of Scottish Ministers' expectations for amendments.

## **Public Bodies**

The proposals require both the Scottish Government and planning authorities to consult with key agencies on any amendment proposals to either the NPF or LDP.

## **Benefits**

### **Option 1: Do nothing**

There are no benefits arising from this approach.

### **Option 2: Implement Amendment provisions within the Act through regulations, with amendments requiring a full review.**

There are no benefits arising from this approach.

### **Option 3: Implement Amendment provisions within the Act through regulations, with a streamlined procedure for amendments (Preferred option)**

An established policy framework/development plan provides confidence to businesses, investors and other stakeholders, but there may be instances where amendments are required. With the move to the longer 10 year review cycle for the local development plan, implementing the provisions in the Planning (Scotland) Act 2019 on the procedures for making amendments to both NPF and LDPs will ensure that the development plan can remain flexible enough to adapt to and address any emerging policy issues that need to be reflected. This option looks to ensure that the planning system is able to respond appropriately through policy where new or urgent matters arise, without requiring a review of the whole document and the associated resource demands that entails.

The Development Plan Amendment Regulations will offer developers and a range of business sectors reassurance that both the Scottish Government and planning authorities are able to make adjustments to policy/plans where significant issues arise or unintended consequences are highlighted and give developers reassurance that the development plan is able to be flexible and adapt to changing conditions, including emerging technologies, financial market pressures and national priorities.

Going forward, the opportunity for stakeholders, including businesses, to be consulted during any proposed amendments ensures transparency and engagement with the decision making process.

The new provisions may form an opportunity for community bodies to seek to engage with their local planning authority to seek to have incorporated into the LDP parts of their Local Place Plan, where that has been registered with the planning authority following adoption of the LDP. This may provide a further opportunity for community priorities to be reflected in the LDP.

The regulations will provide the procedural framework of the processes for amending the NPF and LDPs. They will provide clarity on the process, including;

- the required consultation (providing opportunities for business, from all sectors and sizes, to express their views, and any implications on their land or other business interests), and to ensure views are considered as part of the process;
- around scrutiny (whether laying before the Scottish Parliament in the case of the NPF, or around examinations for LDPs where substantive amendments are proposed and there may be a need to make provision for independent scrutiny of the amendment);
- publication (ensuring business have access to the amended plan/framework); and
- confirming when amendments will be effective from.

It is important for the development plan to remain up-to-date, to ensure confidence and certainty in the plan-led system. An up-to-date development plan can support a proactive, place-making approach, supporting a range of scales and types of development from small scale changes, up to major new developments.

## **Costs**

### **Option 1: Do nothing**

There are no costs arising from this approach.

There would be no direct financial costs from this option. There is a possibility that the development plan would become outdated and irrelevant to changing circumstances. There is a danger that the NPF or LDPs would not be reflective of emerging policy issues if they cannot be amended. Without a functioning mechanism in place for amending NPF or LDPs, it could otherwise prove necessary to carry out a full review sooner than expected, so incurring higher costs for that full process.

This could create possible uncertainty and challenges in the implementation of the development plan or in bringing forward proposals. This could lead to costs to business and planning authorities linked to loss of opportunity or more complex application processes and decisions, and an increase in local reviews or appeals.

### **Option 2: Implement Amendment provisions within the Act through regulations, with amendments requiring a full review**

In support of the Scottish Parliament's scrutiny of the 2017 Planning Bill, the Scottish Government prepared an accompanying Financial Memorandum. This was updated following the Stage 2 scrutiny.

The majority of costs of amending the NPF will fall on the Scottish Government. Cost will vary depending on the scale and nature of any amendment(s) being considered. Costs will include staff costs, including of professional planners, and other specialists as required (e.g. if further environmental assessment required to inform the amendment), there may be costs associated with holding a public consultation (including publication costs, and to service any public events if Ministers decide to hold such sessions).

Planning authorities will be responsible for costs of taking forward any amendments to their LDP. Similarly to costs for amending the NPF, it is anticipated that costs will vary depending on the scale and nature of any amendment(s) being considered. Costs will include staff costs, including of professional planners, and other specialists as required (e.g. if further environmental assessment required to inform the amendment). There may be costs associated with holding a public consultation (including publication costs, and to service any public events), if an examination is required to be held to consider outstanding representations to the proposed amendment, the planning authority would be expected to meet the costs of any examination, mirroring the approach for other LDP examinations.

**Option 3: Implement Amendment provisions within the Act through regulations, with a streamlined procedure for amendments (Preferred option)**

This option would in essence be a mirror of the costs laid out above in Option 2, however these costs can be viewed partly in the context of what would likely be much higher costs to carry out a full review of the NPF to make the chosen changes, if the streamlined amendment provisions that Option 3 provides did not exist.

In terms of planning authority costs associated with amending a LDP, similar to NPF costs, this could be viewed partly in the context of what would likely be much higher costs to carry out a full LDP review without an option of a more proportionate procedural approach where appropriate.

## **Regulatory and EU Alignment Impacts**

### **Intra-UK Trade**

Is this measure likely to impact on intra-UK trade? No

### **International Trade**

Is this measure likely to impact on international trade and investment? No

### **EU Alignment**

Is this measure likely to impact on the Scottish Government's policy to maintain alignment with the EU? No

## **Scottish Firms Impact Test**

The proposed changes are not expected to have any overall impact on Scottish Firms. Views from business and industry interests are however invited as part of the public consultation process.

## **Competition Assessment**

There are no obvious impacts on competition from the proposed regulations or guidance, though views are being sought on this Interim BRIA as part of our consultation process.

## **Consumer Assessment**

The Scottish Government definition of a consumer is "anyone who buys goods or digital content, or uses goods or services either in the private or public sector, now or in the future". It is not anticipated that the proposed regulations or guidance will have any impact on consumers though views are being sought on this Interim BRIA as part of our consultation process.

## **Test Run of Business Forms**

Implementing the provisions in the Planning (Scotland) Act 2019 on the procedures for making amendments to both the NPF and LDPs will not introduce any statutory business forms.

## **Digital Impact Test**

Publicity arrangements for amendment proposals are set out in the proposed regulations and include requirements relating to publishing material on the internet. However, such measures are in addition to other publicity requirements, so it is not considered that the proposed regulations will have any impact on digital technologies or on traditional or offline businesses.

## **Legal Aid Impact Test**

These changes would not affect claims for legal aid.

## **Enforcement, Sanctions and Monitoring**

There is a power within the primary legislation that the Scottish Ministers may direct a planning authority to amend their LDP in relation to matters specified in the direction.

## **Implementation and Delivery Plan**

The [National Planning Framework 4 Delivery Programme](#) (Sept 2023) sets out the approach for implementing NPF4 and includes key actions to be taken forward over the short and medium term. The delivery programme identifies Amendment Regulations as a short term action (2023) and medium term action (2024-28).

Subject to the responses to the public consultation and parliamentary procedures the intention is for the amendment regulations to come into force later in 2024. The intention is to update the Local Development Planning Guidance to cover the amendment process.

## **Post-implementation Review**

Evidence gathered during the consultation will help inform the work to finalise the Development Plan Amendment Regulations. The final BRIA will consider the post-implementation.

Future guidance will be largely factual and will explain the statutory procedures from the 2019 Act and the sets of regulations.

We intend to then engage with planning authorities, the Heads of Planning Scotland network, key agencies, developers and other partners to identify and share good practice and to promote peer-to-peer learning as good practice develops.

## **Summary and Recommendation**

The above proposals for new regulations have emerged from legislative requirements set out in the Planning (Scotland) Act 2019 and following an extensive review of the planning system.

The above proposals aim to strike a balance between having certainty in the long term development plan, and the need for flexibility to adapt to arising issues. This proposal provides clarity on the procedure to amend any part of the development plan, whilst ensuring relevant sectors and interested parties are consulted as part of any proposed amendments.



## Declaration and publication

I have read the partial Business and Regulatory Impact Assessment and I am satisfied that given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of the businesses in Scotland.

<b>Signed:</b>	
<b>Date:</b>	07/02/2024
<b>Minister's name:</b>	Joe Fitzpatrick MSP
<b>Minister's title:</b>	Minister for Local Government, Empowerment and Planning
<b>Scottish Government Contact Point:</b>	Ruairidh Anderson Planning, Architecture and Regeneration Division

## Strategic Environmental Assessment (SEA)

### Pre-Screening

<b>Responsible Authority:</b>	Scottish Government
<b>Title of the plan:</b>	The Town and Country Planning (National Planning Framework and Local Development Plan Amendment) (Scotland) Regulations 2024
<b>What prompted the plan:</b> <i>(e.g. a legislative, regulatory or administrative provision)</i>	Section 12 of the Planning (Scotland) Act 2019 inserts new sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the National Planning Framework and local development plans.
<b>Plan subject:</b> <i>(e.g. transport)</i>	Town & country planning.
<b>Brief summary of the plan:</b> <i>(including the area or location to which the plan related)</i>	<p>The Regulations provide additional procedural and technical detail around the requirements set out in Planning (Scotland) Act 2019 for amending elements of the Development Plan in Scotland.</p> <p>The detail in the Regulations is based on the broad principles inserted within the 2019 Act, which was subject to Strategic Environmental Assessment (SEA).</p> <p>The detailed procedures set out in the Regulations are not expected to have environmental effects in their own right as they are more administrative in nature, covering the technical process through which amendments can be made.</p>
<b>Brief summary of the likely environmental consequences:</b> <i>(including whether it has been determined that the plan is likely to have no or minimum effects, either directly or indirectly)</i>	<p>It is our view the environmental impact of these amendment regulations has already been adequately determined.</p> <p>The Planning (Scotland) Act 2019 which established the principles behind these regulations, was subject to a <a href="#">full</a> SEA. In addition there has been SEA consideration of the 2023 development planning regulations.</p> <p>The additional level of detail contained in the new amendment Regulations has therefore no or minimal environmental effects beyond those that were already established by the assessment of the 2019 Act, and the main development planning regulations.</p> <p>Amendments brought forward by Scottish Ministers or planning authorities to amend the NPF or LDPs respectively may be subject to SEA, providing due consideration of potential significant environmental effects of any proposed changes to the NPF or LDPs.</p>

<p><b>Brief summary of how environmental principles have been considered:</b>  <i>(including whether any of the guiding principles, as set out in section 13 of the Continuity Act, are relevant to the plan)</i></p>	<p>As the new Regulations have no or minimal environmental effects in their own right, it is our view that the environmental principles are not relevant to the proposed regulations.</p>
<p><b>Contact details:</b></p>	<p>Ruairidh Anderson          Planning, Architecture and Regeneration Division          Local Government and Housing Directorate.  <a href="mailto:AmendmentRegs@gov.scot">AmendmentRegs@gov.scot</a></p>
<p><b>Date of opinion:</b></p>	<p>05 February 2024</p>

# Data Protection Impact Assessment (DPIA)

## Data Protection Impact Assessment (DPIA) Development Plan Amendment Regulations – Consultation Only

### 1. Introduction

The purpose of this assessment is to consider the privacy implications associated with the consultation arrangements undertaken by the Planning, Architecture and Regeneration Division (PARAD) of the Scottish Government.

The Data Protection Impact Assessment (DPIA) was prompted by the development of the consultation on Development Plan Amendment Regulations.

### 2. Document metadata

Name of Project: Development Plan Amendment Regulations: Consultation

Author of report: Ruairidh Anderson

Date of report: 18 January 2024

Name of Information Asset Owner (IAO) of relevant business unit: Fiona Simpson

Date for review of DPIA: TBC

Review date	Details of update	Completion date	Approval Date

### 3. Description of the project

Section 12 of the Planning (Scotland) Act 2019 inserts new sections 3CC and 20AA into the Town and Country Planning (Scotland) Act 1997 to introduce powers to amend both the National Planning Framework and local development plans. These provisions give Scottish Ministers powers to prepare secondary legislation (regulations) and the consultation will be seeking views on the proposed approach to implementing these provisions.

The [National Planning Framework 4 Delivery Programme](#) identifies that National Planning Framework and local development plan amendment regulations are to be prepared. These powers are important to address any emerging policy issues that need to be reflected in the National Planning Framework or in local development plans.

The consultation will ask a series of questions, with a mix of open and closed questions, although all the closed questions will allow the opportunity to provide reasons for their answer. There will be no text limit for the free text responses.

The preferred method of response will be through the online CitizenSpace system. The questionnaire will also be downloadable and hard copies may be posted / e-mailed out to meet specific respondent's requirements if requested. Hard copies will be returned directly to PARD to ensure confidentiality. Personal data will also be requested to enable acknowledgement of receipt of response or to enable feedback to any queries received.

It is our usual practice to publish the responses as per the preferences that respondents have indicated via Citizen Space, or, where responses arrived by e-mail / post, via the Respondent Information Form (RIF), which asks about data release preferences.

Following the closure of any consultation, we would look to publish responses where approval has been given for this by the respondent. All the responses will be moderated.

PARD will analyse the responses received and provide a clear and concise report for publication, which reflects a robust analysis of the consultation responses, in order to inform the next stages of policy / legislative development.

## **Consultation Process**

Consultations are hosted on Citizen Space, the Scottish Government's digital platform for consultations, and published on the [Consultation Hub](#), enabling people to submit their response online. Citizen Space is managed by the Scottish Government's Digital Engagement Team.

Consultations are also published on the Scottish Government website, enabling people to email or post a response.

The consultations will run for a minimum of 12 weeks starting February 2024 to May 2024.

## **Governance**

The governance arrangements for consultations broadly involve the following:

- Consultation Manager (Scottish Government): Ruairidh Anderson
- Digital Engagement Manager, Comms (Scottish Government): [DigitalEngagement@gov.scot](mailto:DigitalEngagement@gov.scot)

## **Reporting**

The Consultation Manager will be responsible for the analysis of the consultation responses, as well as the preparation of the final reports. The final consultation

analysis report will be published on the Scottish Government’s website. It is the responsibility of the Consultation Manager to ensure that their methods do not contravene the provisions of current Data Protection Laws.

Data Protection Laws means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification of re-enactment thereof, and the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data on the free movement of such data, and repealing Directive95/46/EC.

#### 4. Data Controller and Data Processor

Data Controller and Data Processor: The Scottish Government.  
Information Asset Owner: Fiona Simpson

#### Data to be processed

Variable	Data Source
E-mail address	Citizen Space (online responses). Respondent Information Form (e mailed or postal responses).
Name	Citizen Space (online responses). Respondent Information Form (e mailed or postal responses).
Whether a person is responding on behalf of an organisation, or issuing a response as an individual. (If respondent is from an organisation, they are asked the type of organisation – developer, public sector, community council etc.).	Citizen Space (online responses). Respondent Information Form (e mailed or postal responses).
Postal address	Respondent Information Form (postal responses).
Contact telephone number	Respondent Information Form (e mailed or postal responses).

#### Data Subjects

The data subjects are the self-selecting respondents to the consultation. Responses may be submitted by both individual members of the public and by organisations. During the data collection process, all respondents are asked to provide information about themselves, either via the Citizen Space online platform or by completing a Respondent Information Form. This form asks respondents to state their publication preference as follows.

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

If **individual** respondents do not answer this question, the default position is not to publish their response.

If **organisation** respondents select 'do not publish' or do not answer this question, the organisation name may still be listed as having responded to the consultation.

Respondents are also asked to indicate whether they are content to be contacted again in the future by the Scottish Government in relation to this specific consultation exercise.

### **Data Collection, Storage and Transfer**

Data will predominately be collected from data subjects electronically via the Citizen Space online platform. Some respondents may also submit their response via post or email and these are uploaded on to Citizen Space by the Scottish Government. Responses on Citizen Space can either be downloaded individually or automatically entered into a database (downloadable onto Excel).

### **Data Access**

Citizen Space will securely hold the consultation responses submitted online or uploaded as attachments, and it will be possible to download the database of online responses onto Microsoft Excel.

The database will include all or some of the following information about each respondent who replied using the online data form or by email or post and either completed a Respondent Information Form or provided the information within their response:

- Name
- Email address
- Responding as an individual or an organisation (If responding on behalf of an organisation) Organisation's name and sector (from list of options -e.g. public, private, third).
- Permission to publish consultation response (publish response with name, publish response only, do not publish response).
- Content to be contacted by the Scottish Government in the future in relation to this consultation exercise
- All inputted responses to the consultation questions.

### **Data Cleaning**

Before beginning the analysis, the Consultation Manger will identify any blank or duplicate responses. Blank responses will be removed before analysis. Multiple different responses submitted by the same individual or organisation will be combined into a single composite response.

For audit and quality control purposes, a record will be kept of any exclusions or changes made to responses included in the final database (i.e. any responses that are excluded from the analysis and the reason for exclusion; any identified as campaign responses; and any reclassification of organisation type). This information will be provided in a separate worksheet within the master database and referred to in the final report.

### **Data Publication**

Responses will be published in accordance with respondents' expressed publication preferences. Where respondents have given permission for their response to be published, with or without their name, and after the Scottish Government has redacted any personal data or defamatory content, consultation responses will be published at <http://consult.gov.scot>.

### **Data Purging and Archival**

The consultation datasets will be held on a secure, password protected server in the Scottish Government, in a sub-folder which is restricted to a limited number of staff working on the Consultation. It is expected that the data will only be held for as long as the data is required. As soon as possible after the project is completed, a review will take place to determine whether the data needs to be retained or destroyed.

If it is decided that there is

- no rationale to justify continuing to hold the data, then it will be destroyed,
- justification to continue to hold the data then it can be held until a further review 12 months later.

### **Explain the legal basis for the sharing with internal or external partners:**

The legal basis for processing personal data will be public task.

The analysis of the data arising from the consultations provides information that will assist the Scottish Ministers in fulfilling their duties to engage under a range of legislation, including those requiring the preparation of impact assessments under environmental, equalities and islands legislation. The information may form the basis of future discussion with key stakeholders.



## 5. Stakeholder analysis and consultation

List all the groups involved in the project, and state their interest

Group	Interest
Planning authorities	Statutory role as decision-makers in the planning system
Other public bodies	May have a role as a key agency / statutory consultee, or use planning to deliver development.  Key Agencies in Development Planning are specified in regulation 25 of <a href="#">The Town and Country Planning (Development Planning) (Scotland) Regulations 2023</a>
Public at large	Opportunities proposed to consult the public as part of the process of preparing amendments to NPF or LDPs. Planning can impact on the places we live, work or play.
Community Councils	Statutory role in the planning system
Equality, Amenity and Environmental Interests / Groups	Provide representations reflecting their particular cultural, environmental, societal interest
Business and developer interests	Private sector organisations, individual businesses and enterprises use the planning system to deliver investment and development
PARD Team	Develop and produce the consultation paper for consultation, and analyse responses
Data Protection and Information Asset Team	Advise on completing the DPIA
Digital Engagement Unit	Create the consultation in Citizen Space

### Method used to consult with these groups when making the DPIA

Respondents will be invited, through the consultation, to comment on the DPIA.

### Method used to communicate the outcomes of the DPIA

We will publish the finalised DPIA on the Scottish Government official platform.

## **6. Questions to identify privacy issues**

All staff involved in processing data will be aware of procedures for data security and privacy, to comply with GDPR. All project staff will know how to recognise a personal data breach (PDB) and how to report suspected breaches in line with GDPR requirements.

### **Anonymity and pseudonymity**

Scottish Government will be responsible for ensuring that responses are published in accordance with respondents' expressed publication preferences.

Individual respondents' names will be published with their responses only if they have given explicit permission for this. Where an individual respondent selects 'publish response only', SG will redact their name and any other potentially identifiable information from their response. Any direct quotations from responses included in the report will not be attributed to identifiable individuals, regardless of their expressed publication preference. There will be no quotations from responses where permission to publish has not been given.

Organisation respondents which select the option 'publish response only (without name)' may still have the organisation name published, but the name of the specific person submitting the response will not be published. Organisations which have given permission for their response to be published could be mentioned by name in the final report, though it is also possible that, rather than being explicitly named, they might be referred to as 'an organisation from the private/public/third sector' etc.

We will keep under review whether anything else needs to be redacted from responses should it risk revealing a respondent's identity.

### **Technology**

Citizen Space is a secure online platform which will hold consultation responses. Where responses are not received via Citizen Space, such as by post / email, these are uploaded onto Citizen Space by the Scottish Government.

### **Identification methods**

Identifiable respondent information is accessible in the dataset created through Citizen Space.

### **Sensitive/Special Category personal data**

It is not anticipated that many of the consultation responses would contain 'special category data,' as defined by GDPR. The legal basis for processing this data, under Article 9 of GDPR, will be 'substantial public interest.'

(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect

the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject’.

However, there is a risk that such data is submitted in free text boxes. Data on text boxes will be reviewed and irrelevant ‘special category’ data removed.

### Changes to data handling procedures

There will be no changes to general data handling procedures for consultations.

### Statutory exemptions/protection

We don’t believe that there any exemptions from the Data Protection Act will apply to this project. Though exemptions for statistical and research purposes may apply.

### Justification

PARD will analyse the responses received and provide a clear and concise report for publication, which reflects a robust analysis of the consultation responses, in order to inform the next stages of policy / legislative development.

### Other risks

None Identified

## 7. General Data Protection Regulation (GDPR) Principles

Principle	Compliant –Yes/No	Description of how you have complied
6.1 Principle 1 – fair and lawful, and meeting the conditions for processing	Yes	The legal basis for processing personal data will be ‘public task’. Planning, Architecture and Regeneration Division has prepared a privacy statement which is available on the Scottish Government website. <a href="https://www.transformingplanning.scot/privacy/">https://www.transformingplanning.scot/privacy/</a> The Scottish Government would communicate this to consultees before they make their comments in any consultation.
6.2 Principle 2 – purpose limitation	Yes	The data will be collected for specific purposes and will not be processed in a manner incompatible with those purposes. The purpose will be clearly explained to respondents prior to responding.

<b>Principle</b>	<b>Compliant –Yes/No</b>	<b>Description of how you have complied</b>
6.3 Principle 3 – adequacy, relevance and data minimisation	Yes	<p>The consultation will only gather necessary information to achieve the project's objectives.</p> <p>Participants are able to input as much information as they would like to open questions, and are able to skip open questions.</p>
6.4 Principle 4 – accurate, kept up to date, deletion	Yes	<p>The data from the consultation and analysis does not need to be kept up to date as it represents the participants' views and circumstances at the point of collection. It will be deleted in accordance with SG retention and disposal strategy (See Principle 5 for deletion).</p>
6.5 Principle 5 – kept for no longer than necessary, anonymisation	Yes	<p>The data processor will be processing data which is directly identifiable in the dataset. Anonymisation measures are set out in section 5.</p> <p>Review measures will be in place to ensure that the data will be kept for no longer than is necessary for its lawful purpose by the Scottish Government.</p>
6.6 GDPR Articles 12-22 –data subject rights	Yes	<p>Data subjects rights are set in the SG privacy policy which is to be found in the RIF linked to the consultation process.</p> <p>The data controller will process and manage any requests to exercise the rights of the data subject.</p>
6.7 Principle 6 - security	Yes	<p>Data will be protected from loss or unlawful processing using appropriate methods, including storing electronic data on password protected secure servers.</p>
6.8 GDPR Article 44 - Personal data shall not be transferred to a country or territory outside the European Economic Area.	Yes	<p>The project is not expected to involve the transfer of data outside the EEA.</p> <p>For customers in the EU, Rackspace is its Infrastructure as a Service hosting provider. Rackspace provides and manages the UK data centers in which the Citizen Space site is hosted.</p>

## 8. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

Risk	Solution or mitigation	Result
We may not have a lawful basis to process the personal data	We have identified an appropriate lawful basis under Article 6(1)(e) 'necessary in the performance of a task carried out in the public interest' to meet our duties under the Planning (Scotland) Act 2019.	<b>Eliminated</b>
We may fail to keep personal data protected against loss, unauthorised access and accidental damage	<p>Electronic data is securely transferred to the data processor and must be password protected or encrypted.</p> <p>Any paper copies of documents holding personal information (i.e. posted responses) are kept in locked cabinets when possible.</p> <p>Data processing staff are required to comply with SG terms and conditions around data security.</p>	<b>Reduced</b>
We may publish data that may enable the identification of individuals	The data will be reviewed and prepared for redaction to ensure that where an individual has not provided permission for their name to be published it is removed. This responsibility sits with the policy lead.	<b>Reduced</b>
We may fail to properly inform individuals of the data processing activity	A privacy notice will be in place to fully inform individuals about the processing and will be made available to view in Citizen Space before any data is request. The privacy notice will also be available in hard copy.	<b>Reduced</b>
We may process special category data without lawful basis	Free text box content will be reviewed and any irrelevant data will be deleted as soon as possible.	<b>Reduced</b>
We may keep personal data for longer than necessary	There is a process to ensure that personal data is deleted at the end of consultations timeously. (see above under Data Purging and Archival section for timescales)	<b>Reduced</b>

## 9. Incorporating Privacy Risks into planning

Risk	How risk will be incorporated into planning	Owner
<p>We may publish data that may enable the identification of individuals</p> <p>We may fail to properly inform individuals of the data processing activity</p> <p>We may process special category data without lawful basis</p>	<p>The data will be reviewed and prepared for redaction to ensure that the appropriate permissions are in place and that information in free text boxes is reviewed. This responsibility sits with the policy lead.</p>	Information Asset Owner
<p>We may keep personal data for longer than necessary</p>	<p>It will be the responsibility to comply with the requirements of removing personal data within the required time limit.</p>	Information Asset Owner

## 10. Data Protection Officer (DPO)

The DPO may give additional advice, please indicate how this has been actioned.

Advice from DPO	Action
Confirm the legislative basis for the regulations and associated consultation	Confirmed

## 11. Authorisation and publication

**I confirm that the impact of undertaking the Development Planning Amendment Regulations Consultation has been sufficiently assessed against the needs of the privacy duty:**

<p>Name and job title of a IAO or equivalent</p> <p>Fiona Simpson, Chief Planner</p>	<p>06 February 2024</p>
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The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83521-966-9 (web only)

Published by The Scottish Government, February 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1419054 (02/24)

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