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Dear SEA Team

**Response by the Scottish Environment LINK to the  
'Consultation on Proposed Legislative Measures to Introduce  
Strategic Environmental Assessment in Scotland'**

11 March 2004

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Scottish Environment LINK is the forum for Scotland's voluntary environment organisations; 36 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society. The organisations listed below have expressed support for this response.

**Introduction**

The members of LINK listed welcome the current consultation and the commitment by the Executive in the Partnership Agreement to legislate to introduce SEA across the range of all new strategies, plans and programmes developed by the public sector in Scotland. We believe that this commitment has the potential to bring environmental consequences to the heart of decision-making, thereby helping to secure a more sustainable environment for Scotland.

Once the Partnership Agreement has been implemented successfully, Scotland will be able to stand at the forefront of SEA activity across Europe. We are pleased and proud to support this but believe that there are key elements in the consultation which must be addressed in order to secure effective delivery and our long-term support.

Scottish Environment  The voice of Scotland's environment movement

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In this response, we have not addressed each of the 50 Questions of the consultation individually as a number of our member bodies will be doing this in some detail; instead we have highlighted 4 key issues which we believe must be addressed if the introduction of the Regulations and in due course the Bill is to be effective.

### **Plans, Programmes and Strategies – Annex 1**

The consultation asks a number of questions about those plans, programmes and strategies we believe may be subject to the Regulations and the Bill. Attached, as Annex 1 is a draft list of those plans, programmes and strategies that LINK bodies have suggested might be subject to SEA under this legislation. As you will see the Bill promises to significantly extend the range and scope of the Directive to a large number of plans, programmes and strategies which we believe will have significant environmental effects. This incomplete list is a perfect illustration of why we are so supportive of the Partnership Agreement commitment; without it, the SEA Directive promises to be a useful but limited tool.

## **Key Issues**

### **1. Public Involvement**

We welcome the broad definition of the ‘public’ as contained in the Regulations but are concerned that the exclusion of the public from the screening and scoping stages misses an opportunity for better decision-making. By limiting the number of consultation bodies to Scottish Ministers (Historic Scotland), SNH and SEPA, there is a very real danger that important areas of expertise or knowledge will be untapped. By publicising these stages and seeking public comment, the Executive would be delivering a truly open and transparent system.

### **2. Administration of the SEA**

The current proposals rely upon consensus and communication between the consultation bodies. We believe the process is more likely to deliver results if the suggested option of a separate SEA agency or arms length body (like, for example, the Scottish Executive Inquiry Reporters Unit) is established. This offers multiple benefits including:

- Co-ordination of screening by a central body who is not responsible for producing plans, programmes or strategies thus addressing the issue of impartiality;
- Decisions issued by this body could be subject to an appeal procedure to Scottish Ministers;
- Responsible Authorities could be compelled to undertake SEA when it was deemed necessary (not currently an option);
- The consultation process could be tailored to individual plans, programmes or strategies and co-ordinated centrally;
- Duplication of effort by consultation bodies would be avoided;
- The quality of environmental reports and the SEA process could be routinely monitored;
- Advice and guidance could be produced as the SEA body develops expertise and experience; and
- This body could also undertake a similar role for Environmental Impact Assessments (EIAs) as currently happens in the Netherlands and Poland.

We appreciate that the Executive may be reluctant to consider the establishment of a new body. If this is not pursued under the Regulations we would seek reassurance that the issue be reconsidered during the passage of the Bill based on the experience gathered up to that point.

### **3. Quality and Monitoring**

We are concerned that the current proposals will not meet the quality or monitoring requirements of the Directive. To address this we recommend the following:

- That mandatory scoping reports are subject to public consultation;
- That the plans or programmes which are not accompanied by an Environmental Report of suitable quality are not adopted or approved;
- Consultation authorities or the SEA body are given powers to compel responsible authorities to provide additional data or revisit their Environmental Reports if they are of a poor quality;

- Name and shame those who regularly produce poor quality SEAs; and
- Put recording systems in place to collect the necessary information to monitor the impacts of plans programmes and strategies, any remedial action taken to remedy unforeseen impacts and the range of plans and programmes subject to SEA.

#### **4. 'Pre-Screening'**

The proposals for the Bill introduce a new concept of 'pre-screening', which we are very concerned about. Essentially this would enable responsible authorities to 'opt-out' of undertaking SEA. The current proposals allow these authorities to decide not to undertake SEA following the disclosure of an assessment against the criteria in Annex II of the Directive. There is no role for the consultation authorities, nor is there any scope to challenge the decision other than by judicial review.

Consultation bodies may welcome this proposal as a mechanism to reduce workloads but we strongly recommend that it be dropped.

By providing responsible authorities with an easy opt-out and no means of challenge the Executive will undermine confidence in the Partnership Agreement and create a confusing two tier system.

We believe that the case-by-case evaluation of plans, programmes and strategies, combined with increasing experience, advice and guidance offers the most equitable and manageable solution.

Yours sincerely

Anne McCall  
LINK Strategic Environmental Assessment Task Force  
Convenor

The following LINK member organisations support this statement:

Association of Regional and Islands Archaeologists  
British Association of Nature Conservationists Scotland  
Biological Recording in Scotland  
Butterfly Conservation Scotland  
Cairngorms Campaign  
Council for Scottish Archaeology  
Friends of the Earth Scotland  
Marine Conservation Society  
The National Trust for Scotland  
Plantlife Scotland  
Ramblers Association Scotland  
Royal Society for the Protection of Birds Scotland  
RuralScotland  
Scottish Countryside Activities Council  
Scottish Countryside Rangers Association  
Scottish Wildlife Trust  
Sustrans Scotland  
Woodland Trust Scotland  
WWF Scotland