

Appendix 1 Legislative Requirements and the SEA Directive

1.0 Context

Legislative Requirements

- 1.1 Section 25 of the Northern Ireland (Miscellaneous Provisions) Act 2006 requires all NI Departments and district councils, in exercising their functions, to act in the way they consider best calculated to contribute to the achievement of sustainable development. Section 5 of the Planning Act (Northern Ireland) 2011 (the 2011 Act) copper-fastens this duty by requiring those who exercise any function in relation to local development plans to do so with the objective of furthering sustainable development. Sustainable development is defined in the Regional Development Strategy 2035 (RDS) as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs.’¹
- 1.2 The appraisal of sustainability must be carried out for the Plan Strategy and Local Policies Plan respectively (Sections 8 (6) and 9 (7) of the 2011 Act). As the sustainability appraisal (SA) for each of these development plan documents will incorporate an assessment of environmental effects, it must also comply with the requirements of the European Directive 2001/42/EC on the assessment of effects of certain plans and programmes on the environment (SEA Directive).
- 1.3 European Directive 2001/42/EC *on the assessment of the effects of certain plans and programmes on the environment* (The SEA Directive) requires a strategic environmental assessment (an SEA) to be carried out for plans prepared for the purpose of town and country planning. The objective of the Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programs with a view to promoting sustainable development.
- 1.4 The SEA Directive was transposed into Northern Ireland legislation through the Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (the EAPP (NI) Regulations). The EAPP (NI) Regulations set out in more detail the requirements for the process and content of the environmental assessment of plans and development. In essence, Strategic Environmental Assessment (SEA) is a process that aims to integrate environmental and/or sustainable considerations into strategic decision making. It will often involve an iterative process of collecting information, defining alternatives, identifying environmental effects, developing mitigation measures and revising the plan in light of predicted environmental effects.

Guidance

¹ RDS 2035 Glossary, P.109

- 1.5 The SA is undertaken in accordance with *A Practical Guide to the Strategic Environmental Assessment Directive (2005)* which provides guidance on SEA in the UK from the former Office of the Deputy Prime Minister (ODPM) and devolved administrations.

Baseline

- 1.6 The EAPP Regulations require analysis of “the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan” (Schedule 2 (2)), “the environmental characteristics of areas likely to be significantly affected” (Schedule 2 (3)) and “any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Council Directive 79/409/EEC on the conservation of wild birds (a) and the Habitats Directive” (Schedule 2 (4)). The ODPM (2005) guidance also recommends that in the early SEA stages, devising SEA objectives and indicators, describing the baseline, identifying environmental problems and analysing links to other policies, should be carried out concurrently, and that they should inform each other.

The SEA Directive

Requirements	Section of this report that covers it
Preparation of an environmental report in which the likely significant effects on the environment of implementing the plan, and reasonable alternatives taking into account the objectives and geographical scope of the plan are identified, described and evaluated. The information to be given is (Article 5 Annex 1):	
a) An outline of the contents, main objectives of the plan	
...and relationship with other relevant plans and programmes;	
b) The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan;	
c) The environmental characteristics of areas likely to be significantly affected;	
d) Any existing environmental problems which are relevant to the plan including, in particular, those relating to any areas of a particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;	
e) The environmental protection objectives, established at International, Community or National level, which are relevant to the plan and the way those objectives and any environmental considerations have been taken into account during this preparation;	
f) The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors (these effects should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects);	

g) The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan;	
h) An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;	
i) a description of measures envisaged concerning monitoring in accordance with Article 10;	
j) a non-technical summary of the information provided under the above headings;	
The report must include the information that may reasonably be required taking into account current knowledge and methods of assessment, the contents and level of detail in the plan, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process to avoid duplication of the assessment (Article 5.2)	
<p>Consultation:</p> <ul style="list-style-type: none"> • Authorities with environmental responsibilities, when deciding on the scope and level of detail of the information which must be included in the environmental report (Article 5.4) • Authorities with environmental responsibilities and the public shall be given an early and effective opportunity within appropriate time frames to express their opinion on the Draft Plan and the accompanying environmental report before the adoption of the plan (Article 6.1, 6.2) • Other EU Member States, where the implementation of the plan is likely to have significant effects on the environment in these countries (Article 7). 	
Taking the environmental report and the results of the consultations into account in decision making (Article 8)	
<p>Provision of information on the decision:</p> <p>When the plan is adopted, the public and any countries consulted under Article 7 must be informed and the following made available to those informed:</p> <ul style="list-style-type: none"> • The plan as adopted • A statement summarising how environmental considerations have been integrated into the plan and how the environmental report pursuant of Article 5, the opinions expressed pursuant to Article 6 and the results of consultations entered into pursuant to Article 7 have been taken into account in accordance with Article 8, and the reasons for choosing the plan as adopted, in the light of the other reasonable alternatives dealt with; and • The measures decided concerning monitoring (Articles 9 and 10) 	
Monitoring the significant environmental effects of the plans implementation (Article 10)	
Quality assurance: environmental reports should be of a sufficient standard to meet the requirements of the SEA Directive (Article 12)	

Source: A practical Guide to the Strategic Environmental Assessment Directive, ODFM, 2005