

Development plan amendment regulations: consultation

Proposals for Regulations on the processes for amending the National Planning Framework and Local Development Plans

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Introduction

1. This consultation paper relates to proposals for regulations on the procedures to amend the National Planning Framework (NPF) and local development plans (LDPs). This is part of our wider work on planning reform and implementation of the [Planning \(Scotland\) Act 2019](#) (the 2019 Act), which made changes to the [Town and Country Planning \(Scotland\) Act 1997](#) (the 1997 Act). Regulations, also known as secondary legislation, are necessary to provide additional detail to the requirements set out in the Act (primary legislation).
2. Details of how to respond to this consultation are set out in [Responding to the Consultation](#). The closing date for responses is 22 May 2024.
3. Following completion of this consultation, and analysis of the responses, regulations will be drafted and put forward for consideration by the Scottish Parliament. The commencement of the relevant sections of the 2019 Act, implementing the amendments to the 1997 Act, will be co-ordinated with the timing of the new regulations.

The Development Plan

4. The NPF and the LDP for each planning authority comprise the ‘development plan’.
5. The NPF is a long-term plan for Scotland, that sets out the Scottish Ministers' policies and proposals for the development and use of land. 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.
6. 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.
7. Decisions on planning applications are legally required to be made in accordance with the ‘development plan’ unless there are material considerations that indicate otherwise.
8. The 1997 Act, as amended by the 2019 Act, sets out the procedures for preparing the NPF and LDPs. It also allows for the NPF and LDPs to be amended, and for regulations to provide more detail about the amendment process.

Background

9. In the Scottish Government consultation '[Places, People and Planning](#)' (January 2017) it was proposed that the review cycles of the 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.
10. 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.
11. The [Policy Memorandum accompanying the Planning \(Scotland\) Bill](#) (December 2017) explains that with the extended 10 year timeframe, the provision to enable amendments could help to ensure that the planning system is able to respond with an appropriate policy provision where urgent matters arise, without requiring a review of the whole document and associated resource requirements.
12. During Parliamentary consideration of the Bill, the following sections were added:
 - section 3CC of the 1997 Act provides for 'Amendment of the National Planning Framework' (inserted by section 12(2) of the 2019 Act).
 - section 20AA of the 1997 Act provides for 'Amendment of local development plan' (inserted by sections 12(3) and 14(6) of the 2019 Act).
13. A [December 2021 consultation on regulations to implement new LDP procedures](#) indicated that regulations for amending LDPs would be prepared once the new LDP system was in place. [The Town and Country Planning \(Scotland\) \(Development Planning\) regulations 2023](#) came into force in May 2023. These are supported by [Guidance on local development planning](#). This guidance will be updated to reflect the regulations for amending LDPs.

Approach to regulations

14. Our aim across our proposals for both the NPF and LDP amendment regulations is to be proportionate. We understand the resource burden reviewing these documents as a whole will have. As such, we envisage that the amendment process will be a more responsive and streamlined version of the full review process, whilst balancing the need for due process, including appropriate justification and consultation on the proposed amendment.

Amendments to the National Planning Framework

15. The 1997 Act allows the Scottish Ministers to amend the NPF at any time. This is provided for in section 3CC(1) of the 1997 Act, inserted by section 12(2) of the 2019 Act.

3CC Amendment of National Planning Framework

- (1) The Scottish Ministers may at any time amend the National Planning Framework.

16. In practice, we expect to exercise this power sparingly. We are strongly of the view that having an established and consistent policy framework enables confidence in the planning system over the long term. This benefits all stakeholders, including communities, developers and infrastructure providers, and supports the requirement that the Scottish Ministers exercise their functions relating to the NPF aligned to the purpose of planning: to manage the development and use of land in the long-term public interest.
17. The power to amend the NPF is likely to only be used in circumstances where Scottish Ministers are satisfied that an amendment is required, recognising that any proposal for an amendment will be considered on its individual merits.
18. The scale of any amendment to the NPF could vary from policy changes or amendments to national developments, to more minor, straightforward amendments, for example a change to a name, or adding a new reference or a change of terminology.

Scope of regulations on amendment of NPF

19. Regulations can only cover matters where power has been given in the primary legislation for the Scottish Ministers to regulate.

Requirement for Full Review of NPF

3CC Amendment of National Planning Framework

- (3) The Scottish Ministers must by regulations set out the circumstances in which they consider that an amendment would result in a significant change to the policies and proposals for the development and use of land of the most recent National Planning Framework such that would require that the National Planning Framework should be reviewed and revised under sections 3AA to 3CA.

20. Section 3CC(3) of the 1997 Act, as amended, requires the Scottish Ministers to set out in regulations the circumstances in which they consider an amendment would result in a significant change to the NPF, such that it would require to be reviewed and revised under sections 3AA to 3CA – the full NPF review process. The Act does not however make provision for the Scottish Ministers to set out in regulations triggers for when any amendment of the NPF would be required.
21. Whilst the Scottish Ministers can decide to review the NPF in full at any time, given the resource implications of a full review (both on the Scottish Government and other stakeholders, including communities), along with associated timescales, we propose to set the bar for a full review fairly high to ensure it would take a significant change to the most recent document to make a full review mandatory.
22. Measuring significance of any proposed change(s) to the NPF in a way that can provide precise triggers in legislation is not straightforward, particularly when the scale of impact that policy changes may have could be subjective. The Act nevertheless does require the regulations to set out circumstances or triggers in which a proposed change would require a full review, so requiring some degree of precision.
23. We are proposing that the NPF should be reviewed under sections 3AA to 3CA if the proposed amendment(s) would mean half or more of the following would be amended:
- [national developments](#); or
 - [national planning policies](#);

	In NPF4	Half or more
national developments ; or	18	9+
national planning policies ;	33	17+

24. This proposal would support the intention for the NPF to provide confidence in the planning system over the long term. It would mean a full review of the NPF is not triggered via legislation when a limited part of the NPF requires an amendment. We propose that any changes to text solely amending references or links, e.g. ‘key policy connections’ as featured in NPF4 policies, within the document are not considered significant and would therefore not be counted towards triggering a review.
25. Our proposal is intentionally broad and not specific to particular topics. It enables amendments to be brought on any individual issue without requiring the significant resource commitment needed by all stakeholders for a full review. It also ensures that significant deviation from the most recent document

will result in a full review, whilst guarding against the possibility that a detailed and specified list is unlikely to predict all future situations.

26. We believe it follows that less significant changes could be made by the amendment route – which will itself carry an appropriate level of consultation and scrutiny – without a full review being statutorily required. It is already acknowledged that Scottish Ministers can decide to review the NPF in full at any time without amendments reaching this trigger.

Question 1:

To what extent do you agree that it is appropriate to adopt a broad and high-level approach as to when a full review of the NPF is required?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Question 2:

In cases where amendments would require changes to half or more of the contents of the NPF, to what extent do you agree that a full review of the NPF would be required?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Procedures for amending NPF

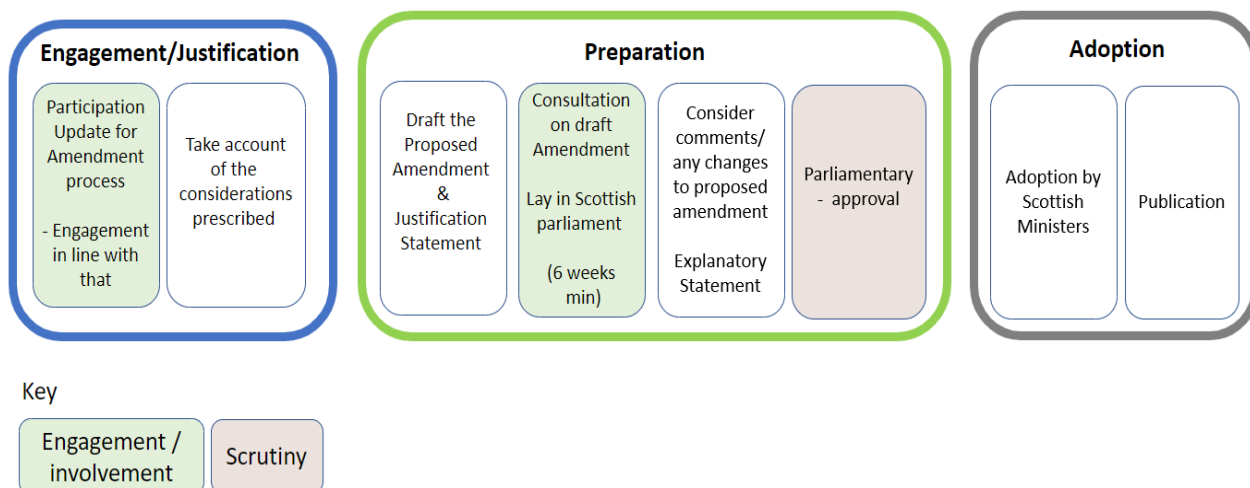
3CC Amendment of National Planning Framework

- (4) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).
- (5) Regulations under subsection (4) may in particular make provision—
- (a) about the procedures to be followed,
 - (b) about the consultation to be undertaken on proposed amendments,
 - (c) about when the amendments take effect,
 - (d) about the publication of the amended framework,
 - (e) about the laying of the amended framework before the Scottish Parliament.

27. Sections 3CC (4) and (5) of the 1997 Act provides that Scottish Ministers may make further provisions about amendments of the NPF by regulations, and sets out matters which the regulations may in particular make provisions about. The 1997 Act, in [sections 3AA to 3CA](#), sets out the required procedures and considerations for carrying out a full review of the NPF. We have considered these in developing the proposals for procedures for amendment of the NPF.

28. We envisage the process for amending the NPF having three main stages:
- Engagement/justification for the amendment
 - Preparation of the amendment (including consultation, laying in the Scottish Parliament and Parliamentary approval)
 - Adoption by Scottish Ministers of the amendment and publication of the NPF as amended.

Figure 1



Engagement/Justification

Engagement

29. We envisage that at the outset of considering an amendment to the NPF, the Scottish Ministers would usually provide an update on what engagement they intend to carry out, appropriate to the specific proposed amendment.

Considerations

30. The 1997 Act sets out a series of issues that Ministers must consider when carrying out a full review of the NPF. We are proposing that these should also be considerations for amendments, whilst recognising that the weight given to each of the considerations may vary depending on the nature and topic of the proposed amendment.
31. The Act contains some specific requirements in relation to national developments around considering the Infrastructure Investment Plan and carrying out a lifecycle greenhouse gas emissions assessment. We propose that the regulations would also apply these where a proposed amendment seeks to add a national development.

Requirement in Act for preparing a revised NPF

General	
<p>the Scottish Ministers must—</p> <p>(a) have regard to relevant policies and strategies, including in particular—</p> <ul style="list-style-type: none"> i. any national strategy and action plan for housing prepared by the Scottish Ministers, ii. any infrastructure investment plan prepared by the Scottish Ministers to set out their priorities for the development of public infrastructure, iii. any national transport strategy prepared by the Scottish Ministers, iv. any strategic transport projects review prepared by the Scottish Ministers to set out their priorities for transport investment, v. the land use strategy prepared under section 57 of the Climate Change (Scotland) Act 2009, vi. the programme for adaptation to climate change prepared under section 53 of the Climate Change (Scotland) Act 2009, vii. any national strategy in respect of the improvement of air quality prepared by the Scottish Ministers, viii. any land rights and responsibilities statement prepared under section 1 of the Land Reform (Scotland) Act 2016, ix. any national strategy or action plan for the ownership or use of land prepared by the Scottish Ministers, and x. the national marine plan prepared under section 5 of the Marine (Scotland) Act 2010, and 	<p>section 3AB(3)(a)</p>
<p>(b) have regard to the desirability of—</p> <ul style="list-style-type: none"> i. resettling rural areas that have become depopulated, ii. preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements, and iii. preserving peatland. 	<p>section 3AB(3)(b)</p>
<p>The Scottish Ministers must have due regard to any National Scenic Areas report published by them under section 263B when preparing the framework.</p>	<p>section 3A(4A)</p>

In relation to national developments	
<p>If the framework contains a designation under subsection (4)(b) [national development] the framework —</p> <p>(za) must have due regard to an Infrastructure Investment Plan published by the Scottish Ministers, and include a statement setting out the ways it has been taken into account in preparing the framework,</p> <p>(a) must contain a statement by the Scottish Ministers of their reasons for considering that there is a need for the national development in question.</p>	<p>section (3A)(5)</p>
<p>(3)The National Planning Framework must contain—</p> <p>(e) an assessment of the likely impact of each proposed national development's lifecycle greenhouse gas emissions on achieving national greenhouse gas emissions reduction targets (within the meaning given in the Climate Change (Scotland) Act 2009)</p>	<p>section 3A (3)(e)</p>

Question 3:

In preparing an amendment to the NPF, to what extent do you agree that the Scottish Ministers should have the same considerations as they would for a full review of the NPF, where that is relevant to the proposed amendment?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Preparation

Provision of information

3CC Amendment of National Planning Framework

(2) Section 3AC applies to amending the National Planning Framework as it applies to preparing or revising it.

32. Section 3CC(2) of the 1997 Act provides that section 3AC applies to amendments. [Section 3AC](#) enables the Scottish Ministers to direct planning authorities to provide information about a specified range of matters (for example population, housing and infrastructure) to assist them in amending the NPF. While already provided for in the Act, this is a discretionary power so that the Scottish Ministers would only require information on issues that are relevant to the particular amendment if they consider that to be necessary. As such information would be obtained by a direction, there is no need to address this in these regulations.

Drafting

33. It will be for the Scottish Government to draft any proposed amendment to the NPF, prepare justification for the amendment, and to carry out any other impact assessments required.

Consultation

34. We propose that when intending to amend the NPF the Scottish Ministers are required to publish (online):

- the proposed amendment, for consultation; and
- explanation as to why the amendment is proposed.

35. When proposing an amendment to the NPF, along with publishing for comment from the public at large, we propose that the Scottish Ministers be required to consult with:

- key agencies as defined in the [Development Planning regulations 2023](#); and
- planning authorities.

36. The 'public at large' is a broad inclusive category covering most people and stakeholders, therefore we do not consider it necessary to define further groups to be consulted, especially where they may not be interested in particular amendments.

37. A full revision of the NPF is required to be laid in draft before the Scottish Parliament. For consistency, and to allow opportunity for Parliamentary

engagement around amendments to the NPF, we propose to also require the laying of a copy of the draft amendment before the Scottish Parliament.

38. A full revision of the NPF is required to be laid in draft before the Scottish Parliament for 120 laying days (equivalent to around 17 weeks). We propose that for a proposed amendment to the NPF the consultation period be a minimum of 6 weeks. Whilst a Scottish Government consultation is typically 12 weeks, that length of time may not always be necessary or appropriate, for example for an amendment to terminology that only affects a small number of stakeholders. Setting a minimum rather than a prescribed timescale will provide flexibility and mean the consultation can reflect the nature and significance of the amendment. It would allow decision makers to set a suitable timescale, relative to the significance of the amendment and take account of Parliamentary recess and other timeframes.

Question 4:

To what extent do you agree with the list of those the Scottish Ministers should consult with on a proposed amendment i.e. the public at large, key agencies and planning authorities?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Question 5:

To what extent do you agree that a copy of the proposed amendment should be laid in the Scottish Parliament during the consultation period?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Question 6:

To what extent do you agree with the proposed minimum 6 week consultation period, understanding that the timescale may be extended when deemed appropriate given the significance and nature of the amendment?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Consideration of comments and representations

39. We propose that the regulations will require the Scottish Ministers to have regard to any representations about the proposed amendment that are made to them by the end of the consultation period.
40. The full procedure for reviewing the NPF includes the laying of an explanatory document that sets out the consultation that has taken place, a summary of representations received in relation to the consultation, and the changes made as a result of the representations. This supported transparency and understanding in the development and approval/adoption of NPF4, and we consider that there is benefit in carrying out a similar procedure whenever amending the NPF.
41. We therefore propose that an Explanatory Report is required to be published and this will set out:
- a summary of any representations received; and
 - the changes (if any) made to the draft of the amended framework as a result of those representations.

Question 7:

To what extent do you agree that the Scottish Ministers be required to publish an Explanatory Report before the amended NPF is adopted?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Parliamentary approval

42. A full review of the NPF cannot be adopted by the Scottish Ministers until it has been approved by a resolution of the Scottish Parliament. Whilst this is a further procedure after the end of the consultation process, we consider that in the interests of consistency and transparency, providing Parliamentary oversight on any changes to this part of the statutory development plan would be appropriate. We therefore propose for amendments to the NPF to also have to be approved by a resolution of the Scottish Parliament.

Question 8:

To what extent do you agree that all amendments to the NPF should have to be approved by a resolution of the Scottish Parliament?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Taking effect

43. When the NPF is reviewed in full, the NPF as amended takes effect once it has been adopted by the Scottish Ministers (section 3CA(1)). We propose the same for when there is an amendment to the NPF: that it takes effect once it has been adopted by the Scottish Ministers.

Question 9:

To what extent do you agree that the amended NPF should take effect when it has been adopted by Scottish Ministers?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Publication

44. When the NPF is reviewed in full, the NPF as amended is to be published as soon as practicable after it has been adopted by the Scottish Ministers (section 3CA(7)). We propose the same for when there is an amendment to the NPF: that it be published as soon as practicable following adoption by Scottish Ministers. We also propose for the publication requirement to relate to the full updated version of the NPF with the amendment incorporated.

Question 10:

To what extent do you agree that the full updated version of the amended NPF, incorporating the amendment, should be published as soon as practicable after it has been adopted by Scottish Ministers?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Amendment to Local Development Plans

45. Section 12 of the 2019 Act inserts section 20AA into the 1997 Act. Section 20AA(1) of the 1997 Act will provide that a planning authority may amend their LDP at any time.

20AA Amendment of local development plan

- (1) A planning authority may at any time amend a local development plan constituted for their district.

46. The 1997 Act and 2023 Development Planning regulations set out detailed requirements for the preparation of a LDP. The supporting [LDP guidance](#) indicates this process should take around 3 to 4 years. We do not expect an amendment to a LDP to take this length of time and intend the amendment process to be more responsive and streamlined.

Circumstances for amending LDPs

47. Whilst it will generally be at the discretion of the planning authority, we would anticipate the power to amend a LDP could be used to address a new local policy matter that reflects a new local issue or ambition. It may also be used to address local place-based matters, such as incorporating content from one or more local place plans, Masterplan Consent Areas, or local implications of a new national development in a revised NPF. We would not anticipate LDPs being amended to add in single sites, for example for housing or business use. We will update the local development planning guidance with further advice, which will be informed by responses to this consultation.
48. Section 20AA(2) of the 1997 Act provides discretion for the Scottish Ministers to direct a planning authority to exercise their power to amend a LDP, and for that to relate to matters specified in the direction. It is also a requirement under section 20AA(3) of the 1997 Act that the direction sets out the reasons for requiring the amendment to the LDP.

20AA Amendment of local development plan

- (2) The Scottish Ministers may direct a planning authority to exercise their power under subsection (1) in relation to matters specified in the direction.
- (3) A direction under subsection (2) must set out the Scottish Ministers' reasons for requiring an amendment to the local development plan.

49. The Scottish Ministers would expect to exercise this power very sparingly. In considering a direction to amend a LDP, each circumstance will be considered on its own merits. The benefits of an established and consistent policy

framework are equally applicable to LDPs as to the NPF, with the aim of enabling confidence in the planning system over the long term.

Scope of regulations for amendment to LDPs

50. As set out previously, regulations can only cover matters where power has been given in the primary legislation for the Scottish Ministers to regulate. These powers are provided in section 20AA (5)-(7).

20AA Amendment of local development plan

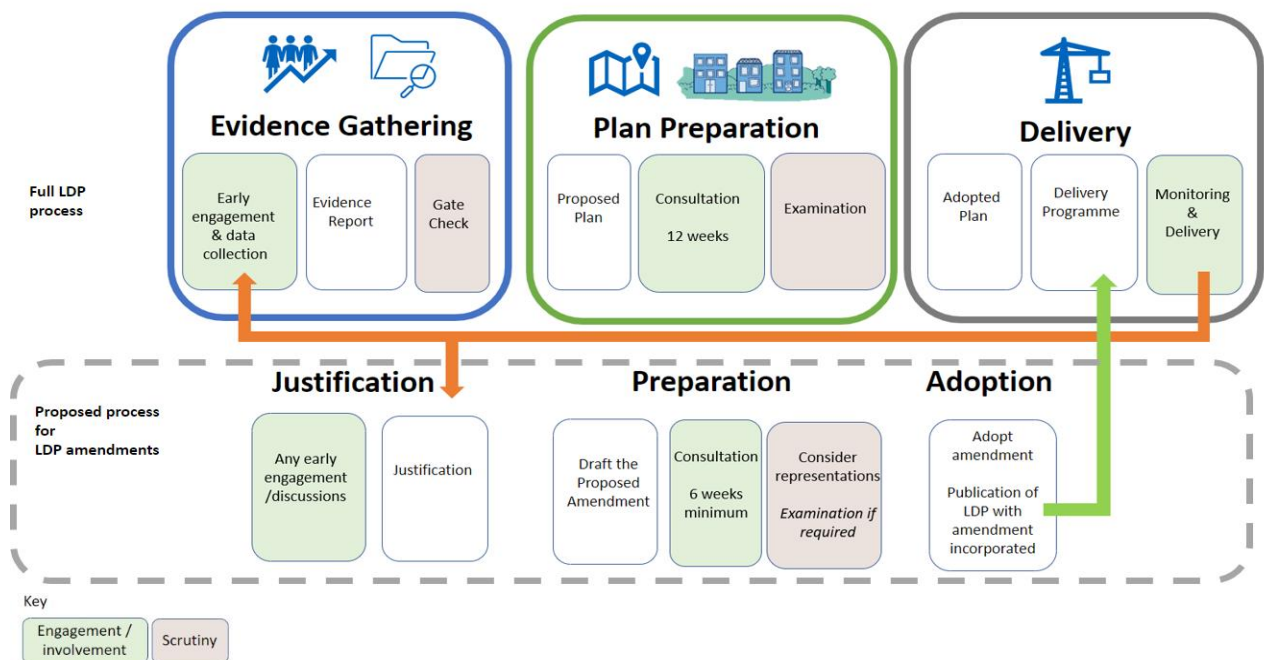
- (5) The Scottish Ministers may by regulations make further provision about amendments under subsection (1).
- (6) Regulations under subsection (5) may in particular make provision—
- (a) about the procedures to be followed,
 - (b) about the consultation to be undertaken on proposed amendments,
 - (c) about when the amendments take effect,
 - (d) about the publication of the amended plan.
- (7) Regulations under subsection (5) may provide that sections 16A to 20A apply to an amendment to a local development plan as they apply to a local development plan subject to such modifications as are specified in the regulations.

51. Our intention is to update the [LDP guidance](#) to reflect the procedures for amendments to LDPs, and Ministers' expectations around amendments, to accompany the regulations coming into force.

Procedures for amending LDPs

52. The principle of streamlining the process for amendments compared to that for a full LDP is reflected in the proposals below. Appropriate engagement, consultation and scrutiny will still be incorporated. We consider that planning authorities should not be required, in preparing an amendment, to undertake elements of the process which may not be relevant in all cases. Guidance will, however, indicate where additional elements may be appropriate.

Figure 2



Early engagement/discussions

53. Section 16C of the 1997 Act relates to effective community engagement guidance; planning authorities must have regard to any such guidance issued by Scottish Ministers when preparing a LDP. Community engagement is a significant aspect of planning reform, therefore we propose to require that regard must also be had to any community engagement guidance issued by Ministers when amending a LDP.

Question 11:

To what extent do you agree that planning authorities should be required to have regard to community engagement guidance issued by the Scottish Ministers under section 16C when amending a LDP?

- Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

54. Section 20B of the 1997 Act relating to Development Plan Schemes (DPS) and Participation Statements falls outwith the provisions listed in Section 20AA(7). However, under the powers for these regulations to cover procedures for amendments, we propose to include a requirement for planning authorities to provide a statement outlining how they intend to engage with stakeholders on an amendment to a LDP. This could take the form of either an update to the DPS, an additional annex or a separate statement that cover the subject of the amendment, expected timescales and proposed engagement.
55. We do not propose that planning authorities be required to invite views on how stakeholders wish to be engaged. We propose to require the statement to be issued as soon as practicable. In practice, we would expect this would be within 6 weeks of an authority's decision to progress an amendment to a LDP. We consider the proposals will provide transparency, enable relevant stakeholders to be engaged in the process (including children and young people as referred to below) and assist stakeholders in resourcing their engagement.

Question 12:

To what extent do you agree that planning authorities should be required to provide a statement outlining how they intend to engage with stakeholders on an amendment to a LDP?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

56. Section 20AA(7) provides that the LDP Amendment regulations may provide that section 16A applies to an amendment to a LDP as it applies to a LDP, subject to such modifications as are specified in the regulations. Section 16A of the 1997 Act relates to the participation of children and young people in the LDP. Given that amendments may be specialist or technical in nature, and relate to individual elements of the plan, we do not propose to specifically require the participation of children and young people for every amendment to a LDP. However, we would expect that where an amendment is likely to have a direct impact on the interests of children and young people, planning authorities would ensure engagement and involvement, as appropriate. We intend to update our guidance to reflect this.

Question 13:

To what extent do you agree that not every amendment to a LDP should require specific participation of children and young people?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Information and Considerations

57. The primary legislation provides that in preparing an amendment to a LDP, the planning authority must take into account the NPF and any local outcomes improvement plan (LOIP). There is also scope for Scottish Ministers to prescribe in regulations other information and considerations.

20AA Amendment of local development plan

- (4) In preparing an amendment to a local development plan, a planning authority—
- (a) are to take into account—
 - (i) the National Planning Framework,
 - (ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,
 - (b) are to have regard to such information and considerations as are prescribed; and
 - (c) may have regard to such other information and considerations as appear to them to be relevant.

58. In relation to the prescribed matters, we propose that planning authorities must have regard to the information and considerations set out in [regulation 9](#) of the Town and Country Planning (Scotland)(Development Planning) regulations 2023. This would ensure that the information given regard to mirrors that required when reviewing a LDP in full.
59. If this was covered in the LDP Amendment regulations it would cover a range of potentially relevant documents, for example regional spatial strategies, neighbouring LDPs, and various other strategies, as set out in regulation 9(2)(e).

Regulation 9 of the Town and Country Planning (Scotland) (Development Planning) regulations 2023

(2) The information and considerations are—

(a) any regional spatial strategy prepared under section 4ZA(1) of the Act for the local development plan area or an area adjoining the local development plan area,

(b) any local development plan prepared for a different purpose for the local development plan area,

(c) any local development plan prepared for an area adjoining the local development plan area,

(d) where the local development plan area adjoins land in England, any document which forms part of the development plan(2) for the area in which that land is situated,

(e) the following plans and strategies, insofar as relating to the local development plan area—

(i) the national waste management plan,

(ii) the national marine plan,

(iii) any regional marine plan,

(iv) any river basin management plan,

(v) any flood risk management plan,

(vi) any local flood risk management plan,

(vii) any regional transport strategy,

(viii) any local transport strategy,

(ix) any local housing strategy,

(x) any open space strategy published under section 3G(3) of the Act.

(f) the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment,

(g) the need in the long term—

(i) to maintain appropriate safety distances between residential areas, buildings and areas of public use, recreational areas and, as far as possible, major transport routes and—

(aa) establishments covered by the Directive,

(bb) major accident hazard pipelines,

(ii) to protect areas of particular natural sensitivity or interest in the vicinity of establishments or major accident hazard pipelines, where appropriate through appropriate safety distances or other relevant measures,

(iii) in the case of existing establishments, to take additional technical measures in accordance with regulation 5 of the Control of Major Accident Hazards Regulations 2015(4) so as not to increase the risks to human health and the environment.

(h) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan.

60. The requirement ‘to have regard to’ enables the planning authority to establish the information and considerations that are relevant to the amendment, and to give appropriate weight to them.

61. We also intend to ensure that the considerations set out in regulation 9(f)-(h) of the development planning regulations are to be given regard to. These are around prevention of major accidents, safety distances, major accident hazard pipelines and the resources available or likely to be available for the carrying out of the policies and proposals set out in the LDP as amended.
62. Section 20AA(4)(c) provides that planning authorities may have regard to such other information and considerations as appear to them to be relevant. This could include other local strategies, action plans and registered local place plans.

Question 14:

To what extent do you agree that, when preparing an amendment, a planning authority must have regard to the information and considerations set out in regulation 9 of the Town and Country Planning (Scotland)(Development Planning) regulations 2023?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Justification

63. As provided for in section 20AA (7) (see para 54 above), the regulations on LDP amendments may provide that section 16B applies to an amendment to a LDP as they apply to a local development plan. Section 16B of the 1997 Act relates to the Evidence Report for the preparation of a LDP, and as per our local development plan guidance the Gate Check stage of preparation. In line with ensuring our proposals remain proportionate and appropriate to the amendment being made, we do not propose to require a full Evidence Report to be prepared or the Gate Check stage to be undertaken for an amendment to a LDP.
64. However, we propose that the planning authority collates evidence to justify and inform the proposed amendment. We propose that the planning authority prepares a Justification of Amendment Statement, setting out the rationale for the proposed change and details of any evidence or engagement already collected/carried out. This will be published alongside the draft amendment proposal and consultation.

Question 15:

To what extent do you agree that an authority should be required to collate relevant evidence to inform the proposed amendment and prepare a Justification of Amendment Statement?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

65. Section 20AA (7) also allows the amendment regulations to provide that section 16D applies to an amendment to a LDP. Section 16D of the 1997 Act relates to Play Sufficiency Assessment (PSA) and its requirement for the preparation of the Evidence Report. As we do not propose to require an Evidence Report for an amendment to a LDP, we do not propose to require a PSA for an amendment to a LDP. Moreover, it is unlikely that a PSA would be relevant to all amendments.

Question 16:

To what extent do you agree that a Play Sufficiency Assessment should not be required for an amendment to a LDP?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

66. Section 20AA (7) also allows for the application of section 16E of the 1997 Act, which relates to publication of a list of persons seeking land for self-build housing. Planning authorities are to have regard to the list when preparing a LDP under section 16 of the 1997 Act. Whilst we do not propose to require that regard be had to the self-build list for every amendment to a LDP, we would expect that where the information is relevant, it will be taken into account. We will update the LDP Guidance to reflect this.

Question 17:

To what extent do you agree that an authority should not be required to have regard to the self-build list for every amendment to a LDP?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Consultation

67. For preparation of LDPs, sections 18(1B) and 18(1C) of the 1997 Act require that a Proposed LDP is approved by the planning authority before it is published (for consultation) and remove the ability of this to be delegated by the full council.
68. We do not consider it necessary for a proposed amendment to a LDP to be considered by the full council prior to consultation. Therefore we propose that before a proposed amendment is published for consultation, it must be approved by the planning authority. We are not intending to require approval by the full council within regulations. By referring to the ‘planning authority’ rather than ‘full council’ this will enable the planning authority to decide on the appropriate level of approval/sign off for the proposed amendment to be consulted on (for example, it could be a decision of full council, or at Committee, or delegated to the Chief Planning Officer, depending on the nature of the amendment and the Council’s internal delegation procedures).

Question 18:

To what extent do you agree that approval by the full council is not always required before the publication of a proposed amendment to a LDP for consultation?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

69. Sections 18(a) and 18(aa) of the 1997 Act require the publication of the Proposed Plan for consultation and the Evidence Report alongside for information. Section 21(4) also requires publication of the Proposed Delivery Programme at the same time. For an amendment to a LDP we propose that the proposed amendment be published for consultation, alongside the aforementioned Justification of Amendment statement which is to be published for information and to clarify evidence gathered. It would be expected that a statement on the consequences for any existing Delivery Programme would also be published at this time. We consider this to be an equivalent and proportionate package of material for consultation and information relating to a proposed amendment to a LDP.

Question 19:

To what extent do you agree that the proposed amendment to a LDP should be published for consultation, alongside the Justification of Amendment statement and any statement on the consequences for the Delivery Programme which are to be published for information?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

70. Section 18(1)(d) of the 1997 Act requires that planning authorities consult with key agencies and such persons as may be prescribed, when a Proposed Plan is published. Regulation 11 of the Town and Country Planning (Development Planning) (Scotland) regulations 2023 prescribes that Scottish Ministers should also be consulted.
71. For a proposed amendment to a LDP, we propose that planning authorities are required to notify:
- Scottish Ministers;
 - the public at large;
 - key agencies (as identified in [Reg 25 of the Development Planning regulations](#)); and
 - Community Councils.
72. We would expect that planning authorities also engage and consult those considered appropriate to the specific amendment being proposed.
73. This will enable planning authorities to consider those stakeholders relevant to the proposed amendment, in line with the proposals outlined above, for a statement outlining how they intend to engage with stakeholders. It will also enable key agencies to consider whether they have an interest in the amendment, rather than the planning authority determining that. As explained at paragraph 36, we believe the 'public at large' would be a sufficiently broad requirement to include different sections and groups within that.

Question 20:

To what extent do you agree that planning authorities should be required to notify Scottish Ministers and to consult with the public at large and key agencies, alongside others they consider appropriate, when amending a LDP?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

74. Section 18(2) of the 1997 Act requires consultation on a Proposed Plan for a period of 12 weeks. Similar to our reasoning in paragraph 38 for the NPF, we consider that length of time may not always be necessary or appropriate and setting a minimum rather than a prescribed timescale will provide flexibility. Therefore, for a proposed amendment to a LDP, we propose that the timescale for consultation be a minimum of 6 weeks. This will provide flexibility for the authority subject to the nature and scale of the amendment, allowing them to extend the timescale for more complex amendments or those where significant numbers of people may have an interest.

Question 21:

To what extent do you agree with the proposed minimum 6 weeks consultation period, understanding that the timescale may be extended when deemed appropriate given the scale of the amendment?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Consideration of representations/Examination

75. We propose that, following the consultation, the planning authority be required to take into account any representations made. Our proposal aims to ensure a reasonable approach which helps to reduce the time and resource burden for straightforward cases, whilst maintaining independent scrutiny as appropriate.
76. Sections 19, 19ZA and 19A of the 1997 Act relate to the Examination of a LDP. Examinations provide independent scrutiny once stakeholders have input to the LDP process. They also have an impact on the time and resources needed to progress the plan. We envisage that not all amendments to LDPs will require comprehensive independent scrutiny, but understand that this is an important part of the decision making process. Our proposed approach seeks to balance streamlining of the amendment process with the need for independent scrutiny in some circumstances.
77. Following the consultation on a proposed LDP amendment, we propose that the planning authority publishes a modifications report, providing the details and rationale for any changes subsequently made to the proposed amendment. This will include a summary of the representations made and the consideration given.
78. Where there are no unresolved representations, we propose that the planning authority may proceed to adopt the amendment without any further scrutiny.

79. Where unresolved representations remain that are not addressed via the modifications report, we propose that the planning authority must notify Scottish Ministers and request they appoint a person to examine the amendment.
80. If an Examination is required to be held, similar to LDP Examinations, the form it takes would be at the discretion of the appointed person, in practice a reporter from the Scottish Government's Planning and Environmental Appeals Division. The reporter's recommendations would then be considered binding, subject to the same grounds for declining to follow recommendations as apply for LDP preparation.

Question 22:

To what extent do you agree with our proposed approach to independent examination?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Taking effect

81. Section 20(1) of the 1997 Act sets out that the LDP is constituted when it is adopted by the planning authority. We propose that an amendment to a LDP also takes effect when it is adopted by the planning authority.

Question 23:

To what extent do you agree that an amendment to a LDP should take effect when it is adopted by the planning authority?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Publication

82. Section 20A of the 1997 Act sets out the publication requirements for when a LDP has been adopted. This includes publishing it, including by electronic means, sending two copies to Scottish Ministers, placing a copy in public libraries within the authority area, notifying those who made representations to the consultation and advertising in a local newspaper that the LDP has been published.

83. We propose that the same be required when an amendment to a LDP has been adopted. We also propose for the publication requirement to relate to the full updated version of the LDP with the amendment incorporated. This provides for the most up to date version of the plan being available and for publication to have been done in the same way as the initial plan and therefore having the potential to reach the same audience for their awareness.

Question 24:

To what extent do you agree that a full, updated version of the amended LDP, incorporating the amendment, should be published in the same way as the initial LDP?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

Impact Assessments

84. 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.
85. The following impact assessments or relevant screening for them have been completed in relation to proposals for regulations on the procedures to amend the National Planning Framework (NPF) and local development plans (LDPs):
- Equalities Impact Assessment (EQIA)
 - Child Rights and Wellbeing Impact Assessment (CRWIA)
 - Fairer Scotland Duty (FSD)
 - Islands Communities Impact Assessment (ICIA)
 - Business and Regulatory Impact Assessment (BRIA) – Partial
 - Strategic Environmental Assessment (SEA)
 - Data Protection Impact Assessment (DPIA)
86. Given the amendment regulations will be procedural in nature, we have screened out most of the impact assessments, as the impacts of the wider documents and policies have been considered through previous assessments. Further details of this and the assessments themselves are set out in the paper published alongside this consultation paper. The following questions relate to those impact assessments.

Question 25:

To what extent do you agree with our approach to the impact assessments for the proposed regulations?

Strongly agree Agree Neutral Disagree Strongly Disagree

Where applicable, please give reasons for your answer.

List of Acronyms

the Act	Town and Country Planning (Scotland) Act 1997
the 2019 Act	Planning (Scotland) Act 2019
BRIA	Business and Regulatory Impact Assessment
CRWIA	Child Rights and Wellbeing Impact Assessment
DPIA	Data Protection Impact Assessment
DPS	Development Plan Schemes
EQIA	Equalities Impact Assessment
FSD	Fairer Scotland Duty
ICIA	Islands Communities Impact Assessment
LDP	Local development plan
NPF	National Planning Framework
Reg	Regulation
SEA	Strategic Environmental Assessment

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 and send to:

AmendmentRegs@gov.scot

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 AmendmentRegs@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.

Development plan amendment regulations: consultation



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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