

From: **REDACTED**
Planning and Architecture Division
30 March 2015

Cabinet Secretary for Social Justice, Communities and Pensioners' Rights

UNCONVENTIONAL OIL AND GAS - STRATEGIC ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Purpose

1. To seek your agreement to undertake a Strategic Environmental Assessment (SEA) of unconventional oil and gas policy options.

Priority

2. Routine

Background

3. Under the Environmental Assessment (Scotland) Act 2005, the Scottish Government is required to undertake a SEA of any of its plans, programmes and strategies that could have a significant effect on the environment.

4. A SEA involves gathering baseline environmental information, assessing the likely significant effects of policies and proposals and of reasonable alternatives to them, and then offer an early and effective opportunity for public consultation on the proposals and the findings of the assessment.

5. The Minister for Business, Energy and Tourism announced a moratorium on unconventional oil and gas planning consents to the Scottish Parliament on 28 January 2015. It was further announced that the moratorium would remain in place until a public consultation and a programme of further work, including a public health impact assessment, was undertaken. **REDACTED**

6. The Scottish Government has an excellent track-record in SEA. When the legislation was drafted, the 2005 Act extended the scope of SEA in Scotland to cover a wider range of policies and strategies than was strictly required under the original EC Directive 2001/42. As a result we have extensive experience in undertaking SEA across a wide range of plans, programmes and strategies. In 2009, we established a team within Planning and Architecture Division who have professional expertise required to deliver this work in-house. By doing this work in-house, we have significantly reduced the organisation's costs (the work was previously undertaken by consultants), and improved the quality and proportionality of the outputs. The team has delivered numerous SEAs including of the National Planning Framework, National Marine Plan and a wide range of policies and strategies on subjects including radioactive waste, transport, environment, and energy.

Legal Advice

7. **REDACTED**

8. **REDACTED**

Proposed Approach to the SEA

9. **REDACTED**

10. Our experience suggests that a high level SEA of the broad options for future policy on unconventional oil and gas would be appropriate. SEA does not require primary data collection – it can rely on the best available environmental information. To make the process manageable, there is also scope to build on previous work including the SEA of the licensing rounds undertaken for DECC (although it was the subject of a legal challenge), and the work of the Independent Expert Scientific Panel. The SEA can also support and be informed by the wider evidence gathering which will take place, including the Health Impact Assessment and work on transport impacts.

11. The assessment would commence with scoping, where we would set out the sources of information and methodology to be used in the assessment. This would lead to production of a Scoping Report followed by a statutory 5 week period of consultation with the Consultation Authorities (SNH, SEPA and Historic Scotland). In the interests of transparency, we would propose also making this available online for public comment. We have provisionally programmed this to take place in Summer 2015.

12. Following scoping, we would progress the fuller assessment, leading to the preparation of an Environmental Report. This would set out environmental baseline information and assess the likely environmental effects of unconventional oil and gas exploration, extraction, decommissioning and restoration. We would be required to compare the effects policy alternatives at this stage: for example – a permanent ban, a partial lifting of the moratorium (e.g. allowing certain activities or allowing activities in specific locations), or a complete lifting of the moratorium. The Environmental Report must be open for public consultation.

13. Given the technical nature of the work, **REDACTED** we recommend that the SEA is undertaken by the SEA team in Planning and Architecture Division, but also externally validated by appropriately qualified and independent consultants. Whilst this will incur a cost, it will be significantly cheaper than contracting out the SEA as a whole. It will also help to combat any comments that undertaking the work in-house will mean the assessment lacks objectivity.

Benefits

14. **REDACTED** However, we also believe there is scope for considerable added value to be gained from the assessment work and its consultation requirements. The SEA will provide an overview of the issues, and give the public and stakeholders relevant environmental information, which they can use to help inform their views.

15. Officials conducting the SEA would work closely with energy officials to ensure efficient scheduling of this work, so that the wider public consultation on unconventional oil and gas can be integrated with the consultation on the SEA Environmental Report, meeting the need for 'early and effective' engagement. A well-executed SEA can support our intentions to be evidence-based and transparent as we move forward to a final policy position in the future.

Recommendation

16. You are invited to agree to Planning and Architecture Division taking forward an SEA of unconventional oil and gas policy options, with work commencing as soon as possible.

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30 March 2015

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Deputy First Minister			X		
Minister for Business, Energy and Tourism			X		
Minister for Environment, Climate Change and Land Reform			X		

Lord Advocate
 DG Communities
 Kenneth Hogg, Director of Local Government and Communities
 Mary McAllan, Director of Energy and Climate Change
 John McNairney, Chief Planner
 John Ireland, Low Carbon Economy
 George Burgess, Environmental Quality
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 David Ritchie, Low Carbon Economy,
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 Paul Cackette, SGLD
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 Noel Dolan, Special Adviser
 Malcolm Fleming, Special Adviser
 Communications Greener
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