

To: Minister for Business, Innovation and Energy

## UNCONVENTIONAL OIL AND GAS: STATUTORY AND OTHER ASSESSMENTS

**Purpose:** to advise on the timing for undertaking statutory and other assessments to help formulate future policies on unconventional oil and gas (UOG).

### Background

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1. The Scottish Government is taking a cautious and evidence-led approach to UOG. This approach will be informed by a set of independent research projects and public consultation opportunities.
2. On 13 July Ministers confirmed that officials should make preparations for launching a public consultation in winter 2016/17. Details of these preparations were set out in a submission from REDACTED dated 29/06/16 (REDACTED). This advice set out that the consultation will:
  - present impartial and factual information on UOG;
  - give the public, local communities and stakeholders the opportunity to present views on the issues that matter to them;
  - provide Ministers with a balanced representation of public and stakeholder views on UOG.
3. A set of impact assessments typically accompany the development of policy and/or consultations on policy options. These include a Strategic Environmental Assessment (SEA), which is a statutory assessment that is required before a final policy that could impact on the environment can be put into practice; a Business and Regulatory Impact Assessment (BRIA); and an Equality Impact Assessment (EQIA). Further details of these assessments are provided in **Annex A**.
4. No public statements have been made on the scope or timing of statutory assessments for UOG. The advice presented in this minute has been discussed with relevant policy teams and the teams responsible for statutory assessment policies.

### Advice on undertaking statutory and other assessments for UOG

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5. In early 2015, officials in Planning and Architecture Division provided advice on undertaking a SEA on unconventional oil and gas. This advice indicated that we anticipated that the development of any future policy on UOG would need to be accompanied by a SEA under the terms of the Environmental Assessment (Scotland) Act 2005. **The preparation of a SEA encompasses a full public consultation on an Environmental Report.** At the time Ministers indicated that any such assessment should be fully integrated with the wider programme of evidence-gathering.

6. Officials have considered the requirements for undertaking a SEA, alongside the requirements for undertaking a BRIA and EQIA to identify the most appropriate time to begin the process of preparing such assessments to help formulate future UOG policy.
7. The consultation described at paragraph 2 aims to present practical evidence and give the public, businesses, and organisations across Scotland an early opportunity to express their views on this evidence. It is the view of officials that **it would not be meaningful to progress the impact assessments (SEA, BRIA, EQIA)** in the absence of specific policy proposals or options for stakeholders and the public to consider.
8. The evidence obtained through this consultation will inform the Scottish Government's position and views on UOG, which may lead to future consideration of specific policy options. **As policy options or a proposed policy position emerges, further consideration would need to be given to the assessment outlined at paragraph 3, including all related public consultation requirements, prior to adopting a final policy position.**
9. In preparing the draft consultation document on UOG, officials will **consider the inclusion of a question that could inform the development of any future assessments.** This approach would help ensure that the requirement for early and effective engagement that accompanies the preparation of these assessments is fulfilled.

## Recommendation

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Ministers are asked to note the content of this minute and to confirm:

- that you agree with the view of officials that it would not be meaningful to undertake a Strategic Environmental Assessment, Business and Regulatory Assessment or Equality Impact Assessment in advance of the forthcoming public consultation on UOG.

REDACTED

Head of Onshore Oil and Gas

REDACTED

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
First Minister					X
Deputy First Minister					X
Cabinet Secretary for Health and Sport			X		
Cabinet Secretary for Economy, Jobs and Fair Work			X		
Cabinet Secretary for Environment, Climate Change and Land Reform			X		
Cabinet Secretary for Communities, Social Security and Equalities			X		
Cabinet Secretary for Rural Affairs and Connectivity			X		
Minister for Public Health and Sport			X		
Minister for Local Government and Housing			X		

Permanent Secretary
DG Economy
DG Communities
Chief Scientific Advisor
Chief Scientific Advisor Rural Affairs, Food and the Environment
Chris Stark
Mary McAllan
Kenneth Hogg
Bridget Campbell
David Ritchie
John Ireland
Simon Fuller
John McNairney
George Burgess
<b>REDACTED</b>
Kate Higgins
David Miller
Liz Lloyd
Tim Jays
<b>REDACTED</b>
Jeanette Campbell
Comms Economy

## **Summary: Statutory assessments that accompany policy development**

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### ***Strategic Environmental Assessment (SEA)***

In Scotland, public bodies and some private companies operating in a public character are required to assess, consult and monitor the likely significant impacts of their plans, programmes and strategies on the environment. This process is known as Strategic Environmental Assessment (SEA). The process for undertaking a SEA is set out in the Environmental Assessment (Scotland) Act 2005.

SEA is a key component of sustainable development, establishing important methods for protecting the environment and extending opportunities for public participation in decision making. SEA achieves this by:

- systematically assessing and monitoring the significant environmental effects of public sector strategies, plans and programmes;
- ensuring that expertise and views are sought at various points in the process from Scottish Natural Heritage, SEPA, Historic Environment Scotland, and the public;
- requiring a public statement as to how opinions have been taken into account.

The preparation of a SEA can involve a number of stages, including screening, which is used to determine the magnitude of environmental effects and the requirement for a SEA. Where a full SEA is required, scoping is undertaken to establish how the assessment could best be undertaken and what aspects of environment are to be covered. This is followed by full public consultation on an Environmental Report alongside policy or plan proposals. The Environmental Report sets out the significant environmental effects of a proposed policy and reasonable alternatives to it.

**REDACTED**