

HISTORIC ENVIRONMENT SCOTLAND ACT: SECONDARY LEGISLATION

ANALYTICAL REPORT ON RESPONSES RECEIVED

EXECUTIVE SUMMARY

BACKGROUND

Over fourteen weeks between 19/12/2014 to 27/03/2015, the Scottish Government ran a consultation entitled 'consultation on the Historic Environment Scotland Act 2014, etcetera, Secondary Legislation. The consultation sought views on the draft Regulations which follow on from the Historic Environment Scotland Act 2014. The online citizen space facility was used, to facilitate reception and analysis of responses.

A total of 36 consultation responses were received; 5 from individuals and 31 from a range of organisations including, local authorities, developers, professional bodies and third sector bodies. All respondents gave permission for their responses to be published. These are available at https://consult.scotland.gov.uk/historic-environment/historic-environment-scotland-act/consult_view

The high level themes that emerged from responses to the consultation were:

- Overall the majority of responses welcomed the approach taken in the regulations. Comments supported the aim to increase transparency, both in terms of publication and decision making.
- There was widespread support for greater consistency and streamlining of processes
- Respondents reiterated the need for clear, accessible and readily available guidance on new and changed processes, with several responses suggesting means for delivery.
- Respondents reiterated the importance of continued consultation, notification and engagement and requested further details on timing and timescales.
- Points were raised around capacity for those required to manage the changed and new processes, in the context of knowledge, skills and expertise, with a strong consensus on the need for planned and adequate resourcing.
- Respondents commented that proposals had the potential to impact positively on equalities and on businesses.

Before and during the period of the consultation, officials also met with a range of stakeholder groupings to discuss topics of interest, with feedback from earlier meetings helping to shape the public consultation paper in terms of policy options and presentation. The majority of those who took part in such meetings subsequently responded formally to the consultation paper

ANALYSIS AND REPORTING

The general format of the consultation paper questions contained tick box options such as yes/no/undecided to allow respondents to indicate their general response. Results from these questions are presented in table format at each question.

For most of the yes/no/undecided questions, respondents were also asked a follow-up question, to allow for further comments on the particular approach or proposal. This allowed a more nuanced answer, for example “yes, but...” where respondents did not see issues as black or white. This worked well, with comments received from those who said yes, those who said no, those who were undecided and also those who did not specify an answer.

The comments received on each question were examined and main themes, similar issues raised or comments made in a number of responses, identified. In many places similar themes and points emerged from respondents across all of these categories.

Where respondents did not use the questionnaire format for their response but indicated within their text their answer to one of the closed questions, these have been included in the relevant count and input online through citizen space.

INTRODUCTION

The Historic Environment Scotland Act gained Royal Assent on 9th December 2014. The Act establishes Historic Environment Scotland (HES) as a new Non Departmental Public Body (NDPB) which will take over the functions of Historic Scotland and RCAHMS, as well as undertaking a wider set of functions as the national lead body for the historic environment.

In addition to establishing HES' role and legal status, the Act updates the processes for the designation of sites and buildings (by scheduling and listing) the consent regimes for scheduled monuments, listed buildings and conservation areas and creates new rights of appeal against certain HES decisions. HES will be a statutory consultee in relation to listed building and conservation area consents and also in relation to EIA.

The overall approach has been to streamline systems where possible, aligning scheduled monument, listed building and planning procedures where possible, while retaining the same level of protection for the historic environment.

The approach has also sought to increase transparency through new requirements for notification and publication. In many cases Historic Scotland already publishes information, but including these requirements of HES in Regulations demonstrates the commitment of this Government to transparency and access to information.

Consultation on these matters was important, as the specifics of how these processes work will have a direct impact on a wide range of people including owners of scheduled monuments and listed buildings, developers and heritage professionals, so having views from some of those directly affected was seen as essential, to check that the approach taken in Regulations and in consequential changes is appropriate and workable.

The consultation sought views on whether or not the Regulations take the best approach, within the framework set by the Act, to achieve the stated aims of streamlining and transparency. It also sought respondents' views on the impact of the changes and how the Regulations should be brought into operation, for example in the form of supporting guidance.

It should be noted that the consultation did not seek views on the provisions of the 2014 Act itself, which set the broad parameters of the secondary legislation, as these had already been approved by Parliament when it approved the Bill for the Act in November 2015.

OVERVIEW OF RESPONSES

CHAPTER 2 LISTING AND SCHEDULING

Question 1 outlined that the 2014 Act amends the 1979 and 1997 Acts to allow Ministers to use secondary legislation to regulate notification and publication of additions, deletions or amendments to entries in the schedule and list. Respondents were asked if they agreed with the approach taken in the Regulations covering the notification of listing and Scheduling.

As can be seen in the table below, there was widespread agreement (75%) to the approach taken in regulations covering the notification of listing and Scheduling . Only a small number of respondents(6%) disagreed.

Option	Total	% of All
Yes	27	75%
No	2	6%
Undecided	3	8%
Not Answered	4	11%

19 respondents also offered comments on their answers, with the majority commenting that the approach was generally welcomed, and noted as a “more efficient process which saved double handling” and “lifted the burden from local authorities”. However, this was often caveated with the importance and value of continued notification of relevant local authorities.

A key theme in comments was availability of information about decisions on amendments, additions and deletions to the list and schedule. There was general agreement that such information should be made publicly available on a regular basis (with at least monthly updates) preferably online, to greater aid transparency, so that those who are interested, beyond the owner, tenant, occupier and local authority, can remain fully informed.

There were also several requests for greater clarity, both on roles in terms of designations of Conservation Areas and on the approach to consultation prior to decision making on listing and scheduling, with requests for greater detail to be made available on the timing and method, and on who is required to be notified.

CHAPTER 3 CONSENT

SCHEDULED MONUMENT CONSENT

In *Question 2* respondents were asked if they agreed with the general approach taken in the Regulations covering applications for Scheduled Monument Consent (SMC).

As can be seen from the table below, most respondents (78%) agreed with the approach taken in regulations covering application for SMC, with only a small number (8%) disagreeing.

Option	Total	% of All
Yes	28	78%
No	3	8%
Undecided	1	3%
Not Answered	4	11%

16 respondents also provided additional comments, many of which welcomed the commitment to publishing applications and decisions online and ‘increased visibility’ of the decision-making process. Over a third of the comments mentioned the approach to notification in planning procedures in particular citing the use of neighbour notification and methods for engaging communities. One response stated that “it is important that individuals and communities are able to access potential changes to treasured heritage assets” and that development of criteria in liaison with local authorities to notify communities would “provide consistency across different consenting regimes”.

In *Question 3* Respondents were asked if they agreed with the approach to publishing all applications and decisions. Particular attention was drawn to the intention that, as an NDPB, HES will be treated in the same way as an external applicant when they are carrying out works at the properties in care (the 345 historic properties conserved and opened to the public by HES on behalf of the Scottish Ministers), the large majority of which are scheduled monuments. SMC applications and decisions will be published where HES is itself seeking consent for works on the properties it manages under Ministerial delegation. This means that the system will be transparent, allowing the public to be able to compare HES’ regulatory approach to internal and to external applications and ensure themselves that a “level playing field” is in operation.

As can be seen in the table below, over 80% of respondents agreed with the approach. Only one response was undecided and there were no opposing views.

Option	Total	% of All
Yes	29	80%
No	0	0%
Undecided	1	3%
Not Answered	6	17%

Generally comments welcomed the level of openness and transparency in the decision making process and individual responses felt that the regulations brought the process “in line with the planning process”, “followed principles of Aarhus and the EU direction on Access to environmental information Regulations” and represented “simplification.” There was general support for publication, excepting in instances of national security and with the proviso that security measures would be in place around plans and drawing for restricted areas e.g. places of lawful detention.

A number of individual concerns were raised, one of which questioned the provision within HES to resource this change and how it may impact on timescales for processing applications. Respondents also mentioned more generally that they felt the process would be greatly aided by clearly specified timescales and validation dates.

In *Question 4* it was outlined that the current administrative arrangement whereby applicants are given a provisional view on whether or not they are likely to be granted SMC will cease once these Regulations take effect. Respondents were asked if they agreed with the decision to no longer issue the provisional view.

Over half of the respondents (58%) agreed with the decision to no longer issue the provisional view with the second biggest cohort (19%) as undecided.

Option	Total	% of All
Yes	21	58%
No	5	14%
Undecided	7	19%
Not Answered	3	8%

There was widespread agreement that advice pre application was important for a wide range of reasons, including efficiency, early identification of issues and reaching positive outcomes. Respondents felt there was a need for clarity in the process and procedures, importantly who would be involved in the pre application discussions, to ensure transparency in decision making.

Those who disagreed with this approach commented that the provisional view was important in providing an initial ‘steer at the outset’ and that removing this step could see an increase in what could potentially be a more resource intensive process of appeals and pre-application engagement.

In *Question 5*, it was outlined that the draft Regulations do not include the precise circumstances in which HES, where it intends to grant consent, will be required to notify Ministers about an application for SMC. These circumstances will be set out subsequently in directions and may include cases where: the decision is likely to represent a significant departure from established policy or where there are other related consent applications, for example planning consent. Respondents were asked to offer their comments, including suggestions as to what they considered appropriate criteria would be.

Three respondents suggested that the criteria for notifying Ministers be similar to those in the Town and Country Planning (Neighbouring Planning Authorities and

Historic Environment) (Scotland) Direction 2014. Suggested additional criteria fell broadly into a themes including;

- Scale of the site - e.g. where the area of land or building is particularly large and/or significant in terms of site, finances, etcetera.
- Condition of the monument - e.g. Where consent will result in parts of the monument being irretrievably lost, will not survive without intervention or where it involves demolition of whole or a substantial part.
- Parties involved - e.g. where there could be a significant departure from another government agency, local authority or local development plan. Where there would be potential or actual negative impact on a third party or parties or actual considerable objection to designation. One respondent felt suitable grounds would be where HES themselves are in ownership, management control, or have a controlling interest or an applications is submitted for, or on behalf of a NDPB.

LISTED BUILDING (LBC) AND CONSERVATION AREA CONSENT (CAC)

In *Question 6* respondents were asked if they agreed with the approach taken in the draft regulations covering applications for Listed Building Consent and Conservation area Consent. The majority of respondents agreed with this approach (67%) with the second largest cohort (14%) being undecided. 25 respondents also offered comments.

A number of respondents felt that they needed more detail to be able to comment fully, however for those who did respond, one of the key themes was around timescales. These were mentioned both in terms of the potential for the proposals to streamline processing and improve timescales and also in relation to a request for clarity on timescales going forward, in particular around setting response times to local authority consultations. A number of respondents cited SNH's 'A Service Statement for Planning and Development 2012' Annex B as a good example of clear guidance on response times and level of response. [Note that SNH issued an updated version in late April 2015: [Planning for Development - Our Service Statement](#)]

Three responses commented on capacity, with differing views. One respondent felt the regulations could be too great a burden on local authorities and that the current position should be maintained. A second recommended that perhaps there could be scope within consultation on category B listed building to be curtailed in the same way as the current ability to Remove Duty to Notify. The third noted that capacity was not mentioned and asked if "HES would step in to support a local authority" and how this would be reviewed.

Question 7 outlined that the policy intention with Listed Building Consent and Conservation Area Consent is that decisions should where possible be taken locally, making use of local expertise and supporting local decision making. Respondents were asked if they agreed with this approach. Over two thirds of respondents (67%) agreed with the approach with the second largest cohort (14%) being undecided.

Option	Total	% of All
Yes	24	67%
No	3	8%
Undecided	5	14%
Not Answered	4	11%

While most comments agreed with the proposed approach, there was a strong consensus that any administrative mechanism intended to achieve similar efficiencies of handling to the current Removal of Duty to Notify should be fully transparent. It was recommended that any arrangements between HES and local authorities should be made public, showing how these had been arrived at in the context of capacity and availability of expertise within local authorities.

Monitoring and reporting on these new procedures was mentioned in a number of comments, as was the need for there to be the ability to review and amend once the new arrangements had been tested in operation.

Question 8 asked respondents about access statements with LBC applications and sought views on whether a freestanding access statement should be the exception rather than the rule. There was widespread agreement that this should be case (58%) with only 2 responses disagreeing (5%).

Option	Total	% of All
Yes	21	58%
No	2	5%
Undecided	8	22%
Not Answered	5	15%

Question 9 outlined that access requirements are normally considered by applicants in any case, and that the Scottish Governments provisional view is that free-standing access statements should only be required by regulations in exceptional circumstances – perhaps related to the scale or complexity of the proposals, or the expected footfall of the building after the changes applied for have taken place – but that there may be a case to expect a statement explaining how access has been considered and with what outcome (which might not be very long) as a part of all applications. The question asked respondents to offer their views, particularly around thresholds for such a requirement.

Respondents commented on a range of possible triggers and thresholds. One of the themes in comments regarded triggers being proportionate, in relation to the significance, level of change and size of the development. Others felt that users, footfall and function of the space should be considered, examples given including alterations to a public building or a main entrance. A number of individual comments were made in relation to planning: the general principles for Design and Access Statement (Planning Regulation 13) were referenced as a useful tool in considering trigger points. An alternative view was that access would be better addressed as part of a planning application, or through Equalities Impact Assessment.

CHAPTER 4 APPEALS AGAINST HES DECISIONS

APPEALS AGAINST LISTING AND SCHEDULING DECISIONS

Question 10 concerned the draft regulations for appeals against listing and scheduling which set out the procedural details for making an appeal. Respondents were asked if they agreed with the approach taken in the draft regulations. The majority (56%) of respondents agreed with the approach in the regulations, with the minority (14%) disagreeing. Further comments were also offered by 19 respondents.

Option	Total	% of All
Yes	20	56%
No	5	14%
Undecided	6	16%
Not Answered	5	14%

The approach was generally welcomed, but two concerns were apparent in several responses. One was a degree of unhappiness that tenants and occupiers were being given the right of appeal, with some respondents feeling that property owners alone should have that right, and adding that by including the tenant and occupier, there could be an increased administrative burden. Others commented in the opposite sense, to the effect that if tenants and occupiers were allowed to appeal, then appeal should be open more widely, perhaps to communities or to all third parties.

Another concern voiced in a number of responses was in relation to the expanding role of DPEA in the process and the need to ensure the availability and provision of heritage expertise.

A smaller number of respondents asked for greater clarity on the role of local authorities, and comments were also made on whether or not there should be further exemptions to appeals, particularly in the case of minor or administrative changes e.g. change of address, where it was felt that offering a formal right of appeal might be disproportionate.

GROUNDS FOR APPEAL

Question 11 suggested possible grounds of appeal against designation, and respondents were asked if they agreed that the following would provide a suitable basis for grounds:

- That the monument is not of national importance [for reasons of historic, architectural, traditional, artistic or archaeological interest] and ought to be removed from the Schedule compiled under section 1 of the 1979 Act.
- That the building is not of special [architectural] or historic interest and ought to be removed from the list compiled or approved under section 1 of the 1997 Act.

The majority (67%) agreed that the approach taken would provide a suitable basis for grounds of appeal, with a minority (17%) disagreeing. Further comments on grounds of appeal were provided as summarised below.

Option	Total	% of All
Yes	24	67%
No	6	17%
Undecided	2	6%
Not Answered	4	11%

Whilst more respondents agreed than disagreed that the suggested grounds for appeal were broadly correct, opinions were more mixed in respect of further grounds of appeal, some feeling that the suggested grounds needed greater breadth.

Specific comments suggested were:

- That the building was so altered as to no longer being of special or historic interest
- That although the monument was of national importance it could be better protected if not scheduled
- It was also suggested that there was a need for grounds to recognise the need for sustainability, ensuring the building has a viable economic future.

A number of responses noted that the word “architectural” , as in “architectural or historic interest” appeared to have been omitted in the second ground for appeal, apparently in error. This was indeed an oversight and will be corrected

APPEAL AGAINST SCHEDULED MONUMENT CONSENT DECISION

In *Question 12* respondents were asked if they agreed with the approach taken in the draft regulations in relation to scheduled monument consent, which set out the procedural details for making an appeal.

Option	Total	% of All
Yes	23	64%
No	2	6%
Undecided	4	11%
Not Answered	7	19%

There were few comments in response to this question, though one respondent did query the availability of an appeal to applicant but not to the community, citing the recent decision (27/01/2015) by the Petitions Committee to refer the PE01534 and another respondent queried the nature of the involvement of third parties.

APPEAL AGAINST SCHEDULED MONUMENT ENFORCEMENT NOTICE

Question 13 concerned the draft regulations for appeals in relation to SMC enforcement Notices, which set out the procedural details for making such an appeal. Respondents were asked if they agreed with the approach taken in the draft regulations. Of those who answered, no respondents disagreed with this approach, the large majority agreeing (72%) while a few (8%) were undecided.

Option	Total	% of All
Yes	26	72%
No	0	0%
Undecided	3	8%
Not Answered	7	19%

Key themes in comments were the need for flexibility with regard to timescales, to allow time for HES to consider more complex issues or for third party expertise to be consulted. Respondents also commented that in “some cases the statement of appeal may raise fresh issues which need further consideration.” One respondent mentioned the need for flexibility in timescales to enable expediency in protection and cited Stop Notices as an essential enabling mechanism in addressing this.

CHAPTER 5 OTHER CHANGES AND FURTHER INFORMATION

ROLE OF MINISTERS

Question 14 asked respondents if they agreed with the removal of the requirement to consult the Scottish Ministers on Environmental Impact Assessment and the new requirement to send a copy of the environmental statement to Ministers for information only. Over half of the respondents agreed with this approach, only one respondent disagreeing.

Option	Total	% of All
Yes	20	55%
No	1	3%
Undecided	10	28%
Not Answered	5	14%

The approach was generally welcomed in the comments, although a number of queries were raised by respondents in relation to how the proposed changes might impact on Marine Scotland and on Transport Scotland, with a request for further information on notification. There was also a query on the arrangements for local authorities consulting HES and particularly on how this will be resourced.

SCHEME OF DELEGATION

Question 15 asked respondents if they wished to comment on the scheme of delegation, by which HES would be given delegated responsibility to manage properties in the care of Ministers.

While the question did not offer a for/against option – as the principle of this approach is already contained within the Act – in several cases the logic of responses indicated that respondents had used this as a substitute for a tick box, to indicate whether or not they agreed with the approach in principle. The table below provides a summary of responses:

Option	Total	% of All
Yes	8	22%
No	14	39%
Undecided	8	22%
Not Answered	6	17%

Respondents, even those who supported the approach in principle, made clear their desire for robust arrangements to be put in place. Some key themes that were raised by respondents:

- Consultation/role for stakeholders - this covered both the desire to see a draft of the scheme of delegation for comment, the need to consult with owners of guardianship properties, and questioning about the role for stakeholders in the formation of policies underlying the scheme of delegation including the tourism strategy and Ministers' acquisitions and disposals strategy.
- Condition of properties - respondents strongly identified the need to assess the physical condition of the managed estate prior to delegating responsibilities, this included identifying the 'conservation deficit'.
- Asset Management - respondents highlighted the need for an evidence-based approach to asset management including condition and management requirements. This evidence base, it was recommended, should inform the conditions placed on the managing agent.
- Acquisitions and Disposals – respondents identified a need for an acquisitions and disposals policy and asked about what the strategic priorities for the estate would be. Respondents also asked about what the role for stakeholders would be in determining acquisitions and disposals policy, exploring links to the Historic Environment Strategy for Scotland, *Our Place in Time*.
- Property Managers other than HES - although there are no proposals at present to delegate to a body other than HES, the 2014 Act does allow this, and several respondents commented on this scenario. There was specific concern about how the 'competence, resources and financial capability' of any future delegatee would be assessed. In addition, most of the comments on the above themes were not specific to HES, but indicated more generally there was a need to consider the above themes in delegating Ministerial functions to any body.

It is perhaps worth noting that several responses contained identical wording in comments on this question.

TRANSITIONAL ARRANGEMENTS

Question 16 asked respondents for their view on the best approach to take regarding transitional arrangements for cases already in the system. The suggested options were:

- Option 1 – apply the new regulations to new cases entering the system on or after 1 October 2015, but allow the handling of cases already in the system to be governed by the existing regulations until each case reaches a decision-point.
- Option 2 – migrate all cases in the system, regardless of what point they have reached, to the new arrangements, with the completion of their handling undertaken under the new regulations.

The majority of respondents (39%) preferred Option 1, with the second largest cohort were undecided.

Option	Total	% of All
Option 1	14	39%
Option 2	8	22%
Undecided	10	28%
Not Answered	4	11%

Question 17 built on this, and asked respondents if they felt there were any particular issues in relation to ongoing cases during the transition phase which could particularly affect them or their organisation.

A number of general comments were made in response to this question around the importance of clear communication and guidance, with the avoidance of uncertainty. One respondent highlighted that either option would require careful preparation of guidance and training before the implementation date, involving staff at Historic Scotland and planning authorities.

A small number of responses mentioned "legacy cases, where application are very near approval where the change to the new system right in the final straight may not be efficient" Here the suggestion was voiced that "there may be some circumstances where having reached a certain final stage, the application will simply be conclude under the current system - this might be where a referral has been made within 28 days of HES being born"

CHAPTER 6 IMPACT ASSESSMENTS

EQUALITIES IMPACT (EQIA)

Question 18 asked respondents if they felt the proposals presented might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, gender identity, or marriage and civil partnership status, or if they felt the proposals could enhance equality or good relations. The

majority (47%) felt there would be no impact, with a minority (6%) noting that there would be an impact. 6 respondents offered further comments.

Option	Total	% of All
Yes	2	6%
No	17	47%
Undecided	5	14%
Not Answered	12	33%

A number of respondents gave examples of where positive impact could be made, e.g. disability access could be enhanced through access statements and that publication could enhance equality through increased transparency. One respondent felt that regulatory changes should have positive impacts but cautioned that not everyone can access information online, and that those needs should also be met, perhaps via helplines.

BUSINESS & REGULATORY IMPACT(BRIA)

Question 19 asked respondents if they felt the proposals presented might impact on businesses, the third (voluntary) sector or have any other impact of concern. The majority view was that there would not be a significant impact.

Option	Total	% of All
Yes	7	19
No	11	31%
Undecided	7	19%
Not Answered	11	31%

The majority of comments noted the potential for positive or generally beneficial impacts on businesses arising from the proposals. A number of individual comments were made, one of which highlighted the importance of avoiding uncertainty, which it was suggested was the key disincentive for businesses. Another respondent felt that the changes could have “significant impact on third sector organisations who have occupancy or tenancy agreements for the use of buildings within the property portfolio” while another view, conversely, was that “as a third sector organisation we do not anticipate being affected adversely by these proposals”.

PRIVACY IMPACT ASSESSMENT(PIA)

Question 20 asked respondents if they felt the attached Privacy Impact Assessment had identified the key issues associated with Privacy in the draft regulations. Of those who answered the question the majority agreed that the PIA had identified the key issues associated with privacy. Four respondents did not agree and 6 were undecided.

Only one text comment was offered on the PIA, agreeing that key issues had been identified in the assessment: this comment was that, assuming that all existing legislation relating to privacy, such as data protection, would continue to apply to the new body and be observed, there should be no significant issues.

CHAPTER 7 GUIDANCE AND FURTHER COMMENTS

In *Question 21* respondents were asked what level and types of information in particular they would like to see in new and revised guidance. There were 25 responses to this question, and a variety of themes emerged around the format of the guidance, specific areas where it was felt further guidance is required and areas of current guidance where revision is required.

General comments on format of guidelines emphasised the need for plain English, clarity and simplified online availability going forward. A common view was that a Circular or Circulars, similar in format and status to Planning Circulars, was strongly to be desired, to set out the formal policy position on central themes and to explain the changes to process required by the regulations. The use of the diagrams within the consultation was also deemed helpful, with a number of suggestions for inclusion of these in guidance going forward. The policy statement 'Designing Streets' was cited as a good example of current guidance. A number of comments were made in relation to the need for clarity, guidelines and timelines for the transitional arrangements and when these would apply.

In comments, further/updated guidance was recommended on

- Managing Conservation Areas (while recognising that the lead responsibility for these remains with local authorities);
- Listing appeals, for example need to explicitly spell out when new buildings are proposed;
- How nature conservation legislation, such as the Habitats Directives, interacts with the management, restoration and or operation of our historic environment assets;
- Proposed changes associated with notifications and delegated authority;
- Conditions – including model conditions for listing building and scheduled monument consents;
- Application of professional standards;
- Clear criteria for 'call-in' cases;
- Temporary buildings;
- Recording;
- Setting and redevelopment;
- The ability of HES to issue amendments to resolve objections and how the process for this will work in terms of re-consultation;
- The validity of any specified conditions in terms of the statutory tests;
- The new process in general, especially access to advice and pre application consultation, and
- Tripartite agreements between local authorities, HES and public sector property managers.

A number of respondents suggested revisions to current policy including a new "Managing and Protecting our Historic Environment - What is Changing"; listed building demolition criteria, the Managing Change in the Historic Environment series more widely, and Scottish Historic Environment Policy (SHEP). Additional suggestions were also made for further INFORM guides on technical conservation

and that Scottish Government should act to ensure that there is consistency across policy pertaining to the historic environment such as; SHEP, Our Place in Time, the developing Archaeology Strategy for Scotland and any other new guidance.

In *Question 22* respondents were given the opportunity to provide further comments on any aspect of the draft regulations. A wide range of comments were received, key themes including a welcome for the proposals put forward in the draft regulations and the highlighting of the need for clear or revised guidance and training timed closely around the introduction of the new legislation and consultation arrangements for LBC and SMC. A number of comments emphasised once again the need for information and guidance to be clear, user friendly and publicly available.

SEPA and SNH (whom HES will join as a “key agency” in planning terms) both responded, and SEPA asked for it to be placed on public record that that they had no comments to make on the consultation.

CONCLUSION AND NEXT STEPS

The majority of responses were positive and welcomed the approach taken throughout the draft regulations. Respondents raised a number of key themes, which, included welcoming the approach in streamlining, transparency and simplification in line with the planning system. Respondents reiterated throughout the consultation the importance of information and guidance being clear, easily accessible and publicly available. In addition, respondents expressed the expectation that the Scottish Government and HES should ensure that engagement, consultation and notification would continue, and in doing so should be inclusive and well resourced. Respondents also gave in depth suggestions on grounds for appeal, trigger points and transitional arrangements and views for future guidance.

Following this analytical report, the Scottish Government will consider the views put forward, both through the formal consultation and through meetings and other engagement with stakeholders. The Scottish Government will issue a formal response to the key issues raised, making clear where any changes have been made to the draft regulations, and outlining other actions which have been or will be taken.

The present report and the Scottish Government response will be made available on the Scottish Government website and on the citizen space website, and will be published at the same time as the finalised regulations are laid before Parliament.

The Scottish Government thanks all those who engaged with the consultation process.

Culture and Historic Environment Division
Culture Europe and External Affairs Directorate
Scottish Government

2 June 2015