

Appendix 2: Masterplan consent area regulations: consultation

Approach to Regulations

Question 1:

A) To what extent do you agree with the principle that regulations be kept to the minimum necessary and that more advice be offered in guidance and kept updated?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that regulations should be kept to the minimum necessary and agree that further guidance is useful in aiding the interpretation of the legislation. The Council would however suggest that any guidance on how to take forward a Masterplan Consent Area should be published at the time that the regulations come into force, and would be more supportive of the regulations being more comprehensive if that will not be the case.

Excluding kinds of development from schemes

Question 2:

A) We are not proposing to regulate to exclude any form of development from having potential to be within a MCA. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that all of these consents which the Planning and Roads Authorities would otherwise determine should be included.

Places that cannot be included in a scheme

Question 3:

A) We are not proposing any changes to the designations listed in schedule 5A (paragraph 3(4)). To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

The Council is satisfied with the list of exclusions listed within Schedule 5A of the Planning Act. It is agreed that Conservation Areas should not be added to the protected areas on this list.

Duty to periodically consider making a scheme statement

Question 4:

A) To what extent do you agree that the matters above in relation to the statement be set out in guidance rather than regulations?

- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree*
d) Disagree

B) Please explain your view.

The Council disagrees that the matters set out in relation to statements on consideration of making a Masterplan Consent Area scheme should be set out in guidance and not in regulations. Including detail of these requirements, as indicated by the Planning Act, within regulations provides more certainty for planning authorities and will ensure greater consistency for others who engage with this part of the planning system.

It is noted that part 3 (4) of the draft regulations requires planning authorities to notify community councils if they are considering making a MCA. It is suggested that requiring authorities to issue statements notifying community councils and others in cases where a MCA is not taken forward would ensure the same level of transparency.

The Council agrees with the matters covered in the consultation paper in relation to each of these requirements, but would suggest that the list should also include owner, lessee or occupier for areas within and adjacent to areas considered for bringing a MCA forward.

Consultation on possible proposals for a masterplan consent area scheme

Question 5:

A) Draft Regulation 3(4) specifies that planning authorities must consult with community councils before determining the content of any MCA proposals which may be publicised. To what extent do you agree with this?

- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree*
b) Agree

B) Please explain your view.

The Council agrees that community councils should be notified at this stage. It is also suggested that owner, lessee or occupier, within and adjacent to the proposed MCA should be notified when considering a MCA.

Question 6:

A) Draft Regulation 3 provides how consultation for possible proposals for a MCA scheme is to be undertaken, including notification and the requirement to undertake two public events, with opportunity to make comments to the planning authority. To what extent do you agree with this approach?

- a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree*

b) Agree

B) Please explain your view.

The Council agrees with the consultation requirements which are in line with those required during pre-application for planning permission. It is suggested that the regulations could remove the requirement for two consultations for smaller scale development, for example proposals that would otherwise be a local application. MCAs for self-build housing could potentially be smaller scale. Undertaking this form of consultation and public events should be at the discretion of the planning authority for proposals which would otherwise be local planning applications.

MCA schemes form and content

Question 7:

A) To what extent do you agree that the regulations should require reasons for conditions to be set out in the MCA scheme?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that conditions should have reasons, in line with conditions for planning applications in order to be consistent

Question 8:

Are there any further aspects you consider should be required to be included in a MCA scheme? Please specify and explain why.

No

Consultation on proposals for a masterplan consent area scheme

Question 9:

A) Draft Regulation 4(3) and Schedule 1 of the draft MCA Regulations specify those who a planning authority must consult with before determining the content of any MCA proposals which may be publicised.

To what extent do you agree with these groups?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

The Council agrees with the proposals about who a planning authority must notify about a proposed MCA scheme, these align with exiting processes for planning applications.

Question 10:

A) Draft Regulation 4(2) provides how consultation in relation to a MCA scheme is to be undertaken. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

The Council agrees with the proposals about how consultation is to be undertaken, these align with existing processes.

Publicity for proposals

Question 11:

A) Draft Regulation 4(5) sets a 30 day period for representations if they are to be treated as valid representations. To what extent do you agree with this period?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that there should be 30 day period for representations, in line with the period for Environmental Impact Assessment (EIA) applications. The Council would be supportive of the “a date not earlier than...” wording from the Development Management Regulations being used.

Hearings

Question 12:

A) To what extent do you agree with the required circumstances, i.e. that where the scheme would authorise a national development, that there be a requirement for a hearing, as set out within Draft Regulation 5(1)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that there should be a requirement to hold a hearing if appropriate in terms of representation where a scheme would authorise a national development.

Question 13:

A) To what extent do you agree with the proposals for those who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing as set out within Draft Regulations 5(2) and (3)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view

It is agreed that any person from whom the planning authority has received a valid representation should be given the opportunity to appear before and be heard at a hearing in relation to a proposed MCA. This is in line with the current processes for planning applications.

Requirement to notify the Scottish Ministers of certain proposals

Question 14:

A) To what extent do you agree that a Notification Direction be issued requiring that in the above circumstances such MCA schemes be notified to the Scottish Ministers?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that the circumstances requiring a notification to Ministers should align with those which exist for planning applications, as is proposed in the draft regulations.

Publicise

Question 15:

A) To what extent do you agree with the proposed requirements in relation to the publication of MCA schemes and the decision notice as set out in Draft Regulation 7?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

c) Neutral

B) Please explain your view.

It is agreed that decision notices should be made available to view, and that the information set out in the proposed regulations is reasonable to include in such a notice. It is agreed that notices should be published online on the planning authority website, however, it is suggested however that requiring this to be published in a local newspaper is not appropriate. A requirement to notify interested parties of the decision and where a decision notice is available for inspection, in line with the development management regulations would be more appropriate. It is considered that the cost associated with a newspaper notice including all of the required information would not be proportionate to the likely readership. A notice including less information, excluding points b and c of the Draft Regulation 7 may be more appropriate for publication in a local newspaper. A template for such a notice in regulations or guidance would be welcomed.

Planning Register

Question 16:

A) To what extent do you agree with the proposed requirements in relation to the planning register as set out in Draft Regulation 9?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that details of Masterplan Consent Areas should be included in the planning register as set out in Draft Regulation 9 for Legal and search purposes.

Alteration of a MCA scheme

Question 17:

A) To what extent do you agree with the proposals for the procedures for altering a MCA scheme, as set out in Draft Regulation 8?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that the process for altering a MCA scheme should apply many of the same requirements as the making a MCA scheme. It is considered however that the process for alteration of a scheme should be proportionate to the extent that the scheme is to be altered. It is suggested that more extensive PAC-style events may still be appropriate if significant changes are proposed. The processes should be similar to those for authorising a MCA. As set out above, consultation and public event requirements for local scale development should be at the discretion of the planning authority.

Prescribed Form

Question 18:

A) To what extent do you agree with the approach not to prescribe forms of notices within the Draft Regulations?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

d) Disagree

B) Please explain your view.

It is considered that including prescribed forms within regulations would be beneficial for ensuring consistency. Including such notices in guidance would be supported, if not in regulations.

Environmental Impact Assessment

Question 19:

A) To what extent do you agree with the proposed process set out in the Draft Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 contained within Annex B?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that the procedure for a MCA which relates to Environmental Impact Assessment development should resemble the procedure in the 2017 Environmental Impact Assessment regulations.

Impact Assessments

Question 20:

A) To what extent do you agree with our approach to the impact assessments?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

b) Agree

B) Please explain your view.

It is agreed that the regulations relate to procedures for policy which has already been made and assessed through the 2019 Planning Act, therefore screening out the impact assessments is appropriate.