
LAND PLANNING AND DEVELOPMENT CONTROL ORDINANCE, 2013

LAND PLANNING AND DEVELOPMENT CONTROL (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS, 2013

(Sections 19, 20 and 70)

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Citation and commencement

1. (1) These Regulations may be cited as the Land Planning and Development Control (Environmental Impact Assessment) Regulations, 2013.

(2) These Regulations come into force on 1st February 2014 and apply in respect of any application for development permission, screening opinion or scoping opinion which is submitted on or after that date.

Environmental impact assessment report

2. (1) An EIA report required under section 19 of the Ordinance must include the following:

- (a)* A description of the physical characteristics of the development including land-use requirements.
- (b)* A description of construction and operational processes including the nature and quantity of materials to be used.
- (c)* For each of the environmental issues included in any Scoping Opinion:
 - (i)* A quantified assessment of expected positive and negative impacts on the environment, resulting from both the constructional phase, operational phase and where appropriate the decommissioning phase of the development.
 - (ii)* A statement of the data used, including baseline survey information, to identify and assess the impacts which the development is likely to have, including cumulative impacts where relevant.

- (iii) A description of the measures to be implemented to avoid, minimise and mitigate negative impacts and maximise positive impacts; and the expected residual impacts after such measures have been implemented.
- (v) Procedures to be adopted to ensure effective monitoring and reporting to the Planning Officer on implementation of the measures referred to in item (iii).
- (d) An outline of any alternatives studied by the applicant and the reasons for choice of the proposed development including the environmental effects.
- (e) A non-technical summary of the information provided under paragraphs (a) to (d).
- (f) An indication of assumptions made and constraints (including technical deficiencies or lack of knowledge) encountered by the applicant when compiling the EIA report.

(2) The quality and level of detail of the EIA report must be such as to allow the environmental impact of the development to be adequately assessed by the Authority and the Governor in Council as appropriate.

(3) An EIA report required under section 19 of the Ordinance must be prepared at the applicant's expense.

Review of quality of environmental impact assessment report

3. (1) On receipt of a development application referred to in section 19 of the Ordinance, the Planning Officer must—

- (a) consult the Chief Environmental Officer as to the adequacy of the EIA report;
- (b) publish details of the EIA report in one or more newspapers circulating on St Helena together with details of the application allowing at least 28 days for public comment;
- (c) consult such other persons or bodies as appear to the Planning Officer or the Chief Environmental Officer as are likely to be able to provide specialist advice relevant to the review of the EIA report.

(2) If the Chief Environmental Officer or Planning Officer, having regard to representations and responses received under sub-regulation (1), consider that the EIA report is insufficient for the Planning Officer adequately to advise the Authority or Governor in Council on the environmental effects of the proposed development, the Planning Officer must, by written notice, not later than 5 weeks after the receipt of the EIA report, or any longer period agreed in writing with the applicant, advise the applicant of the additional information required.

(3) If the Chief Environmental Officer considers that the EIA report is sufficient, any measures described in Regulation 2(1)(c)(iii), together with any additional measures the Planning Officer in consultation with the Chief Environmental Officer considers appropriate, must be included in the Planning Officer's report and recommendation under section 24(2) of the Ordinance to the Authority and the Governor in Council, as appropriate, as planning conditions under section 26 of the Ordinance on the grant of development permission.

(4) If any planning condition as envisaged in sub-regulation (3) requires the submission of an environmental management plan for approval prior to commencement of the development, the Planning Officer must consult the Chief Environmental Officer as to the

adequacy of such plan before approving it and authorising commencement.

Screening opinions

4. (1) In requesting a screening opinion under section 20(1) of the Ordinance, the applicant must provide the Planning Officer with—

- (a) a plan sufficient to identify accurately the whole of the land to be developed;
- (b) a description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) any other relevant information as the applicant wishes to provide.

(2) Upon receipt of a request under section 20(1) of the Ordinance, the Planning Officer must, if he or she considers that he or she has not been provided with sufficient information to adopt a screening opinion, notify in writing the applicant as to the additional information required.

(3) The Planning Officer must consult the Chief Environmental Officer prior to adopting a screening opinion or requesting additional information under sub-regulation (2).

(4) Unless the Planning Officer has requested additional information under sub-regulation (2) he or she must, within 2 weeks from the date of receipt of the request for the screening opinion, or any longer period agreed in writing with the applicant, provide the applicant with a screening opinion adopted by the Planning Officer.

(5) If the Planning Officer fails to adopt and provide a screening opinion within the period mentioned in sub-regulation (4), the applicant may apply to the Appeals Tribunal to give a screening opinion.

(6) Upon receipt of a request under sub-regulation (5), the Appeals Tribunal must give a screening opinion within 3 weeks from the date of receipt, or any longer period the Appeals Tribunal reasonably requires.

(7) For purposes of any appeal proceedings under section 53 of the Ordinance, a screening opinion adopted by the Planning Officer is deemed to be a decision by the Authority.

Scoping opinions

5. (1) In requesting a scoping opinion under section 20(2) of the Ordinance, the applicant must provide the Planning Officer with—

- (a) a plan sufficient to identify accurately the whole of the land to be developed;
- (b) a description of the nature and purpose of the development and of its possible effects on the environment; and
- (c) any other relevant information the person making the request wishes to provide.

(2) Upon receipt of a request under section 20(2) of the Ordinance, the Planning Officer must, if he or she considers that he or she has not been provided with sufficient information to adopt a scoping opinion, notify in writing the applicant as to the additional information required.

(3) The Planning Officer must consult the Chief Environmental Officer and any other person who appears to the Planning Officer to be able to provide information relevant to the scoping opinion prior to providing a scoping opinion to the applicant or requesting additional information under sub-regulation (2).

(4) Unless the Planning Officer has requested additional information under sub-regulation (2), he or she must, within 4 weeks from the date of receipt of the request for the scoping opinion, or any longer period agreed in writing with the applicant, provide the applicant with a scoping opinion adopted by the Planning Officer. If a screening opinion and scoping opinion are applied for simultaneously by the applicant, the scoping opinion must be given to the applicant within 4 weeks from the date of providing the screening opinion.

(5) If the Planning Officer fails to adopt and provide a scoping opinion within the period mentioned in sub-regulation (4), the applicant may apply to the Appeals Tribunal to give a scoping opinion.

(6) Upon receipt of a request under sub-regulation (5), the Appeals Tribunal must provide a scoping opinion within 4 weeks from the date of receipt, or any longer period the Appeals Tribunal reasonably requires.

(7) Before adopting a scoping opinion the Planning Officer or the Appeals Tribunal, as the case may be, must take into account—

- (a)* the specific characteristics of the particular development;
- (b)* the characteristics of development of the type concerned;
- (c)* the environmental features likely to be affected by the development;
- (d)* the opinion of the Chief Environmental Officer; and
- (e)* the opinion of any other person who appears to the Planning Officer or the Appeals Tribunal, as the case may be, to be able to provide information relevant to the scoping opinion.

(8) For purposes of any appeal proceedings under section 53 of the Ordinance, a scoping opinion adopted by the Planning Officer is deemed to be a decision by the Authority.

(9) A scoping opinion given under sub-regulation (4) or (5) does not preclude the Planning Officer from requiring from the applicant additional information in any EIA report submitted with the relevant application for development permission, if it appears to the Planning Officer that the development applied for is likely to have environmental effects beyond those reasonably able to be deduced from the information provided in sub-regulation (1).
