Consultation on Transposing the EU Environmental Liability Directive into Scottish Legislation

Council for Scottish Archaeology comments

The Council for Scottish Archaeology¹ (CSA) appreciates the narrow focus of this consultation and the legislation that will flow from this as directed by the EU Environmental Liability Directive (ELD - EU 2004/35/CE). However CSA is concerned that the Consultation is too narrowly focused on this Directive and does not take into account other EU Directives, most notably the Strategic Environmental Assessment Directive (2001/42/EC - http://ec.europa.eu/environment/eia/sea-legalcontext.htm). This concern arises because there is no consideration for landscape and in particular the historic environment in these proposals.

While a Regulatory Impact Assessment has been carried out, there has been no Strategic Environmental Assessment of the impacts of this proposed new legislation. This will have implications for both the historic environment and the wider landscape. Given the recent signing and adoption of the European Landscape Convention, the greater protection of landscape concerns under the new Planning Bill and the adoption of SHEP 1: Scotland’s Historic Environment these are issues of some concern that should be taken into consideration when the legislation is drawn up. Actions undertaken to comply with the ELD should not be carried out at the expense of landscape and historic environment assets and interests. CSA would therefore urge that the legislation be drafted so that compliance with the ELD is carried out while respecting these landscape and historic environment assets. It would be contrary to Scottish Executive policy if these features were damaged during remediation works carried out under the ELD. The onus for obtaining information on other environmental assets should be obligatory on operators and should in fact inform any actions carried out.

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¹ The Council for Scottish Archaeology (CSA) is an independent voluntary body dedicated to the preservation, study and enjoyment of Scotland’s archaeological heritage. The Council for Scottish Archaeology is a Scottish charity (No. SC 001723) and a Company registered in Scotland (No. 262056) and works with its members to give a greater voice to our past. CSA defines the archaeological resource in the widest sense to include the cultural heritage and historic environment of Scotland. This definition is inclusive of historic landscapes and places of memory as well as the more physical remains of Scotland’s past. It speaks for the archaeological community, amateur and professional, and has the overriding aim of securing Scotland’s past for the future. Its remit covers education, liaison between statutory, voluntary and other appropriate organisations, promotion of the identification and conservation of the archaeological resource, and the encouragement of policies to ensure adequate measures for the preservation, management and interpretation of this resource.