



REPORT

To: Special Shetland Islands Council

03 May 2005

From: Executive Director - Infrastructure Services

STRATEGIC ENVIRONMENTAL ASSESSMENT

1. Introduction

- 1.1** The purpose of this report is to inform Members about the enhanced requirement to undertake Strategic Environmental Assessment on ALL qualifying Council Plans, Programmes and Strategies. This new and enlarged duty is contained within the Environmental Assessment (Scotland) Bill, which was introduced to the Scottish Parliament on 2 March 2005. The introduction of the legislation will have far reaching resource implications for staff time and budgets.

2 Background

- 2.1** Reports on this subject have been presented to Members in June and November 2004 (Minute Refs 44/04 and 162/04 respectively). These reports set out details of the new requirement for public bodies to carry out Strategic Environmental Assessment (SEA). In July 2004, the Scottish Executive implemented EU Directive 2001/42/EC with the introduction of the Regulations that required Local Authorities to undertake Strategic Environmental Assessment for Development Plans (i.e. Local and Structure Plans) and Programmes.
- 2.2** The purpose of the Bill is to ensure the assessment of the likely effects on the environment of certain plans, programmes and strategies, before they may be finished and implemented. The Bill puts into action the commitment made by the Scottish Executive in its Partnership Agreement to “legislate to introduce strategic environmental assessment to ensure that the full environmental impacts of all new strategic, programmes and plans developed by the public sector are properly considered”.

3 Report

Comments on the Bill

- 3.1** In October 2004, the Scottish Executive issued a consultation on the Proposed Environmental Assessment (Scotland) Bill to which the Council responded. (Min Ref 162/04).

3.2 The Environment and Rural Development Committee of the Scottish Parliament has considered the responses and is seeking additional responses to the Bill before 13th April 2005 (although a late response will be accepted) on questions like:

- What the effect will be of extending the implementation of SEA to cover a broader range of plans and programmes than is applicable to the rest of the UK?
- What the effect will be of the proposed system of administrative arrangements chosen to implement this obligation e.g. pre-screening and screening?
- Is the provision of a strategic environmental assessment (SEA) gateway within the Executive a sufficient method of managing the SEA process?

Suggested Response to Draft Bill Consultation

3.3 As the Authority has not as yet undertaken a SEA, it is difficult to give an informed response. However, it is suggested, as will become clearer in the rest of this report, that the financial commitment of extending the range of documents covered beyond those originally proposed in the Regulations will be onerous.

3.4 It is suggested that a response along the following lines be submitted in response to question one;
“The Authority considered that it would be more appropriate to allow time to gain experience and learn lessons from preparing SEAs for those Plans and Programmes required by the Regulations, before broadening the scope of Plans, Programmes and Strategies to be covered”.

What is Strategic Environmental Assessment?

3.5 Strategic Environmental Assessment (SEA) is a systematic process for identifying, predicting, reporting and mitigating the environmental impacts of certain public sector plans, programmes and strategies (PPS). The Scottish Executive believes SEA will lead to improved policy and decision making with meaningful public consultation.

The bullet points below summarise the SEA process: -

- It applies to public sector strategies, plans and programmes;
- The body owning any strategy, plan or programme to which the Bill applies (the Responsible Authority), has a duty, in consultation with SNH, SEPA and Historic Scotland (statutory Consultation Authorities), to consider, from the outset, the scope of the potential impact that the plan may have on the environment and to prepare an environmental report;

- The Responsible Authority must then consult the statutory Consultation Authorities and the public formally on their environmental report;
 - When the plan is adopted, or submitted to a legislative procedure, the Responsible Authority must make it public and prepare a statement setting out how the comments from the consultation on the environmental report have been taken into account;
 - When the plan is implemented, the Responsible Authority is required to monitor it for unforeseen environmental effects and to consider mitigation.
- 3.6** The Scottish Executive is intending (before the end of June) to publish templates to assist public bodies undertaking SEAs. The website link is www.sctland.gov.uk/Topics/Environment/17108/14587
- 3.7** The purpose of the SEA Directive is to ensure that the cumulative and synergistic environmental consequences of certain plans, programmes and strategies and alternatives to these are identified and assessed during their preparation and before adoption. Further details of the SEA process are given in Appendix 1.

What PPS require SEA and what are the Implications for the Council?

- 3.8** The Council prepares more than eighty plans, programmes and strategies (PPS), but only a small proportion will have a significant environmental effect. It is for Heads of Service to assess whether any of their work falls within the following categories for which a SEA is required. If the answer is yes to any of the following questions a SEA is required.
- Is the PPS subject to preparation and/or adoption by a national, regional or local authority, or prepared by an authority for adoption through a legislative procedure by parliament or government?
 - Is the PPS required by legislative, regulatory or administrative provisions?
 - Is the PPS prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, and does it set a framework for future development consent of projects in Annexes 1 and 2 to the EIA Directive?
 - Will the PPS in view of its likely effect on sites require an assessment under Article 6 or 7 of the Habitats Directive?
 - Does the PPS set the framework for future development consent of any projects, which are likely to have a significant effect on the environment?

- 3.9** Those PPS which I consider require going through the full Sea process are listed below. Those in **bold** type require a SEA under the existing Regulations.

Structure Plan and the Review

Local Plan and the Review

Corporate Plan

Community Plan

Area Waste Plan

Local Transport Strategy

Local Housing Strategy

Marine Management Plan

- 3.10** The responsibility lies with the Heads of Service to determine whether or not they are required by the legislation to prepare a SEA for their area. It is suggested that pre-screening may be required for the following PPS to determine whether they will or will not have a significant environmental effect.

2021 Economic Strategy

Shetland Core Path Network Plan

Biodiversity Action Plan

Coast Protection Policy

Contaminated Land Strategy

Harbour Oil Spill Plan

Shetland Oil Pollution Scheme

Fisheries Strategy

Agricultural Strategy

Tourism Strategy

Works Licence Policy

Renewable Energy Strategy

School Strategic Plan

Joint Future (Joint Community Care Plan)

Sports Development Strategy

4 Financial Implications

- 4.1** CoSLA has previously requested information about the financial burdens imposed by this legislation and will be making a formal submission to the Finance Committee of the Scottish Parliament. The financial implications for the Council can be divided into two parts; the cost of preparing the reports and the staff time involved. At this stage, it is not possible to quote a precise figure for undertaking Sea reports, however, to assist Members I set out below the relevant paragraphs 61 – 63 from the “Explanatory Notes” which accompany the Bill.

“Approach to costing an environmental assessment report

The Office of the Deputy Prime Minister (ODPM) regulatory Impact assessment (RIA) based calculations on average cost per environmental report of £10k-£50k. The Executive’s understanding,

from early discussions with consultants in the field, is that £20k-£60k is also a reasonable estimate if the environmental report is produced in-house or by a consultancy. An exact split is not available but our judgement, based on the size of strategies, plans and programmes to date, is that a useful working assumption is that 10% of environmental reports may cost £60k with the remainder costing an average of £30k. (It was noted that, in a small number of cases, cost may be higher but it has not been possible to quantify these). It is important to note that reliance on external consultants is expected to diminish because in house SEA capability is developing rapidly. Therefore, it is expected that SEA costs will diminish as organisations begin to conduct increasing numbers of SEAs in House”.

“Approach to costing SEA consultation documents and notification/publicity requirements”

“Costs will also arise for printing of consultation documents. Documents will vary in length and style. However, on average, it is considered that a SEA may require 500, 20 page monochrome documents at a total cost of around £250. On this basis, printing costs are included in the estimate of overall SEA costs”.

“The Bill requires publicity/notification by RAs at certain stages, including newspaper adverts. Depending on the nature of the SEA and the geographical area covered, complying with advert requirements may vary. Our review of newspaper advert costs suggests that, on average publicity costs maybe around £2000 per SEA”.

- 4.2** Staff resources are very stretched within all departments and with the recently imposed freeze on recruitment; there is no possibility of recruiting to a new post. Although the Executive advise that a SEA can and should be incorporated during the preparation of the qualifying plan, programme or strategy, staff time taken will be a major factor. This will be especially true in the early stages as the process and techniques are understood. In the absence of a dedicated officer, it will be the responsibility of Heads of Service to prioritise this work within their staff budgets.
- 4.3** Members should note that at their meeting held on 10 February 2005, a decision was taken to review all strategy and policy groups with the view to reducing their number. (Min Ref SIC 14/03)

5 Conclusion

- 5.1** A new Bill that requires public bodies to carry out a Strategic Environmental Assessment on all Plans, Programmes and Strategies which might have a significant environmental effect, has been introduced to the Scottish Parliament.
- 5.2** It is considered that this legislation places an additional burden on staff and financial resources. The Scottish Parliament Environment

and Rural Development Committee have requested comments on particular aspects of the Bill.

6 Recommendation

6.1 I recommend that the Council:

- 1) Instructs me or my nominee to respond to the Scottish Parliament Environment and Rural Development Committee expressing the views set out in paragraph 3.4 of this report.
- 2) The Council notes the requirement, if the Bill is enacted in its present form, to undertake Strategic Environmental Assessment on a range of the Council's Plans, Programmes and Strategies and recognise the additional burden this will place on staff resources and budgets.
- 3) The Council agrees that the primary responsibility to undertake pre-screening on qualifying Plans, Programmes and Strategies lies with Heads of Service.
- 4) The requirement to carry out the SEA rest with the service undertaking the preparation of qualifying Plan, Programme or Strategy.
- 5) The Council notes that assistance is available via the Scottish Executive website.

Report No: PL-10-05-F

Screening

At the Screening stage each Consultation Authority must be consulted as to whether or not it considers the plan or programme is likely to have significant environmental effects. The consultative authorities have 28 days to respond.

The Regulation sets out the publicity requirements for determinations of whether environmental assessment is required or not. The responsible authority must:

- Copy all determinations and any statement of reasons to the consultation bodies within 28 days. (In practice these can be sent to the SEA Gateway for circulation);
- Keep a copy of the determination and any statement of reasons available at its principal office for inspection by the public at all reasonable times and free of charge;
- Publish a copy of the determination and any accompanying statement of reasons on the authority's website **and**;
- Within 14 days of making the determination, publish or secure publication of a notice, in at least one newspaper circulating in its area. The notice should state;
 - the title of the plan or modification to which the determination relates
 - that a determination has been made that an environmental assessment is / is not required in respect of that plan
 - the address at which a copy of the determination and any accompanying statement of reasons may be inspected or from where a copy may be obtained.

Scoping

At the scoping stage, the Responsible Authority must consult with each Consultation Authority on the scope and level of details of the information to be included in the environmental report. The Responsible Authority shall provide sufficient details of the plan or programme under consideration. Each Consultation Authority shall respond to the Responsible Authority within 35 days of receiving this information and shall copy those views to the other Consultation Authorities.

5 The Report

Preparation of an environmental report in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme, are identified, described and evaluated. The information to be given is;

- a) An outline of the contents, main objectives of the plan or programme, and relationship with other relevant plans and programmes;
- b) The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the plan or programme;
- c) The environmental characteristics of areas likely to be significantly affected;
- d) Any existing environmental problems which are relevant to the plan or programme including, in particular, those relating to any areas of a

- particular environmental importance, such as areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;
- e) The environmental protection objectives, established at international, community or national level, which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;
 - f) The likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors. (Footnote: These effects should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects);
 - g) The measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme;
 - h) An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;
 - i) A description of measures envisaged concerning monitoring;
 - j) A non-technical summary of the information provided under the above headings.

The report must include the information that may reasonably be required: taking into account current knowledge and methods of assessment, the contents and level of detail in the plan or programme, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process to avoid duplication of the assessment.

At the Reporting stage, Responsible Authorities should provide Consultation Authorities with copies of the environmental report and related plan or programme within 14 days of completion and invite comment on these. Consultation Authorities may comment on the environmental report, the adequacies and implications of the environmental assessment, the effects of mitigation measures and the monitoring measures proposed. Where Consultation Authorities are content that the issues raised in the scoping consultation have been adequately covered, this may take the form of a simple acknowledgement. Comments on the environmental report may be separate from any comments that the Consultation Authorities wish to offer on the proposed plan or programme.

Wider Consultation:

- Authorities with environmental responsibility and the public, shall be given an early and effective opportunity within appropriate time frames to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of and the plan or programme. The timescale for consultation has to be agreed with the consultative authorities in the Scoping stage.

The detailed administrative arrangements require that within 14 days of preparation of the relevant documents, the authority should:

- Submit a copy of the draft plan and of the environmental report directly to the Consultation bodies, inviting them to express their opinions on the assessment;
- A copy to other EU Member States, where the implementation of the plan or programme is likely to and have significant effects on the environment of that country .
- Publish, or secure publication of, a notice
- stating the title of the plan, or modification
- stating the address at which a copy of the relevant documents may be inspected or from which a copy may be obtained
- inviting expressions of opinion on the relevant documents
- stating the address to which, and the period within which, opinions must be sent;
- Keep a copy of the draft plan and the environmental report available at their principal office for inspection by the public at all reasonable times and free of charge;
- Publish a copy of the draft plan and the environmental report on the authority's website.

Taking the environmental report and the results of the consultations into account in decision-making

Once the plan or programme has been adopted and as soon as is reasonably practicable, the Responsible Authorities should inform the Consultation Authorities and forward a copy of the plan or programme together with a statement of how environmental considerations have been integrated, how the environmental report and consultation responses from the Consultation Authorities have been taken into account, the reason for choosing the adopted plan in the light of the alternatives considered and the measures to be adopted in monitoring the significant environmental effects.

Provision of information on the decision:

When the plan or programme is adopted, the public and any countries consulted must be informed and the following made available to those so informed:

- the plan or programme as adopted
- a statement summarising how environmental considerations have been integrated into the plan or programme and how the environmental report, the opinions expressed and the results of consultations entered have been taken into account in accordance, and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with; and
- the measures decided concerning monitoring

As soon as is reasonably practicable the authority is also required to:

- Place a copy of the plan or alteration and its accompanying environmental report at its principle office for inspection by the public at all reasonable times and free of charge;
- Publish or secure publication, in at least one newspaper circulating in the area to which the plan or programme relates, of a notice stating;
 - the title of the plan or alteration

- the date on which it was adopted
- the address at which a copy of it and of its accompanying environmental report, and of the statement of environmental considerations may be inspected or from which copies can be obtained
- the times at which inspection may be made
- that inspection may be made free of charge
- Publish a copy of the plan or programme and the notice referred to above on the authority's website;

Monitoring

The Regulation requires the Responsible Authority to monitor significant environmental effects of implementing the plan or alteration, once it has been adopted.

The procedures employed must allow the authority to both identify any unforeseen adverse effects at an early stage, and to undertake appropriate remedial action.



REPORT

To: Special Shetland Islands Council

3 May 2005

From: Head of Legal and Administration

Local Government Boundary Commission for Scotland – Review of Boundaries – Initial Proposal

Report No. LA-24-F

1.0 Introduction and Background

- 1.1 The Local Government Boundary Commission for Scotland has begun its review of electoral arrangements within the Shetland Islands Area, as part of the wider review of electoral arrangements in Scotland to facilitate the introduction of Proportional Representation for Local Government elections in 2007.
- 1.2 The Commission has adopted a general approach, primarily in response to the reports of McIntosh and Kerley, to consider how multi-Member wards might be designed, and what could be done to better reflect natural communities. However, the constraints contained in the primary legislation which restricted multi-Member wards to combinations of either 3 or 4 Members have posed significant challenges in other Local Authority areas and also some problems for Shetland.
- 1.3 The Council, at its meeting on 30 November 2004, gave me delegated authority to:
 - agree data figures and electoral statistics with the Local Government Boundary Commission; and
 - once proposals emerged, to begin consultation with individual Members and with Community Councils on options for consideration.
- 1.4 The Council also had an early opportunity to consider likely groupings of wards and those ideas were presented to the Commission, without prejudice to our later involvement and submission.

2.0 Current Position

- 2.1 Following the submission of figures and the Council's early suggestions, the Commission formally presented its initial proposal to the Council.
- 2.2 The Council, at its meeting on 30 March 2005, agreed that, in order to carry out my earlier delegation with regard to consultation with Members, Mr J C Irvine, Mrs I J Hawkins, Mr L Angus and Mr L G Groat be appointed to assist me with the detailed points for discussion with the Commission.
- 2.3 The officer group and I met with Mr Irvine and Mrs Hawkins on 21 April, and discussed the main issues, and reached conclusions on what proposal might be put to the Council today. The issues and conclusions are as follows, and include statements with probable justifications for submission to the Commission. The following 3 or 4 Member wards have been, for the purposes of this report ascribed the suggested names put forward by the Member/Officer Group. However the naming of the wards is specifically a matter on which the Commission would wish Council input and this is mentioned again in section 3 of this report.
- 2.4 Prior to the Council meeting on 30 March copies of the initial proposals submitted by the Boundary Commission have been available in the Members room at the Town Hall. In support of this report a presentation will be given at the Special Council meeting on 3 May with reference to those plans and also highlighting the amendments the Council would wish to make. Soon after the Council's submissions are made to the Commission they will either reaffirm their initial proposal or modify it in line with the Council's recommendation. This will then form the basis for full public consultation which should follow before the end of May. The Council will have an opportunity to further participate in that public consultation and I have offered to assist any Community Council who will be directly consulted by the Commission in the framing of any submissions they would wish to make. Detailed assessment of the wards are as follows:-

2.5 North Isles

In line with the Council's original submission, the Commission proposes to include Yell, Unst, Fetlar, Whalsay and Skerries within one Ward. This proposal was anticipated and largely acceptable, except for the seaward boundaries shown on their map as this resulted in uninhabited islands and holms being aligned to land masses without apparent good reason. The recommendation is that the ward boundary between Yell and the North mainland, and between Whalsay and the East mainland, continue with the same boundaries as exist at present.

The reason for aligning Whalsay and Skerries with the other North Isles and as part of our original submission was as follows:-

- (a) The wards of Unst, Fetlar and Yell did not support an electorate large enough to allow for the minimum of a 3 Member ward. Therefore the boundary either had to include Whalsay and Skerries or a large part of the North Mainland.
- (b) It was considered that a ward comprised solely of islands sharing interests common to island areas eg ferries, air links etc was preferred, rather than linking groupings of Islands to the nearest landfall.

2.6 North Mainland

The proposal from the Commission broadly follows the Council's submission here, with the only issue for this Ward being the southernmost boundary down the A970 between Voe to the South Nesting junction. It was concluded that this line should follow the existing Polling District boundary, ensuring that the road and junction remained within one Ward.

The alignment of these existing 3 electoral wards with the addition of the polling district of Nesting has the particularly acceptable outcome of realigning the area of Nesting with Lunnasting and therefore the whole area served by Nesting and Lunnasting Community Council.

Although the average number of electors for this total ward is a little above the average for a 3 Member ward in Shetland, it is submitted and apparently accepted by the Commission that these numbers are likely to remain stable within the forecasted electorate for 2009 and we would not recommend any changes which would alter that position. The whole of this ward conveniently covers the total area of 3 existing Community Councils.

2.7 South Mainland

The proposal from the Commission exactly follows the Council's submission for the creation of a 3 Member ward comprised of the existing wards covering Dunrossness, Levenwick, Bigton, Sandwick, Cunningsburgh and Quarff. Our proposal suggests straightening of the line north of Quarff to demarcate the north most boundary of this ward, and as there are no houses in this area this will have no effect on the electoral numbers.

The forecasted electorate for this 3 Member ward is some 140 electors more than the average of 2350 for a 3 Member ward. Officers of the Commission contacted me before they made their initial recommendations to the Commission indicating that they might be minded to suggest that this ward exclude Quarff which, along with Gulberwick could form part of one of the two wards required for

Lerwick. While this would have had the effect of producing, in relation to average parity, a near perfect number for the South Mainland ward, I warned against such a proposal on the basis of the lack of any clear linkage between Quarff, an existing Community having its own well-established polling district, with Lerwick. I also indicated that debates within the last few years concerning the former Quarff Primary School had resulted in pupils moving not to Schools in Lerwick but to a primary school in nearby Cunningsburgh. Although only informal, it is pleasing to note that these submissions have resulted in the Commission accepting, in their initial proposal, that Quarff should indeed remain part of the 3 Member ward comprising the South Mainland.

Any arrangement proposed by the Commission on this occasion was going to rectify the splitting of Sandwick which occurred during their last boundary review, in 1999. However, it is evident that no solution could be found which realigned Gulberwick with Quarff and Cunningsburgh. Therefore although this 3 Member ward covers the whole areas of Dunrossness Community Council and Sandwick Community Council, there still remains the issue of whether Gulberwick continues, in the future, to form part of the Community Council of Gulberwick, Quarff and Cunningsburgh or whether it might more readily align with Lerwick Community Council to coincide with future Lerwick wards.

2.8 Lerwick South and Gulberwick

The total electorate for the whole of Lerwick comprising Bressay and also Gulberwick is forecasted as 5870. This is 300+ fewer electors than the numbers considered in 1999 when the Boundary Commission established 8 individual Member wards for the same area. Bringing those figures together and linked to the Census information which shows a slow but steady decline of population living in Lerwick, has caused the Commission to submit a proposal for a 3 Member ward and a 4 Member ward; the ward of South Lerwick and Gulberwick being the 4 Member ward. The Council's initial informal submission suggested retaining 8 Members for Lerwick and addressing the shortfall in numbers elsewhere in the Shetland wards by the increase of total membership of the Council to 23. The Commission have not accepted that, and their proposal results in the reduction of Members for Lerwick to 7. To achieve this, the existing ward of Lerwick North Central has borne the brunt of the changes with approximately half of that ward being aligned to the Lerwick North and Bressay ward, and the South most part being aligned to Lochside and Clickimin area forming the Lerwick South and Gulberwick ward.

The result in terms of electoral numbers is that the 4 Member Lerwick South and Gulberwick Ward has a forecasted total electorate of 3,330 which is some 200 electorates more than the average of 3,130. However, if the steady decline in population further reduces or ultimately stabilises, the deviation from average is not projected to worsen.

As regards the boundary between Lerwick North and Lerwick South, through the Staney Hill area and north of the Clickimin Complex, the Boundary Commission's proposal was to follow the line of the route known as Cunningham Way. However it was the view of Officers and Members that there could be development on either side of this route in the future and therefore the most sensible boundary route was along the ridge of Staney Hill broadly enclosing the whole of Staney Hill as part of the Lerwick North ward rather than the Lerwick South ward.

In relation to Community Council issues, the need for Lerwick and Gulberwick, Quarff and Cunningsburgh Community Councils to consider and if necessary review the respective boundaries of their Community Council areas is a matter that those Community Councils, the Association of Community Councils and Shetland Islands Council will have to consider, in due course. The division of Lerwick into two distinct multi-Member wards will inform, without necessarily predetermining, a debate which Lerwick Community Council had already promised itself to hold before the end of this year. This review is intended to consider the question of its total membership and how to approach the question of ward representation across Lerwick. I will assist the Council in this regard with the most up-to-date available information on the stages reached on this Boundary Commission Review as their debate progresses and will in due course report the outcome back to the Council.

2.9 Lerwick North and Bressay

The comments made in relation to Lerwick South and Gulberwick and the context for the existence of this 3 Member ward have already been outlined. This ward has been comprised substantially of the former Lerwick North, Bressay, Lerwick Harbour and part of Lerwick North Central wards. In the Commission's proposal the use of postcode boundaries resulted in a few anomalies where the boundary of this ward with Lerwick South and Gulberwick ward progressed down Church Road. For example the boundary took in the guest house of Bonavista and two other houses placing them with the North ward rather than the South ward and also progressed sufficiently far along South Commercial Road to put the Queens Hotel and neighbouring buildings within the Harbour area rather than with the remaining properties along South Commercial Road which clearly fall within the Lerwick South and Gulberwick ward. The realignments proposed by the Council resolve these relatively small but important anomalies and are sure to be accepted by the Commission as they do not have any significant impact on electoral numbers for either Ward. Other than that, it is submitted that the Council does not make substantial modifications to the Lerwick proposed 3 and 4 Member wards.

2.10 Remainder of West and Central Mainland

General

Having resolved, it is submitted satisfactorily, the make up of multi-Member wards for the rest of Shetland, the combination of greater numbers or lesser numbers of forecasted electorate for those wards was sure to result in a squeeze, one way or another in the Central part of Shetland. If there had been the flexibility of enabling a 2 Member or 5 Member ward a solution could certainly be found but being left with only the option of 3 or 4 Member wards, an entirely satisfactory solution was not immediately discernable. We feel we have to take issue with the suggestion submitted by the Boundary Commission which positively establishes and identifies the central area of Tingwall, but leaves out the electorate on the North west side of Laxfirth Voe by aligning that electorate to the West, Whiteness, Weisdale and Girsta electorate.

The total electorate for the remaining two 3 Member wards is 4,170 whereas the average for two 3 Member wards would be expected to be in the region of 4,700. The proposal by the Commission broadly distributes these low number of electorates equally between the wards but it resulted in what is classed to be an unsatisfactory outcome in terms of defining the boundary of Tingwall as outlined above. The proposed submissions by the Member/Officer Group is to seek to realign the north part of Laxfirth Voe with the Tingwall area, as described below.

2.11 Tingwall, Scalloway, Burra and Trondra

The proposal from the Commission encapsulates the existing electoral wards of Burra, Trondra and Scalloway and takes in part of the Tingwall polling district. However the boundary line leads to the head of Laxfirth Voe and then through the middle of that voe, this being the separating line between this ward and the West and North Central Ward. The splitting of the electorate on either side of this voe is viewed as unacceptable. Given that the outcome of this Boundary Review should be the establishment of boundaries which may last as stable populations and therefore electorate, for a period embracing future boundary reviews, the precised route of the boundary line requies careful consideration. The significance of establishing proper community boundaries at this stage cannot be overstated. It is also important that our arguments are evidence based and projections sustainable particularly in areas where there is already deviation from an average number of electors for each ward. It is crucial that the likely outcomes of population increase/decrease, changes in demography and net migration to/from an area are all accounted for.

The proposal for this 3 Member ward as initially submitted by the Commission results in a projected electorate for 2009 of 2,120. This is a negative deviation of 10% from the average of 2,350. The proposal of the Member/Officer Group is to overall move the boundary of this ward northward to take in the electorate Northwest side of Laxfirth Voe but to cause that line to fall short of the electorate in the Girsta and South Wadbister Voe area (a further 72

2 electors). Another benefit of this proposal is to ensure that the whole of Tingwall Airport is contained within one electoral boundary (the proposal by the Boundary Commission actually cut across the middle of the airstrip leaving the north part of the airstrip in one ward and the south part in another). By accepting this proposal, approximately 70 electorate would join this ward. The effect would be to reduce the disparity between the electorate for this ward and the average, by that number of electorate. However, this is at the cost of the average for the West and North Central ward which has also to be addressed in the submissions put to the Commission.

In general terms our Planning Officers have identified a number of trends which would indicate that the deficit in electorate in this ward and also in the West and North Central ward will be corrected, marginally, over time. Their specific advice is as follows:-

New House Building in Shetland

“In submitting a general justification for the Council’s proposal concerning the West, Central and Tingwall areas, it should be noted that the unique housing zone system operating in Shetland, does not allocate specific sites outwith Lerwick for housing, but caters for single house applications, which are the most common type in the rural areas. This system meets the development needs of Shetland, but does not provide a clear indication of where development is going to take place. The zoning system guides new housing development, but the emergence of new development “hotspots,” is usually dictated by where a landowner makes housing sites available for purchase.

In recent years there has been a drift away from Lerwick and towards the central area. Figures show this trend is slowly reversing, as the areas closest to Lerwick (e.g. Tingwall) become developed and the number of available and desirable sites reduces as they have been developed. So now, developers wanting house sites are looking further a field for desirable and available house plots.

The improvement of the road network also encourages people to build houses further from Lerwick. The roads to Aith and Walls have recently been improved and upgraded and as a consequence the number of planning applications received in these areas has shown a marked increase. In fact, interest is now being shown in house plots in Aith, which have been on the market for nearly ten years.

In the Tingwall, Whiteness and Weisdale area, during 2004 there were six new house completions (3 in Tingwall and 3 in Whiteness and Weisdale). Of the applications for new houses submitted in the past year, more than 60% are in Whiteness and Weisdale with less than 40% in Tingwall. A marked

increase in the number of applications being submitted in Walls and Sandness and Sandsting and Aithsting community council areas is also evident.”

It is submitted that this advice showing an upward trend in electoral numbers, coupled with strong representations that the whole of the Laxfirth area should form part of the Tingwall portion of the new ward could persuade the Commission to accept the modification we are proposing. In recent discussions with the officials of the Boundary Commission they were naturally unwilling to be drawn on whether this would be likely to be acceptable to the Commission given that any movement from the proposal they had already put to us would distort one area at the expense of another when both areas were already suffering from a much lower than average number of electors. However, in supporting the modification we will say it demonstrates an overall improving situation in years to come and coupled with the importance of establishing these boundary lines in a way that reflects existing communities we will also emphasize that we expect those boundaries to determine those communities for a long time into the future.

The Community Council's of Burra, Trondra and Scalloway are unaffected by these proposals. The Community Council of Tingwall, Whiteness and Weisdale was already substantially impacted upon by the last boundary review and neither the initial proposal from the Commission nor our alternative submission would have the affect of realigning Tingwall with Whiteness and Weisdale. When I had preliminary discussions with the Association of Community Councils at their AGM on 16 April, a suggestion was mooted that perhaps the newly reaffirmed area of Tingwall could form a Community Council in its own right and the re-linking of Whiteness and Weisdale, as these proposals would engender, could be the catalyst for that area also being considered as a distinctive Community Council area. These were nothing more than initial observations and could give rise to discussion and debate beyond the mere consideration of boundaries for multi-Member wards. However it is important to flag up the impact that the Council's submissions may have on the determination of future matters and that is the purpose of mentioning these issues here.

2.12 West and North Central Mainland

Our initial proposals to the Commission were broadly in line with this proposal as it included existing wards of Walls and Sandness (including Foula and Papa Stour), Aithsting and Sandsting (including Whiteness and Weisdale) but our proposal also included South Nesting and Girlsta. The Commission's proposal which reunites South Nesting with Lunnasting in the North Mainland are for the reasons suggested above, unobjectionable. However that leaves the area of Girlsta still aligned with the West Mainland and in order to readdress the imbalance of electoral numbers this brought about, the Electoral Commission sought to compensate this situation by the

inclusion in this ward of the electorate on the Northwest side of Laxfirth Voe. Instead we propose retaining that electorate in the area of Tingwall and that is the submission presented to the Council today and if accepted, to be put to the Commission. The effect is to reduce an electorate of 2,050 by a further 70 forecasted electorate which would take a -13 deviation from average down to -16 deviation.

The justification for nevertheless proposing that solution to the Commission is bolstered by the argument that this electorate should form part of the Tingwall area and is also supported by the contention by our Planners that the drift from Lerwick and Central to further outlying areas with evidence of new build in the Walls, Sandness and Aith areas support the inclusion of the whole of Laxfirth in Tingwall notwithstanding the further reduction in the electoral numbers in West and Central Mainland. The group considered the possibility of also adding the electorate at Girlsta and Wadbister to the Central ward comprising Tingwall but the effect of that would be to further reduce the electorate in this area by so much that it could be found to be an unacceptable deviation for the Commission's considerations. Furthermore, there is by virtue of the Stromfirth Road a distinct link between the Girlsta area and Whiteness and Weisdale and from there the rest of the West of Shetland.

On balance it is submitted that with appropriate justification, the Commission might be minded to accept the proposal this report puts to the Council although that would first require endorsement by the Members at this meeting.

3.0 Ward Names

- 3.1 Although there was some discussion regarding ward names between Officers and Members, those were not ultimately conclusive although suggestions were put forward. Initial submissions proposed the following ward names and therefore they have been used above. Following discussion today and any other suggestions approved, these would be submitted along with the Council's submission. In the meantime and for discussions, the proposals were namely (1) North Isles; (2) North Mainland; (3) West and Central Mainland; (4) Tingwall, Scalloway, Burra and Trondra; (5) South Mainland; (6) Lerwick South and Gulberwick; and (7) Lerwick North and Bressay.
- 3.2 The most cumbersome of those names is clearly number 4 "Tingwall, Scalloway, Burra and Trondra" although it is definitely descriptive of the area covered. Other suggestions included number 3 being called West and North Central Mainland with area 4 being called Central and Scalloway or just Central. One reason for the group not finalising its consideration in this is that before the Council had had an opportunity to consider the proposals and embrace any amendments they wished to make, the final determining of the

Council's submission could not be prejudged. However the Council does have to make some submissions in this regard and therefore Members should determine what they want included in our statement.

4.0 Other Issues

4.1 Scheme of Community Councils

The Council has statutory responsibility for establishing its scheme of Community Councils including numbers, areas covered, constitutions etc. I have initiated the discussion with Community Councils as to what the future electoral map of Shetland might look like and that in turn is prompting some consideration of the issues which I have also alluded to in this report. Some Community Council's are likely to be substantially satisfied with the removal of boundary lines running through the middle of their Community Council areas. These lines simply caused to divide and sever parts of their community following the last Boundary Commission Review eg. Nesting and Lunnasting and Sandwick but also others to a greater or lesser extent. The new proposals largely iron out those previous anomalies. However issues relating to Gulberwick and Lerwick and Tingwall, Whiteness and Weisdale will be worthy of future consideration. Although a reduction in numbers of Community Councils to perfectly reflect the multi-Member wards cannot be ruled out until a review has been concluded, a more likely scenario is that Community Council's will wish to broadly retain their existing boundaries unless they are substantially at odds with the new Electoral Boundaries. This all remains to be discussed and will be subject to future determination ahead of the election to Community Councils to be held in November 2006.

4.2 Multi-Member Protocols

Although this is not an issue for today's debate it is worth also flagging the possibility that the Council will determine new ways of working and dividing the business between members elected to the new multi-Member wards. Some consideration of that between now and the elections in 2007 may be worthwhile for this Council to undertake. It is not inconceivable that Members of the 3 Member wards outside Lerwick would choose to divide the business of their whole ward geographically, and they might do worse than to allow those divisions to reflect and represent existing Community Council boundaries where this can be best achieved. Given that the Boundary Commission proposal and in substantial part our response to that already reflects those Community Council boundaries the outcome might lend itself to the establishment of such multi-Member ward business-sharing-protocols, in the future.

5.0 Policy and Delegated Authority

- 5.1 Delegated authority for matters relating to administrative and technical information and consultation has been delegated to the Head of Legal and Administration. However, final determination of the Council's formal response to the Commission's proposals at all stages, are reserved to the Council.

6.0 Financial Implications

- 6.1 There are no financial implications associated with the recommendations in this report.

7.0 Conclusion

- 7.1 The Commission's initial proposal, being broadly in line with the Council's original submission may be viewed as substantially acceptable. Where there has been deviation from our submission their alternative is on balance probably more acceptable eg. realignment of South Nesting with Lunnasting. The Council might be pleased that the considerations of community boundaries would appear to have played a significant part in the initial considerations. To the extent that this appears to have broken down somewhat in the drawing of the lines in Tingwall, Laxfirth and Girlsta, it was predicted that problems would arise in this area in view of the overall shortage of electoral numbers and the constraints of only being allowed to determine 3 or 4 Member wards. It is submitted that the proposal before Council today is a better option which can be justified but it is subject to Council approval for submission and ultimately it is for the Commission to determine and make their proposals to the Scottish Ministers.

8.0 Recommendation

- 8.1 I recommend that the Council consider the terms of this report aligned to a presentation to be given on the day to illustrate with reference to maps etc., the boundaries suggested and determine any amendments to the proposals prior to final submission to the Local Government Boundary Commission. The submission is required to be with the Commission before 11 May.

30 April 2005
JRR