



Strategic Environmental Assessment (SEA) Determination Report

Planning Obligations Supplementary Planning Document (SPD)

June 2022

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Summary

1. Harborough District Council has been reviewing its approach to securing planning obligations via an update of the Planning Obligations Supplementary Planning Document.
2. Under the Environmental Assessment of Plans and Programmes 2004, councils must where appropriate carry out a Strategic Environmental Assessment (SEA) of land-use and spatial plans. The first part of the SEA process is to screen the relevant plan or programme to test whether SEA is required. The council has a duty to consult with specified consultation bodies (Natural England, Historic England and the Environment Agency) when determining the need for SEA. Having consulted with the specified consultation bodies, where the council determines that the plan or programme is unlikely to have significant environmental effects and does not require SEA, the council is required to prepare a statement of its reasons for the determination.
3. Harborough District Council prepared a Strategic Environmental Assessment (SEA) Screening Report to accompany the draft Planning Obligations Supplementary Planning Document (SPD) which was consulted on between 5th November 2021 and 17th December 2021. The Screening Report set out whether, in the opinion of the Local Authority, the Planning Obligations SPD required a Strategic Environmental Assessment to be undertaken. The draft Screening Report concluded:

The Local Plan was subject to SA (incorporating SEA) as part of its preparation and its policies were informed by the evidence it presented. The Planning Obligations SPD sits below the Local Plan, setting out further guidance for planning permission applicants, infrastructure providers and community groups about how the Council manages the planning obligation process from establishing the policy context, considering applications for planning permission, making and amending S106 obligations (as needed), through to monitoring their delivery. There are no exceptional circumstances (as referred to in the PPG) to indicate that the SPD needs to undergo SEA. Therefore, based on the above assessment, it is concluded that a Strategic Environmental Assessment is not required for the draft Planning Obligations SPD. (Draft Planning Obligations SEA Screening Report (November 2021, para 15)

4. The SEA Screening Report was sent to the consultation bodies for comment on 5th November 2021. Natural England responded to the Screening Report as follows:

Consultee	Comments
Natural England	<p>Whilst we welcome this opportunity to give our views, the topic of the Supplementary Planning Document does not appear to relate to our interests to any significant extent. We therefore do not wish to comment. Should the plan be amended in a way which significantly affects its impact on the natural environment, then, please consult Natural England again.</p> <p><u>Strategic Environmental Assessment/Habitats Regulations Assessment:</u> A SPD requires a Strategic Environmental Assessment only in exceptional circumstances as set out in the Planning Practice Guidance here. While SPDs are unlikely to give rise to likely significant effects on European Sites, they should be considered as a plan under the Habitats Regulations in the same way as any other plan or project. If your SPD requires a Strategic Environmental Assessment or Habitats Regulation Assessment, you are required to consult us at certain stages as set out in the Planning Practice Guidance.</p>

5. An earlier version of the draft Planning Obligations SPD was consulted on in January/February 2021. A SEA Screening Report was prepared to accompany this previous version of the SPD and sent to the consultation bodies for comment. The conclusion of the report was the same as set out in paragraph 3 above. The comments on the January 2021 SEA Screening Report are set out below for completeness (please note that the responses refer to the SEA Screening Report for the Development Management SPD which was consulted on at the same time):

Consultee	Comments
Historic England	I am writing to confirm that Historic England agrees with the Council's position in relation to screening for each of the documents. We are of the view that there would be no new significant effects to the historic environment resulting from the documents, which have not already been addressed through the development plan process. As such, a SEA is not required in respect of the historic environment for either of the documents.
Natural England	Thank you for your consultation on the above dated 8th January 2021 which was received by Natural England on the same date. Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development. Natural England can confirm that we concur with the conclusion of the two screening reports for the above Supplementary Planning

	Documents (SPD) that Strategic Environmental Assessments will not be required to be undertaken in these cases.
Environment Agency	With regards to the two SEA Screening Reports, we do not disagree with the conclusions that an SEA is not required for both SPD's.

6. **Determination:** This report constitutes a determination statement as to the need for a Strategic Environmental Assessment of the Planning Obligations SPD. It sets out the screening process along with the reasoning behind the determination. In light of the outcome of the Screening Report and the comments from the consultation bodies, it is the opinion of the Council that there will not be any significant environmental impacts which would necessitate undertaking a Strategic Environmental Assessment. **It is determined that a Strategic Environmental Assessment of the Planning Obligations SPD is not required.**

Purpose of the Planning Obligations SPD

7. The Planning Obligations SPD has been prepared to inform developers, landowners, infrastructure providers and local communities about the Council's approach to securing community infrastructure and affordable housing through planning obligations and advises on current practice in applying the following Local Plan (April 2019) policies:
- IN1 *Infrastructure provision* (defines the levels of infrastructure necessary to mitigate the development proposals in the Local Plan's strategy);
 - GI2 *Open Space, Sport and Recreation*; and
 - H1 *Provision of new housing* and H2 *Affordable housing* (supports the development of an appropriate mix of housing including the provision of lower cost affordable homes to rent through social housing providers which are secured through planning obligations).
8. Planning policies IN1, GI2 and H2 indicate areas which are most likely to be the subject of planning obligations as follows:
- Affordable Housing
 - Community Facilities
 - Open Space, Sport and Recreation Provision
 - Cemeteries
 - Education
 - Highways and Transportation
 - Library Services and associated facilities
 - Recycling and Waste
 - Health Care
 - Policing and Fire and Rescue

9. The SPD updates the Council's current Planning Obligations SPD (2017) and takes account of the following:

- The Harborough Local Plan (2019)
- The Community Infrastructure Levy Regulations (as amended)
- National Planning Policy Framework (as updated in July 2021)
- National Planning Practice Guidance (2014 and continually updated)
- Leicestershire County Council Planning Obligations Policy (2019)
- Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016)
- Environment Bill

Legislative Background

10. The basis for Strategic Environmental Assessments (SEA) and Sustainability Appraisal (SA) legislation is European Directive 2001/42/EC which was transposed into English law by the Environmental Assessment of Plans and Programmes Regulations 2004, or SEA Regulations.

11. The Planning and Compulsory Purchase Act 2004 requires Local Authorities to produce Sustainability Appraisals (SA) for Local Plans¹ to meet the requirement of the EU Directive on SEA. It is considered best practice to incorporate requirements of the SEA Directive into an SA. This means that as part of the preparation of a Local Plan, an SA of each of the proposals is required to ensure that potential environmental effects (in line with SEA Regulations) are given full consideration alongside social and economic issues. [Planning Practice Guidance](#) (PPG) explains more about the difference between sustainability appraisal, strategic environmental assessment, and other forms of assessment².

12. PPG is clear that SPDs do not require a SA but may in exceptional circumstances require a SEA '*if they are likely to have significant environmental effects that have not already been assessed during the preparation of the Local Plan*'.³ Before deciding whether significant environment effects are likely, it advises local planning authorities to take into account the criteria specified in [schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004](#) (see Appendix 1) and consult the consultation bodies (Environment Agency, Historic England and Natural England).

13. The Harborough Local Plan (April 2019) underwent a full sustainability appraisal (incorporating SEA) as part of its preparation and adoption. The Local Plan SA documentation is available on the Council's [website](#).

¹ Including documents that can form part of a local plan such as site allocation documents or area action plans.

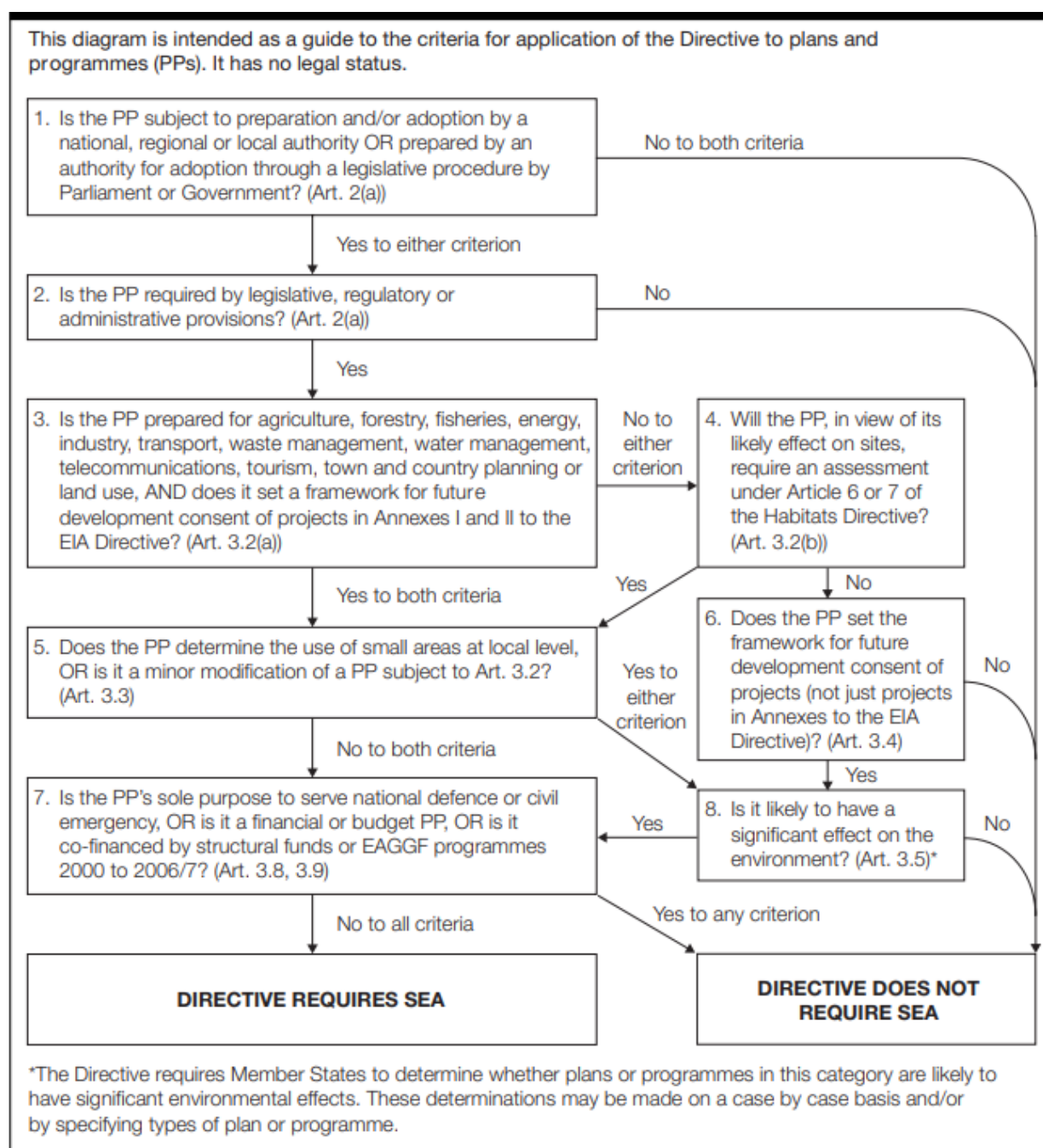
² PPG para: 001 Reference ID: 11-001-20190722

³ PPG para: 008 Reference ID: 11-008-20140306

SEA Screening Process

14. As outlined in paragraph 9, the Council is advised to undertake a SEA screening to assess whether the SPD is likely to have significant environmental effects. If the outcome of this process is that the SPD is considered unlikely to have significant environmental effects, then the conclusion will be that an SEA is not necessary. [A Practical Guide to the Strategic Environmental Assessment Directive \(2005\)](#) provides guidance on how to comply with the Directive. Figure 1 outlines the process for establishing the need for a SEA.

Figure1: Application of the SEA Directive to plans and programmes



Source: A Practical Guide to the Strategic Environmental Assessment Directive (2005)

15. The guidance in Figure 1 is intended to apply to all plans and programmes in the UK which fall within the scope of the Directive and is used below as a basis to identify if there is a need for the SPD to engage in the SEA process. See Table 1 below.

Table 1: Establishing the need for a SEA

Stage	Decision	Reasoning
1: Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared through a legislative procedure by Parliament or Government? (Art. 2 (a))	Yes	The Council will adopt the final version of the SPD to assist applicants and communities to understand what planning obligations are expected in respect of development proposals and the process for agreeing and securing them.
2: Is the SPD required by legislative, regulatory or administrative provision? (Art. 2 (a))	No	The Council is not required to prepare SPDs. It has chosen to prepare this SPD to provide further guidance for applicants. However, it is important that the screening process considers whether it is likely to have significant environmental effects and hence whether a SEA is required under the Directive.
3: Is the SPD prepared for agricultural, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Article 3.2 (a)) (See Appendix 2)	No	Whilst the SPD is being prepared for town and country planning use, it does not set a framework for future development consent of Projects in Annexes I and II to the EIA Directive (Article 3.2 (a)).
4: Will the SPD, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? Art 3.2 (b))	No	A Habitats Regulations Assessment was carried out as part of Local Plan preparation and this concluded that it an Appropriate Assessment was not required. As the SPD is limited to setting out clarity in respect the Council's approach to securing planning obligations in line with Local Plan policies, it does not introduce new policy or allocate sites for development and therefore it is not

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Stage	Decision	Reasoning
		considered necessary to undertake a HRA of the SPD.
6: Does the SPD set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	No	The Harborough Local Plan and Neighbourhood Plans (where applicable) provide the overall strategy and framework for future development across the District. The SPD updates and clarifies the Council's approach to securing planning obligations. It does not set a framework for future development consent of projects.
7: Is the SPD's sole purpose to serve national defence or civil emergency OR Is it a financial or budget plan/programme OR Is co-financed by structural funds or EAGGF programmes 200 to 2006? (Art. 3.8, 3.9)	No	The SPD does not meet any of the criteria set out in this stage.

16. Based on the findings set out in Table 1, the final question in the guide asks '**Is the SPD likely to have a significant effect on the environment?** (Art. 3.5)'.

The findings in Figure 1 highlight that the Planning Obligations SPD is limited to explaining the Council's approach and processes in relation to securing planning obligations so as to provide clarity for applicants and communities. It encourages the submission of applications that reflect Local Plan policies but does not impact on the strategy, development framework, allocations or policies set out in the adopted Local Plan. As a result, the SPD will not have a significant effect on the environment and therefore a SEA is not required.

17. However, for the sake of clarity and comprehensiveness, Table 2 assesses whether the SPD will have any significant effects using the criteria set out in Annex II of the SEA Directive 2001/42/EC (see Appendix 1).

Table 2: Criteria for determining the likely significance of effects

SEA criteria	Consideration	Is there a significant effect?	Reasoning
1. The characteristics of the SPD, having regard, in particular to:	(a) The degree to which the SPD sets a framework for projects and other activities, either with regard	No	The SPD provides additional guidance only to a framework that is already established principally through the adopted Local Plan which was subject to SA/SEA as part of its preparation. It does not

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SEA criteria	Consideration	Is there a significant effect?	Reasoning
	to the location, nature, size and operating conditions or by allocating resources		allocate resources but will help ensure that, where the 'CIL Tests' are met, planning obligations are secured in accordance with the Local Plan's policies.
	(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	No	Whilst guidance in the SPD will provide clarity in respect of securing planning obligations in accordance with the District's Development Plan, it will not influence other plans or programmes.
	(c) the relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development	No	The SPD will support the Local Plan's aim to promote sustainable development in so far as providing guidance on the implementation of and compliance with policies contained the Local Plan which has been subject to SA/SEA and examination.
	(d) environmental problems relevant to the SPD	No	The SPD will not introduce or exacerbate any environmental problems. Its focus is on ensuring that the infrastructure to support development (as set out in the Local Plan strategy) is or will be sufficient to support and meet all the requirements arising from it.
	(e) the relevance of the SPD for the implementation of Community legislation on the environment (e.g. plans and programmes linked to waste management or water protection)	No	The SPD is not relevant to the implementation of Community legislation on the environment. It is limited to giving guidance on the approach to planning obligations and end ensuring that the physical and social infrastructure is in place to support development in accordance with Local Plan policies. The SPD will be considered in the determination of applications.
2. Characteristics of the effects and of the area likely to be affected, having regard, in particular to:	(a) The probability, duration, frequency and reversibility of the effects	No	No adverse effects on the environmental interests are identified from the implementation of the SPD. The guidance is aimed at securing the physical and social infrastructure needed to support development where justified. The determination process will help

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SEA criteria	Consideration	Is there a significant effect?	Reasoning
			ensure that the duration and frequency of any adverse environmental effects of proposals are considered, minimised and where necessary mitigated appropriately in line with Local Plan policies.
	(b) the cumulative nature of the effects	No	The impact of adopting the SPD will be positive, and therefore any cumulative impacts will be beneficial.
	(c) the trans-boundary nature of the effects	No	The guidance set out in the SPD will not have cross-boundary impacts. Neighbouring local authorities were fully involved as part of the preparation of the Local Plan through the Duty to Cooperate.
	(d) the risks to human health	No	No risks to human health have been identified. In setting out clearly the approach to securing planning obligations, the need for social assets (i.e. health/community/open space facilities) to support health and well-being is highlighted.
	(e) the magnitude and spatial extent of the effects (geographical area and size of population likely to be affected)	No	The SPD will apply across the District and help inform applications (where appropriate). However, given that the SPD is only offering guidance, it is very unlikely that the SPD will have any significant effects. It is the Local Plan that sets out the development strategy for Harborough, including housing and employment allocations and this underwent its own SA/SEA.
	(f) the value and vulnerability of the area likely to be affected: i. special nature characteristics or cultural heritage; ii. exceeded environmental quality standards or limited values; or	No	The further guidance provided by the SPD will inform a wide range of planning applications across the District. Whilst the SPD it is only dealing with the approach to planning obligations, there are adopted Local Plan policies which seek to balance the need for development with the protection of heritage and biodiversity assets. These have been subject to SA/SEA and will be taken into

SEA criteria	Consideration	Is there a significant effect?	Reasoning
	iii. intensive land-use		account in the determination of planning applications.
	(g)the effects on areas or landscapes which have a recognised national, Community or international status.		There are no such recognised landscapes within the District. However, policy within the Local Plan (and often within Neighbourhood Plans) recognises the importance of landscape setting and landscape character.

18. The screening assessment carried out in Table 2 does not identify any significant effects on the environment resulting from the Planning Obligations Supplementary Planning Document.

Conclusion

19. The Local Plan was subject to SA (incorporating SEA) as part of its preparation and its policies were informed by the evidence it presented. The Planning Obligations SPD sits below the Local Plan, setting out further guidance for planning permission applicants, infrastructure providers and community groups about how the Council manages the planning obligation process from establishing the policy context, considering applications for planning permission, making and amending S106 obligations (as needed), through to monitoring their delivery.

20. In finalising this Determination Report, the consultation bodies have been consulted appropriately and their responses are detailed in Section 1: Summary for completeness. None of the consultation bodies disagreed with the Council's view that an SEA is not required.

21. It is the view of the Council that there are no exceptional circumstances (as referred to in the PPG) to indicate that the SPD needs to undergo SEA.

Therefore, based on the above assessment, it is determined that a Strategic Environmental Assessment is not required for the Planning Obligations SPD.

Appendix 1: Criteria for determining the likely significance of effects on the environment

SCHEDULE 1

CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

- 1. The characteristics of plans and programmes, having regard, in particular, to—**
 - (a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;
 - (b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;
 - (c) the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;
 - (d) environmental problems relevant to the plan or programme; and
 - (e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example, plans and programmes linked to waste management or water protection).
- 2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to—**
 - (a) the probability, duration, frequency and reversibility of the effects;
 - (b) the cumulative nature of the effects;
 - (c) the transboundary nature of the effects;
 - (d) the risks to human health or the environment (for example, due to accidents);
 - (e) the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected);
 - (f) the value and vulnerability of the area likely to be affected due to—
 - (i) special natural characteristics or cultural heritage;
 - (ii) exceeded environmental quality standards or limit values; or
 - (iii) intensive land-use; and
 - (g) the effects on areas or landscapes which have a recognised national, Community or international protection status.

Appendix 2: Projects in Annexes I and II to the EIA Directive

Annex I

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
3. Installations solely designed for the permanent storage or final disposal of radioactive waste.
4. Integrated works for the initial melting of cast-iron and steel.
5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20 000 tonnes of finished products, for friction material, with an annual production of more than 50 tonnes of finished products, and for other uses of asbestos, utilization of more than 200 tonnes per year.
6. Integrated chemical installations.
7. Construction of motorways, express roads (1) and lines for long-distance railway traffic and of airports (2) with a basic runway length of 2 100 m or more.
8. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tonnes.
9. Waste-disposal installations for the incineration, chemical treatment or land fill of toxic and dangerous wastes.

(1) For the purposes of the Directive, 'express road' means a road which complies with the definition in the European Agreement on main international traffic arteries of 15 November 1975.

(2) For the purposes of this Directive, 'airport' means airports which comply with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

Annex II

1. Agriculture

- (a) Projects for the restructuring of rural land holdings.
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes.
- (c) Water-management projects for agriculture.
- (d) Initial afforestation where this may lead to adverse ecological changes and land reclamation for the purposes of conversion to another type of land use.
- (e) Poultry-rearing installations.
- (f) Pig-rearing installations.

- (g) Salmon breeding.
- (h) Reclamation of land from the sea.

2. Extractive industry

- (a) Extraction of peat.
- (b) Deep drillings with the exception of drillings for investigating the stability of the soil and in particular:
 - geothermal drilling,
 - drilling for the storage of nuclear waste material,
 - drilling for water supplies.
- (c) Extraction of minerals other than metalliferous and energy-producing minerals, such as marble, sand, gravel, shale, salt, phosphates and potash.
- (d) Extraction of coal and lignite by underground mining. (e) Extraction of coal and lignite by open-cast mining. (f) Extraction of petroleum.
- (g) Extraction of natural gas.
- (h) Extraction of ores.
- (i) Extraction of bituminous shale.
- (j) Extraction of minerals other than metalliferous and energy-producing minerals by open-cast mining.
- (k) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.
- (l) Coke ovens (dry coal distillation).