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**The contribution of strategic environmental
assessment to good governance**

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**A thesis presented in fulfilment of the
requirements for the degree of
Doctor of Philosophy
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This thesis is the result of the author's original research. It has been composed by the author and has not been previously submitted for examination which has led to the award of a degree.

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Abstract

Strategic Environmental Assessment (SEA) has been associated with 'good governance' by bodies at national and international levels including the World Bank, OECD, and UK and Scottish Governments. Invoking concepts including transparency, accountability, public participation and partnership working, this SEA/good governance nexus has been promoted in Scotland where the government sees SEA as central to its sustainable development aspirations. The research examines the operation of the SEA/good governance nexus in the SEA processes of two Scottish cases: the A96 corridor Masterplan and the Clackmannanshire Alliance Community Planning environment framework, *Greening Clackmannanshire*.

Data-gathering took place between 2007 and 2010 using a mix of qualitative methods. The data were then analysed using a realist governmentality lens to view SEA as a technique of government ostensibly seeking to instil environmentally-focused governance. Employing a framework drawn from Foucault and summarised by Darier (1996), the analysis is focused around three axes. The first axis, which considers centralisation tendencies in government, is crucial in considering whether SEA can be a useful meeting point between top-down and bottom-up approaches to sustainable development. The second, 'intensification of the effects of power', requires clear conduits for the flow of an environmentally-focused governmentality if Thérivel's (2004) aspiration of having decision makers 'thinking SEA' is to be realised. Finally, the power-knowledge axis opens up for discussion the role of expertise vis-à-vis the admittance to SEA of 'early and effective' public participation and an increasing emphasis on social learning in assessment.

Crucially, a governmentality approach also admits a central theme in Foucault's conception of power: resistance. In contrast to providing opportunity to further the legitimising aims of the SEA/good governance nexus in Scottish local authority SEA practice, the research exposes instances of resistance to both the democratising elements of good governance and to SEA itself, as the public and statutory consultation authorities find their efforts to constructively engage with the SEA process thwarted.

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List of abbreviations

| | |
|------|--|
| APT | Action for Planning Transparency |
| BID | Business Improvement District |
| CA | Consultation Authority |
| CfS | Collaboration for Success |
| EIA | Environmental impact assessment |
| ER | Environmental Report |
| OECD | Organisation for Economic Co-operation and Development |
| PAS | Post-adoption statement |
| PPS | Plan, programme or strategy |
| RA | Responsible Authority |
| SA | Sustainability appraisal |
| SEA | Strategic environmental assessment |
| SEPA | Scottish Environmental Protection Agency |
| SNH | Scottish Natural Heritage |
| USA | United States of America |

Chapter 1

Introduction

Since the inception of formal environmental assessment in the USA in the 1960s, the ideological backdrop in liberal democracies has seen a shift from government to governance whereby plans, programmes and strategies (PPSs) are developed and implemented by a growing range of non-state ‘partners’ and ‘stakeholders’. However, concerns around the erosion of democracy, as an increased range of private and third-sector agencies become involved, have led to calls for increased transparency, accountability and public participation: evidence of ‘good governance’ has become necessary to legitimise fully PPS-making processes.

Although environmental assessment is often construed as a largely technical exercise, contributing to a managerialist mode of governance, SEA has been associated with good governance by bodies at national and international levels including the World Bank, the Organisation for Economic Co-operation and Development (OECD), and UK and Scottish governments. That association is characterised in this thesis as the SEA/good governance nexus. In seeking to overcome the democratic limitations of the shift to governance, typically involving components such as transparency, accountability, public participation and partnership working (see Table 2.1), the SEA/good governance nexus has been promoted in Scotland where the government sees SEA as central to its sustainable development aspirations. It is this centrality that necessitates careful examination of what aspirations are being attached to SEA. The research therefore tests the veracity of the SEA/good governance nexus.

In Scotland’s first *Sustainable Development Strategy* the then First and Deputy First Ministers concede: ‘Sustainable development is a concept easy to subscribe to, harder to put into practice’ (Scottish Executive¹, 2005: 4). They continue, ‘What matters is the change to

¹ Following the establishment of a Scottish Parliament in 1999, the devolved government was referred to as the ‘Scottish Executive’. After the 2007 elections, the new SNP administration changed this to ‘Scottish Government’. Both terms are used herein, depending on the period referred to.

culture, policy and action that results from a strategy' (*ibid.*). Strategic environmental assessment (SEA) is seen as a crucial element of Scotland's effort to change the national mindset in favour of more sustainable decision making. Indeed, it is, for the Scottish Government, 'a key component of sustainable development' (2011b; Scottish Executive 2007a). In changing the national mindset, Scotland's decision makers and citizens are to be reconstructed as a more environmentally-concerned population, according with Thérivel's hope that, ultimately, decision makers will be 'thinking SEA' (2004: 209). Sadler and Verheem define SEA as,

a systematic process for evaluating the environmental consequences of proposed policy, plan or programme initiatives in order to ensure they are fully included and appropriately addressed at the earliest appropriate stage of decision making on par with economic and social considerations. (cited in Thérivel, 2004: 7)

Using a mix of qualitative methods to examine two Scottish local authority-level cases, the research aims to assess the contribution SEA makes to good governance. It seeks to ascertain whether that good governance association facilitates a shift to a more environmentally-focused governance, or rather, as discussed in Chapter 4, *governmentality*, necessary in realising sustainable development. Analysis of the cases investigated reveals significant shortcomings in the achievement of the SEA/good governance nexus as evidence of resistance to both SEA and its good governance hopes emerges: resistance by Responsible Authorities to the centralisation effects inherent in SEA; resistance to the public participation and consultation that may help effect a more environmentally-focused governmentality; and resistance to the admittance of non-Responsible Authority knowledge, despite the statutory inclusion of Consultation Authorities in SEA.

Section 1.1 outlines some of the claims and expectations made of SEA, both in contributing to sustainable development and in enhancing democracy. Section 1.2 then provides a description of the background shift providing the context for the implementation of SEA in Scotland. The various formulations of what constitutes 'good governance' against that backdrop are discussed in Section 1.3 alongside discussion of its legitimising function. Section 1.4 introduces the formulation of the SEA/good governance nexus employed within the thesis. Section 1.5 then introduces the governmentality analytical framework to be applied to the results of the cases. Finally, Section 1.6 outlines the contribution and structure of the thesis.

1.1 Claims and expectations: improving governance - instilling governmentality

For the Scottish Executive, SEA is, at its core, a process ‘to provide a systematic means of identifying, describing, evaluating and reporting on the environmental effects of PPS [plans, programmes and strategies]’ (2006: para.2.2.6). In doing so, Scottish SEA aims, ‘to help ensure that the environment is given the same level of consideration as social and economic factors’ (Scottish Government, 2010a: para.2.2). Jackson and Illsley (2006) describe how SEA in Scotland goes further than providing a technical assessment of likely environmental impacts useful to those seeking to make informed decisions. For them it contributes to sustainable development by ‘encourag[ing] the incorporation of environmental considerations at an early stage into public sector policy formulation, through *processes which will also demand more open government and greater public participation in the final adoption of PPPs* [plans and programmes and policies]’ [emphasis added] (Jackson and Illsley, 2006: 379). The belief is that, by embodying such principles of good governance, SEA may provide a useful meeting point between top-down and bottom-up approaches to environmentally-sustainable development.

Such hopes for SEA, not solely focused on environmental impacts, are echoed outside Scotland and include broad assertions such as Meyer-Steinbrenner’s, that public participation in SEA ‘develops civil societies and democracy among countries in the EU Region’ (2005: 436). Further stated aims include the educational potential of environmental assessment: it should ‘ideally, promote interactive and participatory learning’ (Noble, 2003: 138). Indeed, the learning role is intrinsic to Wiklund’s discussion of Habermasian deliberation in environmental assessment (2005: 284): ‘democracy is conceived of as a process of social learning through rational argumentation ... [participants] become informed of the views of one another’. Thus, as recognised by Barker and Fischer (2003: 707), SEA can assist with the ‘harmonization or reconciliation of conflicting agendas’ while contributing to better informed decision making.

Bina, too, examines the expansive potential of SEA in improving decision making (2008: 144):

If designed to raise more fundamental questions about why certain choices are made, who to involve at various stages of policy making and what mechanisms are appropriate for dialogue and consultation, SEA can serve as an additional mechanism to improve transparency, coordination, effectiveness and legitimacy – all of which are crucial to good governance.

SEA is therefore charged with not only ensuring environmental impacts are mitigated and positive effects enhanced, but also with enhancing the legitimacy of decisions by improving

governance itself. Indeed, for Bina the attribution of such a role to SEA is characteristic of a third phase of SEA (2008: 141-144): while the first phase focused on SEA as an 'informational instrument', an extension of EIA, and the second on 'SEA as process', the third, focusing on transparency and participation, sees SEA, as one chapter heading states, as 'a Means to Improve Governance' (*ibid.*). It is this third conception of SEA that is the focus of this study.

Marshall and Fischer believe 'SEA can be effective by assisting to change hearts and minds of actors and stakeholders' (2006: 284). Echoing Hogwood and Gunn's broader assertion, that '[t]he ultimate success of policy analysis would be achieved if it became so routinized that it was not seen as an activity separate and distinct from decision-making' (1984: 270), Thérivel (2004: 209) hopes, in the context of SEA, that,

...decision-makers will start 'thinking SEA' while they develop their strategic actions. Instead of perceiving SEA as a separate process that is 'done on' their strategic actions, they will start integrating environmental and sustainability thinking into their strategic actions ... to the point where ultimately, hopefully, SEA will make itself [...] redundant.

Here SEA goes beyond enhancing governance with the aim of mitigating the impacts of decisions by improving input into planning processes: it is charged with manipulating the dominant rationality of government, manifest in the *governmentality* - a concept defined by Foucault as:

[t]he ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security. (1991: 102-103).

Luke (1999) describes the emergence of a 'green governmentality', focusing on the USA's 'efforts to steer, manage and legitimate all of its various policies' (1999: 127), emphasising both the role of government in contemporary governance as 'steering' (rather than delivering) and the importance of environmental credentials in enhancing the legitimacy of policies. Darier (1996) meanwhile ascribes an environmental governmentality role to Canada's *Green Plan*: he examines the role of the Plan in creating environmentally-focused subjects. Such an approach to researching the impact of environmentalism on governance acknowledges the ongoing dominance of the state in seeking to ensure sustainability.

Indeed, in contrast to a governance discourse that highlights partnership and the participation of those outwith government, McKee asserts (2009: 469-70), 'a governmental

analysis highlights that less direct government in society does not necessarily entail less governing'. Rather,

endeavours to devolve autonomy and responsibility from the state to an active citizenry represent a form of 'regulated freedom' in which the subject's capacity for action is used as a political strategy to secure the ends of government... (ibid.).

This regulated autonomy means government can utilize techniques involving those outwith the public sector to realise its own ends, as when works of a public character should be screened for SEA regardless of who is developing and delivering them.

The population of PPS decision makers, in 'thinking SEA', should then embody a shift to a more environmentally-focused governmentality. However, a shift in governmentality requires that the wider population is also constructed in accordance with a more environmentally-focused rationality. Where SEA is seen as a technique of governmentality, public participation, whether in the consumption of published SEA reports or more active participation, can help to create such subjects where social learning under the auspices of SEA takes place.

Whereas changes in governmentality require the construction of subjects in accordance with specific governmental rationalities, echoing Foucault on extant liberal governmentality Chhotray and Stoker state, '... the liberal conception of the 'free self' lies at the heart of good governance' (2010: 119). The possibility of resistance is therefore inherent to their conception of good governance, as it is to Foucault's conception of power (2002d: 342): 'At the very heart of the power relationship, and constantly provoking it, are the recalcitrance of the will and the intransigence of freedom'. While the notion of 'good governance' provides a normative framework for the examination of the governance-related claims attributed to the SEA/good governance nexus, a governmentality analytical approach accommodates failure. Before further discussion on the analytical approach, it will be useful to outline the governance backdrop, including the shift from government to governance, within which the SEA/good governance nexus is located.

1.2 Introduction to the SEA/good governance nexus

PPS and SEA success and failure in Scotland occur against a backdrop of governance which has seen a shift of emphasis from top-down, hierarchical development and implementation of PPSs by government to a focus on the *steering* role of government and the formal

admittance of non-public-sector actors to PPS making and assessment. Accusations of the fragmentary impact of the shift have been countered by a 'second wave' of governance reforms (cf. Bevir, 2011), discussed further in section 2.1. These have attempted to join up governance and encourage partnership approaches. Furthermore, such approaches to contemporary governance have ostensibly sought to overcome a perceived democratic deficit in the first wave of the shift to governance which arose as less transparent and accountable non-state actors became increasingly involved in PPS making and implementation. By accommodating demands for greater transparency, accountability and public participation, second-wave reforms seek to address the challenges presented by governance to traditional representative democracy. The SEA/good governance nexus is illustrative of the conjoining of environmental assessment and these efficiency and democratisation ambitions.

The ANSEA (Analytical SEA) Team asserts that '[b]y applying the ANSEA approach through the specifically developed framework ..., several of the benefits generally associated with SEA can be reaped, for example raising awareness, improving communication and coordination, and introducing transparency and accountability' (2002: 7). The ANSEA Team again illustrates the wider aspirations attached to SEA that go beyond the consideration of environmental impacts to governance itself, a theme taken up by international bodies including the OECD and the World Bank. For the OECD (2006: 46), 'SEA supports good governance by: encouraging stakeholder participation ... [and] Increasing transparency and accountability' as well as 'clarifying institutional responsibilities'. However, the causal direction between sustainable development practices and those of good governance becomes less clear where the OECD states later that '[a]chieving sustainable development depends on good governance practices' (2007). Regardless, the discursive affinity between SEA and good governance is fortified.

According to the SEA/good governance nexus, fully discussed in Chapter 2, SEA can ensure transparency where it involves the publication of documentation throughout the assessment process and encourages the inclusion of the public in decision-making processes. Transparency can, in turn, enhance accountability if the lines of responsibility are clear, an important consideration in the shift to increased multi-partner working in programme, plan and strategy development. Accountability can also be enhanced by opening up decision-making and associated assessment processes to public participation, a major strand of the Scottish Government's efforts to renew democracy. It can do so only, however, if the input is

both sincerely incorporated into SEA and PPS development and comes from a wider range of voices than those previously contributing to these processes.

Similarly, SEA can enhance joined-up government, requiring attention to cross-cutting environmental issues and so encouraging communication between parties within fragmented governance. The efficiency and economy sought within contemporary governance can also be enhanced by adopting measures such as the oft-cited tiering principle associated with SEA which joins up government across the layers of governance: 'Avoiding duplication of data collection is a core principle of an efficient SEA process' (Scottish Executive, 2006: para.8.3.8).

Partnership working between sectors, too, can both enhance and be enhanced by SEA where the consideration of environmental impacts requires input from various areas of expertise although, again, there may be implications for accountability where lines of responsibility become blurred. Regardless, Connelly *et al* (2006: 268) note the legitimacy conferred upon partnership arrangements in contemporary governance: 'The legitimacy of these structures is usually not specified but merely asserted— partnerships are presented as intrinsically good and their legitimacy as self-evident, without the necessity of new legitimising mechanisms to replace those inherent in representative democratic structures'.

Besides the procedural legitimacy gained by adhering to legislative requirements and government guidelines, statutory consultation and public participation through SEA can help enhance the environmental and democratic legitimacy of PPS and assessment processes. The participatory assurances of the SEA/good governance nexus are in keeping with the concept of ecological modernization, defined by Hajer (1995: 25) as 'the discourse that recognizes the structural character of the environmental problematique but none the less assumes that existing political, economic, and social institutions can internalize the care for the environment'. For Hajer, ecological modernization 'acknowledges new actors, in particular environmental organizations and to a lesser extent local residents' (*ibid.*: 29), a link made explicit by Bäckstrand and Lövbrand (2007: 12): 'Central to strong ecological modernization is the idea of "good governance" [...] entailing participation, deliberation and inclusion of civil society and stakeholders in environmental policy processes...'. If good governance is the 'political counterpart of economic neoliberalism' (Archer, 1994, cited in Chhotray and Stoker, 2010:115), the SEA/good governance nexus locates SEA a technique of governmentality comfortably within a liberal governmentality, rather than it constituting a shift of governmentality.

1.3 Introduction to data collection methods and analytical approach

The SEA/good governance nexus, discussed in Chapter 2, was formulated following an initial literature review. The second phase of the research was the case study research where the adherence to the SEA/good governance nexus was investigated in each of the two cases (Chapters 5 and 6). Finally, the results of those cases were examined using a governmentality analytical approach (see discussions in Chapters 4 and 7). This section will outline the research process prior to fuller discussion of data-gathering and analytical methods in Chapters 3 and 4.

The cases herein are examined for their adherence to the SEA/good governance nexus. Benda-Beckmann (1994: 59) points to a problem with the normative approach to policy implementation: 'The good governance discussions easily concern themselves with questions that are too grand and undifferentiated, within which the rhetorics of wishful thinking dominate, and where unpleasant knowledge is largely ignored'. It is useful, therefore to adopt an approach that grounds the exercise in the real world. Following Flyvberg (1998), the study uses detailed case studies to examine the operation of the SEA/good governance nexus. The first case is that of the SEA of a 'masterplan', constituting supplementary planning guidance, for the A96 road corridor from Inverness to Nairn in the north of Scotland. The second follows the SEA process of a Community Planning framework in Clackmannanshire, also Scotland.

The Clackmannanshire case was selected as it showed promise of being a prototypical example of the SEA/good governance nexus: Community Planning epitomises the inclusive partnership working sought by good governance. In addition, the PPS sought to enhance environmental quality in Clackmannanshire, so the SEA was intended to further enhance both the environment and democratic decision making. The Highland case, too, ostensibly sought to be a paragon of collaborative PPS development, boasting a 'pioneering governance' approach (Halcrow Group Limited, 2007d), although the SEA would focus on mitigation of potential negative impacts of the plan which outlined largely green-field development on sites along a major road and adjacent to an airport. I believed therefore, that the governance claims in each case would provide useful backgrounds against which to test the good governance claims of the SEA/good governance nexus in the research, and that the contrasts in the nature of the PPS would help to clarify how that nexus is tested in practice.

Within the cases, qualitative methods were employed. Documentary analysis of the publications relating to the PPS and SEA processes helped identify formulation of, and official accounts of the adherence to, the SEA/good governance nexus. Semi-structured interviews with the main actors in the SEA processes, and non-participant observation at meetings relating to the SEA and PPS processes, provided a fuller picture of the good governance claims of the nexus.

The study uses a governmentality analytical framework whereby the performance of the SEA/good governance nexus is examined, in the two cases, within a framework drawn from Darier's (1996) summary of the components of governmentality (see Figure 1.1). It is possible to examine the relationships between the notions attributed to good governance which are implicit or explicit in governmentality theory, as articulated in this thesis through Darier's breakdown of the core components of governmentality.

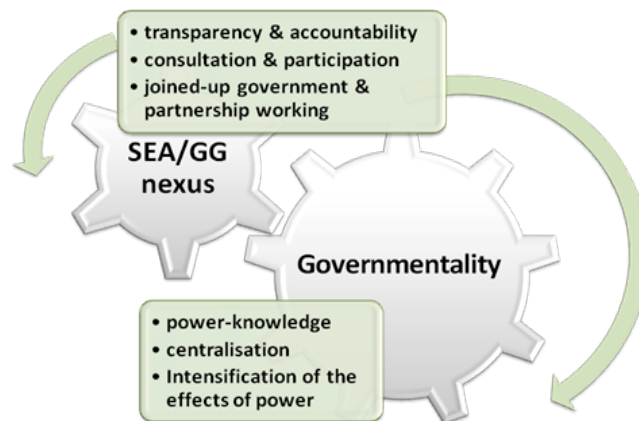


Figure 1.1: Application of a governmentality framework to the examination of the SEA/good governance nexus

For Bevir (2011: 460), 'Scholars of governance might draw on the concept of 'governmentality' to develop a greater awareness of both the theoretical content of their approach and the importance of discourses'. Indeed, consideration of centralisation within governmentality allows for examination of good governance components, transparency and joined-up government, in light of both SEA's and the Scottish SEA Gateway's role as 'panopticon' (see section 4.2.1). The centralisation of SEA *within* government runs counter to McLauchlan and João's (2005) recommendation of an independent body to oversee Scottish SEA. Those authors' proposed Gateway is to be charged with the '[collection of] management information and statistics on the operation of SEA' (*ibid.*: 8), central to

Foucault's governmentality, regardless of whether it is undertaken directly by government. SEA's success as a technique of a more environmentally-focused governmentality also involves discussion of public participation if a more environmentally-focused population is to be constructed.

The second axis of governmentality, the intensification of the effects of power, considers the flow and effectiveness of bio-power in creating, in the SEA context, that environmentally-focused population. The SEA/good governance nexus therefore requires public participation alongside a population of decision makers 'thinking SEA'.

Similarly, if private- and third-sector partners are admitted to contemporary public governance through developing works of a public character, they are liable to undertake SEA. SEA then brings actors across society under the gaze of government, all the better to regulate the 'conduct of conduct' (McKee, 2009: 469). For example, the UK's Office of the Deputy Prime Minister (2005: 39) hopes that, '... feedback from the monitoring process helps to provide more relevant information that can be used to pinpoint specific performance issues and significant effects'.

The ostensible emphasis on the objective assessment of information in rational environmental assessment and decision processes is challenged within a governmentality approach. Flyvberg (1998: 36) goes further in his assertions of the operation of power, stating, 'power is more concerned with defining a specific reality than with understanding what reality is'. Power therefore trumps truth: 'The subject, the archive, and change, all arise as effects of power/knowledge - the will to power masquerading as a will to truth' (Bevir, 1999: 349). Examining the cases in light of the power/knowledge axis of governmentality allows consideration of whose accounts are admitted, by whom, and how they are considered and reported therein. It raises questions of the contribution of transparency and accountability and the effectiveness of consultation and public participation. The next section will consider this drawing together of the concepts of good governance and governmentality in the context of SEA alongside other contributions made by this thesis.

1.4 Contribution and structure of the thesis

The thesis examines the performance of the SEA/good governance nexus in the two local authority cases and so the contribution of SEA to good governance in the planning processes.

It then re-visits the operation of that nexus in light of a governmentality framework. In doing so it attempts to answer the following questions:

- How does SEA contribute to good governance in the cases?
- Looking specifically at the democracy-related aspects of the SEA/good governance nexus (transparency; accountability; public participation), how is SEA enhancing Scottish democracy, making it 'fit for the twenty-first century' (Neil, 2009)?
- Does SEA help address the excesses of managerialism and provide a meeting point between top-down and bottom-up approaches to sustainable development?
- How do partners, statutory consultees and others directly involved in the PPS/SEA process contribute during the various stages?
- How are the contributions from the public, statutory consultees and other partners treated during the SEA processes?
- If it is located within the second wave of the shift from government to governance, how does SEA integrate with Clackmannanshire's Community Planning, which exemplifies contemporary multi-partner governance, and the 'pioneering governance' aspirations of the planning/SEA consultants in the Highland case?

In seeking to answer these questions, the study provides an explicit statement of the SEA/good governance nexus, allowing examination of that nexus across different PPS processes. In testing the SEA/good governance nexus in real cases the study provides detailed empirical material on those cases highlighting potential challenges for the implementation of SEA on meso-level PPSs in Scotland.

Cashmore *et al* (2010: 374) look briefly at international examples of '[t]he subversion of the intended value changes [through SEA, which] represents a fairly direct (albeit nevertheless covert) instance of the politics of governmentality pervading the use of impact assessment instruments'. However, considering SEA *as* a technique of governmentality opens up the examination of real-life cases for the explicit application of the axes discussed in section 1.3. That application is particularly relevant in the Scottish context in light of simultaneous shifts towards devolution of powers from the UK to Scotland and centralisation

in the 'hollowing-out' of UK powers to Europe and international institutions (Rhodes, 1996: 661).

Similarly, expectations of enhanced democracy in twenty-first century Scotland are examined where the intensification of power through engagement in SEA, and the resistance met by Responsible Authorities and the public are analysed. The incorporation of examination of power/knowledge will help to address Bäckstrand's (2004: 700) concern around the lack of analysis about 'the role of environmental science in contemporary environmental management'.

Prior to discussion of the governmentality analytical framework in Chapter 4, Chapter 2 introduces the SEA/good governance nexus employed in the thesis, detailing the relevance of each of the six elements to Scottish SEA. Chapter 3 then discusses the philosophical underpinnings of the research and the rationale behind both a case study approach and the selection of cases. It then introduces the qualitative data collection methods used within those cases. Building on Chapter 3, and again with a focus on Scottish SEA, Chapter 4 discusses the application of a governmentality analytical approach to the study of SEA. Chapters 5 and 6 present case studies of the operation of the SEA/good governance: Chapter 5 examines the SEA of The Highland Council's *A96 Corridor Growth Development Framework* (Halcrow Group Limited, 2007d), while Chapter 6 follows the SEA process which was integrated into the development of Clackmannanshire's Community Planning Environment Framework, *Greening Clackmannanshire* (Clackmannanshire Alliance, 2010).

Chapter 7 then discusses the successes and failures in the operation of the SEA/good governance nexus in those cases in light of a governmentality analytical framework, revealing that while governance aspires to be collaborative, a governmentality perspective uncovers the multiple modes of resistance to sincere, multi-sector collaboration. The final chapter, Chapter 8, reiterates the aims of the thesis before providing a summary of the key findings from the cases and their significance when analysed within the governmentality framework described in Chapter 4. It also provides recommendations for SEA practice, based on the findings, and suggests possible avenues for further, related research.

Chapter 2

The SEA/good governance nexus

The chapter begins with an introduction to the shift from government to governance: section 2.1 discusses the changing role of the state from top-down provider and implementer of PPSs to one partner in a multi-sector context, opened up to competition where ‘functions of a public character’ (Scottish Executive, 2006) may be defined and delivered by the public, private or third sectors. Section 2.2 presents a selection of conceptions of ‘good governance’ and describes that of the Independent Commission for Good Governance in Public Services (2004), from which the elements of good governance adopted herein are drawn. The chapter then describes in greater detail these components of good governance and their specific relevance to SEA.

The first to be discussed, transparency (section 2.3), is central to the assertion of an SEA/good governance nexus. Lending the process throughput-legitimation (Getimis and Heinelt, 2004: 10), the documentation produced at the various stages of the assessment process should provide an auditable account of both SEA and PPS processes providing transparency for both decision makers and the public. Such transparency should also afford a degree of accountability. In their article on Scottish SEA, published concurrently with the SEA Act, Jackson and Illsley (2006: 362) claim, ‘... formal assessment processes will be used as a policy instrument to promote greater public sector accountability with respect to the environment’.

SEA may enhance the accountability of PPSs across several dimensions (section 2.4): ‘managerial’ accountability, where it contributes to best value; ‘professional’ accountability where best practice is emphasised; political accountability, including electoral accountability for those with the right to hold decision makers accountable through the ballot box, based on the perceived legitimacy afforded to PPSs through participatory SEA, as well as provisions to include groups without voting rights; and temporal accountability whereby document archiving provides accounts of SEA processes available for research into the future.

Partnership working, discussed in section 2.5, is a core element of contemporary

good governance discourse. It is also said to be crucial in the achievement of sustainable development (Hudson *et al*, 2007). In SEA, partnership working is most prevalent in the inclusion of statutory consultees throughout SEA processes, while the joined-up government element of the SEA/good governance nexus is more focused on cooperation and coordination (ANSEA, 2002) *within* Responsible Authorities. Section 2.6 will examine joined-up government across horizontal, vertical and temporal dimensions. Looking beyond Responsible Authorities, section 2.7 will explain the provisions for the integration of specialist knowledge into SEA through statutory consultation requirements at various stages of SEA. Section 2.8 will examine public participation in SEA, outlining the benefits, timing and effectiveness of public input.

2.1 Governance backdrop

For McKee (2009: 469-470), the shift from *government* to *governance* 'reflects a departure from traditional forms of hierarchical state control, towards an enabling state which promotes the greater involvement of both the private and voluntary sectors, as well as an active citizenry, in networks, partnerships and co-governance'. Still a significant player in the development of PPS, the state's role becomes that of a steady hand 'steering' PPS development; one actor among many. The SEA/good governance nexus is located within such a definition of governance discourse: it typifies the emphasis of that discourse on collaboration. For example, for Bina (2008: 142),

A richer understanding of the actors involved means that SEA is moving beyond discourses which emphasize the participation of 'the public' or of 'the experts', to those that stress the need for consultation and collaboration within and between *all* relevant actors. [emphasis added]

The international (and ideological) nature of the shift from government to governance is underlined where the World Bank unequivocally asserts that: 'The state is central to economic and social development, not as a provider of growth but as a partner, catalyst and facilitator' (cited in Hague and Harrop, 2001: 5).

In the UK the change is said to have originated during the 1970s in response to the 'crisis of the state', comprising, according to Richards and Smith (2002: 82-86): a combination of: economic pressures, culminating in the loan granted to the UK by the IMF, a condition of which was the curtailing of public spending; the consequent pressure to rein in the welfare state; and the recognition of the contribution of out-dated elites in politics and the civil

service to Britain's post-war decline.

Alongside the marketisation and privatisation of public services, (focusing initially on utilities, transport and communications), a *new public management* (NPM) emerged within the extant state involving the adoption of a private sector ethos focusing on efficiency, effectiveness and economy (the 'three Es'). Practices previously located in the private-sector, 'a sector previously characterized by quite different traditions of thought' (Pollitt, 1993: 11), were adopted within the public sector (Parsons, 1995: 38): 'Public sector managers must appreciate the value of competition and maintain an open-minded attitude about which services belong to the private, rather than public, sector' (Behn, 2001: 25). The extension of PPS development and implementation to private- and third-sector service providers is manifest in the context of SEA where, for example: SEAs are undertaken by consultancy firms rather than being conducted in-house; environmental information is sought from industry sources; and the term 'functions of a public character' is introduced (Scottish Executive, 2006), reflecting the rise in cross-sectoral policy development and delivery of what were previously 'public sector' services.

Loss of transparency regarding roles and responsibilities has occurred in the shift from government to governance where, 'contemporary governing practices have both reworked and blurred traditional binary divisions between the state and the market, the state and civil society, the public and private and so forth' (McKee, 2009: 481). Indeed, so central is this aspect to the shift to governance it is, for Nuijss and Heinrichs (2011: 47), the third face of governance: 'a comprehensive analytical category pertaining to the regulation of publicly relevant affairs at the interface of state, market, and civil society'. The research herein confirms that although the blurring of accountability at that interface can bring non-public sector partners into scrutiny, it can also provide an excuse for evasion of SEA: evidence from both cases suggests the evasion of SEA through claims that the responsibility for the PPS, or part thereof, lies within of private sector and is therefore not liable for SEA.

Connelly *et al* summarise the shift from government to governance as 'the change from governmental domination of policy development and delivery to situations in which a range of stakeholders collaborate in flexible and often less-formalised structures' (2006: 267-268). 'Less-formalised structures', however, compromise transparency and accountability and are under fewer stipulations to be formally inclusive. Together these deficiencies undermine the democratic legitimacy of such governance structures. Behn (2001: 32), too, points out that the supporters of NPM 'have not worried about how their new performance

paradigm can mesh with ... traditional concepts of political accountability'. Paehlke (1996: 22) shares these fears of the excesses of NPM focused on the three E's: 'Democracy, indeed government itself, is increasingly less able to intervene to alter the dependence on a 'pure' economic basis for societal decisions'.

Dunleavy and Hood (1994) report the various critiques to which NPM has been subject. These have come from across the political spectrum, from the individualist critique which purports that NPM does not take marketisation far enough, through to egalitarian critique which warns of the threat to accountability. Bevir (2011: 466) describes a 'second wave of reforms', considered herein as the shift to *good* governance, for example, the promotion of partnership approaches and joining-up government to address the fragmentation produced by NPM. Nuisl and Heinrichs (2011: 47) differentiate between the normative and analytical aspects of governance. For those authors, normative aspects include not only the neoliberal desire to minimise the state but also the idea of 'good governance', designed to alleviate the less democratic impacts of minimising the state such as diminishing transparency and accountability. The next section will look more closely at the notion of 'good governance'.

2.2 'Good governance'

While many of the claims and expectations of SEA may go unchallenged, this thesis explores the nexus between SEA and good governance implicit in much SEA literature and promoted by the Organisation for Economic Co-operation and Development, World Bank and national governments.

The normative preferences of the World Bank (and the inherent liberalism of Foucault's governmentality, discussed in section 4.1) are clear where Chhotray and Stoker state (2010: 118),

the principles of 'good' governance promoted by the Bank stem from a prior conception of the good; the good for which the World Bank stands for (*sic*) is a market economy and "neutral" state which ensures the proper functioning of that economy by means of the enforcement of property rights and contractual obligations.

Table 2.1 presents nine different conceptions of the constituents of good governance. These include Bemelmans-Videc's (1998: 7) simple formulation - democracy, efficiency, effectiveness and legality - and Bovaird and Löffler (2003) who, while covering the most

popular components of transparency, accountability and inclusion and so on, also mention sustainability. In the context of SEA, the OECD lists the components of good governance as 'participation, transparency, accountability, rule of law, effectiveness, equity, etc.' (2006: 147). Although the discussion herein, focusing as it does on Scottish SEA, assumes a backdrop of legality, the rule of law is a recurrent feature of international accounts of what constitutes good governance: besides Bemelmans-Videc (1998) and Bovaird and Löffler (2003), it is cited as by Benda-Beckmann (1994) and Landman and Hausermann (2003).

Berkes presents a simpler statement of the nature of good governance: '[t]he direct involvement of people in resource management decisions that affect their livelihoods is good governance' (2007: 31). While many definitions of good governance are developed to allow cross-national comparison, given the Scottish context, this thesis will employ good governance concepts drawn from criteria outlined by the Independent Commission for Good Governance in Public Services (2004: 4), an organisation whose focus is on governance standards within the UK. The themes to be considered are: transparency; accountability; participation; consultation; partnership working and joined-up government. These elements combine to contribute to the legitimacy of PPSs, the key aim of 'good governance'.

Philp (2009: 40) divides the concept of legitimacy into procedural and outcome legitimacy according to, 'whether an outcome is legitimate because it has gone through the right formal procedures, as against whether it commands popular legitimacy'. While recognising these, this section adopts Getimis and Heinelt's (2004) forms of legitimation: input-legitimation; throughput-legitimation; and output-legitimation. These more accurately reflect the legitimacy, and, in turn, good governance, role of SEA to PPSs.

The aspiration for procedural legitimacy reveals an assumption of Weberian legal-rational domination; that decisions will be made after the objective assessment of objectively gathered and presented information made available to decision makers. Accordingly, transparency and accountability will be assured where documents such as the post-adoption statement explain the basis of the decision made and provide the information that was available to decision makers. Prat (2005: 863), however, raises the point that 'transparency on action can have detrimental effects. [...], the agent faces an incentive to disregard useful private signals'. Regardless, SEA subscribes to a stages approach to PPS development and adherence to the legislation around the various steps of the SEA process affords procedural legitimacy, or, as Getimis and Heinelt (2004: 10) call it, 'throughput-legitimation through transparency'.

Table 2.1: Components of good governance

| Landman and Häusermann (2003) on Components of good governance | Bovaird and Löffler (2003) 'characteristics of good governance' | European Commission (2004) 'Guiding principles for good governance' | OECD (2006) 'characteristics' of good governance | Benda-Beckmann (1994: 56) 'good governance implies...' | Beremlans-Videc (1998: 7) 'dominant criteria' of good governance | The United Nations Centre for Human Settlements (Habitat) (2000) | IAIA Generic SEA Principles (Noble, 2003: 135) | Independent Commission for Good Governance in Public Services (2004) on how to achieve good governance | SEA/good governance nexus |
|--|---|---|--|--|--|--|--|--|---------------------------|
| Government legitimacy | | | | | | | | | |
| Transparency | Transparency | Transparency & accountability | Transparency | Transparency | | | | Constructively challenging and scrutinising the executive | Transparency |
| Government/organizational accountability | Accountability | | Accountability | Accountability | | | Accountable | | Accountability |
| | | | | Openness | | | | | |
| | | | | | Democracy | decentralizing responsibilities and resources to local authorities | | | |
| | Citizen engagement/ equalities agenda & social inclusion | Participation & ownership | Participation | Participation | | Encouraging the participation of civil society | | Ensuring that the voice of the public is heard in decision making | Public participation |
| | Ability to work effectively in partnership | | | | | | Participative | | Consultation |
| | | | | | | Using partnerships to achieve common objectives | | Forging strategic partnerships with other organisations' | Partnership working |
| | | | | | Efficiency | | Integrated | | |
| Government competence/ public sector management | | Organisational adequacy | Effectiveness | Organizational effectiveness | Effectiveness | | Iterative focused | | Joined-up government |
| | Sustainability | | | | | | Sustainability-led | | |

| Landman and Häusermann (2003) on components of good governance | Bovaird and Löffler (2003) 'characteristics of good governance' | European Commission (2004) 'Guiding principles for good governance' | OECD (2006) 'characteristics' of good governance | Benda-Beckmann (1994: 56) 'good governance implies...' | Beremlans-Videc (1998: 7) 'dominant criteria' of good governance | The United Nations Centre for Human Settlements (Habitat) (2000) | IAIA Generic SEA Principles (Noble, 2003: 135) | Independent Commission for Good Governance in Public Services (2004) on how to achieve good governance | SEA/good governance nexus |
|--|---|---|--|--|--|--|--|--|---------------------------|
| | Ability to compete in a global environment | | | | | | | | |
| Rule of law | Respect for the rule of law | | Rule of law | Rule of law | | | | | |
| Human rights | | | | | Legality | | | | |
| Contracts | | | | | | | | | |
| Property rights | | | | | | | | | |
| Freedom of information | | | | | | | | | |
| | Equity (fair procedures and due process) | Equity | Equity | | | | | | |
| | Ethical & honest behaviour | | | | | | | | |
| | | Conflict prevention | | | | | | | |
| | | Anti-corruption | | | | | | | |

Stages approaches outline a linear, 'rational' view of the policy process whereby steps in policy making are distinct and follow neatly on from each other. Such approaches are criticised for representing a top-down view of the policy process and '[failing] to take account of 'street-level' and other actors' (Parsons, 1995: 80). They thus contrast with more iterative approaches that better accommodate the reflexive adaptation advocated by, for example, Holling (1978), Berkes (2007) and Pelling, High, Dearing and Smith (2008). Flyvberg (1998), too, challenges the veracity of the rational decision making account: he believes that the greater the power the less rational the decision. Benda-Beckmann (1994: 61) points to this possibility, simply stating, 'Legal frameworks do not provide an adequate description of the social realities they regulate'. Cashmore *et al* (2008: 1244) go further, warning against a belief in 'the continued employment of policy appraisal tools based on abstract theories that are empirically naïve', continuing, 'the concept of a universal heuristic is no longer tenable or, in fact, desirable' (*ibid.*: 1246)

Although the shortcomings of 'stagist' approaches to policy making have been widely accepted (cf. Parsons, 1995: 79), extant assumptions of rational decision making continue to shape much guidance. Indeed, Nilsson and Dalkmann (2001: 6) note the 'striking similarities' between policy 'stages' and environmental assessment frameworks. This is certainly true in Scotland where the steps prescribed in the SEA *Toolkit* closely match those of stagist approaches (Scottish Executive, 2006). Figure 2.1 brings together the stages described in the Scottish guidance and Hogwood and Gunn's (1984) policy stages. Such a structured approach is defended by Fischer (2003: 167) as being effective, providing 'a better consideration of the environment in decision making for sustainable development which is not likely to be achieved in the absence of objectives-led pre-structured approaches'.

Similarly, for Getimis and Heinelt (2004: 10), to be assured 'output-legitimation' a democracy should be effective in '[solving] the problems that affect the fate of the community it claims to represent'. In this study of the contribution of SEA to good governance, the 'problem' is in implementing SEA in such a way as to enhance local democratic decision making. Examination of effectiveness in the cases presented in this thesis is therefore focused on the effectiveness of public participation and consultation in SEA in influencing the SEA and PPS processes. Whether the SEA/good governance nexus is effecting enhanced democracy is an important question to ask in light of Jackson and Illsley's statement that, '... the Directive is primarily procedural in content' (2006: 362).

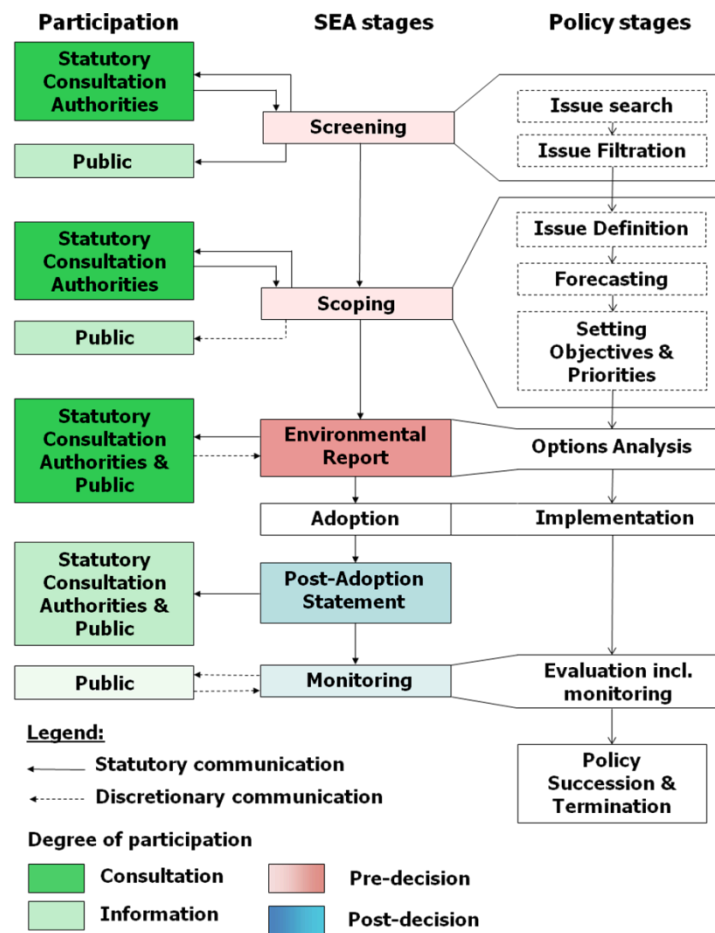


Figure 2.1: Stages approach to policy, SEA consultation & public participation.
 Sources: Scottish Executive (2006); Hogwood and Gunn (1984)

Satisfaction of Bovaird and Löffler’s (2003) *equity* criterion of good governance (see Table 2.1) demands process legitimacy inasmuch as it is defined as ‘fair procedures and due process’. While process legitimacy underpins the operation of impact assessment, the achievement of popular legitimacy is necessary to rightfully claim that democratic enhancement has taken place through SEA. Similarly, Getimis and Heinelt’s final form of legitimation, ‘input-legitimation through participation’, is achieved where citizens can be confident of ‘getting one’s voice heard and one’s vote counted’ (2004: 10). In countering perceived failures of representative democracy, admitting the affected, interested public more into PPS development boosts legitimacy: as Connelly *et al* (2006: 268) state, ‘[c]ollaborative approaches are argued to secure legitimacy [...] by giving citizens and civil society organisations direct access to previously remote decision making processes, as equal ‘stakeholders’.

Getimis and Heinelt’s forms of legitimation, input-legitimation; throughput-

legitimation; and output-legitimation, correspond with Noble's (2005) categorisation of SEA audit criteria: Input criteria; process criteria; output criteria (cited in McLauchlan and João, 2005: 7), while Saward's 'intermediate principles of legitimacy', cited as 'participation, accountability, equality and efficiency' (1992: 33), echo the common threads of the definitions of good governance *and* IAIA SEA criteria, summarised by Noble (2003: 135) as, 'integrated, sustainability-led, focused, accountable, participative and iterative' (see Table 2.1). The aspiration of the SEA/good governance nexus to boost the legitimacy of PPSs is thus clarified. Beginning with a discussion of transparency and SEA, the next section provides an introduction to the formulation of the SEA/good governance nexus employed in this thesis.

2.3 Transparency and SEA

The notion of transparency is central to good governance. The SEA Directive cites it 'a justification for increased consultation and public participation' (EC, 2001, 15th recital of the preamble; cf. Risse *et al.*, 2003: 455). Heiland (2005: 422), reversing the argument, is hopeful about the potential for public participation in SEA processes to contribute to further aspects of good governance such as improving 'the transparency and comprehensibility of the planning process'. The centrality of transparency is borne out in Scotland: the Scottish SEA guidance highlights its role as a core value where it includes transparency of decision making as a 'key [matter] to be kept in mind' (Scottish Executive, 2006: para. 2.2.8), both in the decision-making processes to which SEA is to contribute and the SEA process itself. In addition to the statutory requirements, the Scottish SEA *Toolkit* suggests measures such as following the 'good practice' of including 'a section on SEA activities to date' and a 'post scoping' summary record of scoping outcomes (see also Scottish Executive, 2006, paras. 4.4.9, 6.3.3, 8.3.11, 10.3.7).

Heald differentiates between *event* and *process* transparency (2006: 30-32). Event transparency is secured by inputs, outputs and outcomes. 'Events' are 'points/states that are externally visible and – at least in principle – measurable' (*ibid.*: 30). Examples of events specifically geared towards transparency in SEA would include: the publication of the environmental report (including the monitoring framework); the post-adoption statement whereby integration of input gleaned during formal consultation takes places; and any subsequent monitoring reports which measure environmental outcomes against

baselines identified in the scoping reports.

For Heald, process transparency opens the 'black box' of decision making and renders visible the means by which decisions are made (*ibid.*: 31). In SEA, process transparency is assured firstly by the preparation and publication of the scoping report, describing: the scope of the assessment that is to be undertaken; the decision criteria that will form the basis for assessment, i.e. environmental objectives; and the consultation period that will be afforded to statutory consultees and the public. The post-adoption statement, stating how consultation responses contributed to the decisions made further enhances process transparency.

The publication of documentation pertaining to the various stages of assessment and PPS development is therefore central to transparency, and so the SEA/good governance nexus. In Scotland, the screening determination must be published if a formal screening exercise is undertaken. While the publication of scoping reports is discretionary, environmental reports and post-adoption statements must be published. These documents should represent accurate accounts of PPS and SEA activities including: option development; option assessment; and regard taken of consultation responses in the decisions made. Clarity regarding processes and decisions within them facilitate transparency for both higher tiers of governance and for the public. All the reports should be sent to the SEA Gateway.

Located within the Scottish Government, the SEA Gateway is the hub of SEA activity in Scotland. It is a repository for SEA documentation across all SEA stages, for the SEAs of all Responsible Authorities. All documentation received by the Gateway is published in its online SEA database (Scottish Government, 2011). The Gateway also coordinates formal SEA consultation with the statutory consultees, and offers advice and guidance on SEA practice. The Gateway cannot, however, guarantee total transparency within SEA processes.

The ANSEA Team discuss the necessity of 'auditable material' such as that published by the Gateway (2002: 7); however, auditable material provides only the formal process, as presented by the Responsible Authority. Such an event-focused approach does not incorporate the operation of informal networks and decision making, outwith the formal process, that form much of PPS making. Fischer (2003: 161) notes:

While it is commonly acknowledged that principle actors should always be identified within planning processes ..., it may be ... doubtful to

assume that actor configurations can actually be fully and clearly mapped and analysed, including their interests, values and power as has been suggested...

Even within formal decision making supported by SEA, the first documentation produced publically may be the environmental report which is intended to support the formal decision to approve a PPS. Despite the opportunity to publish relevant documents and ensure process transparency earlier in the assessment process, the focus remains largely on The Decision.

Although aiming to satisfy the participative turn in planning and assessment, the managerialist concession to democracy, the publication of material for public consumption, masks issues of quality and appetite. There has been criticism about the amount of documentation created by SEA and about the length of environmental reports: too much information may obscure the process as much as too little. PAN 1/2010 on SEA of development plans in Scotland requests that environmental reports be succinct and understandable. It recommends that detailed information should be put in appendices while the main document should summarise key points (Scottish Government, 2010: s.5.7). It should be noted, however, that Scottish SEA legislation already requires the publication of a non-technical summary as part of the environmental report (Scottish Executive, 2006: para.6.2.7).

The final documentation of the SEA process, the post-adoption statement, renders transparent the effectiveness of consultation and public participation, requiring the Responsible Authority (RA) to account for their treatment of each contribution to the formal consultation. The transparency of the process should, however, extend beyond the publication of the post-adoption statement. Indeed, if event transparency is to be enhanced through environmental assessment, monitoring activities and data must also be made available. Advice on SEA supplied by the UK Office of the Deputy Prime Minister (ODPM) recommends that '[RAs] need to ensure that monitoring information is appropriate to their needs and is up to date and reliable, and that sources of information are referenced' (ODPM, 2005: 5.E.4). The Scottish guidance lists suggestions for monitoring data, beginning with the expectation that information be 'transparent and accessible' (Scottish Executive, 2006: 14.3.13). Those responsible for monitoring should 'record data sources, gaps in data sources/uncertainties' (*ibid.*).

The array of documentation required for SEA, and the statutory requirements for

specific prescribed content therein, satisfies – at least theoretically – the transparency element of the SEA/good governance nexus. Furthermore, transparency is said to facilitate a greater degree of accountability in SEA processes through the provision of auditable material at the various stages (cf. ANSEA, 2002; OECD, 2006). The next section will consider accountability in SEA.

2.4 Accountability and SEA

Stewart and Collett evoke the practical difficulties of applying managerial approaches to fuzzy concepts such as sustainable development: ‘Sustainable development remains ambiguous, inexact, ill-defined, unbounded, and unmeasurable ... the absence of appropriate rules or precedents has up till now made the application of legal or procedural accountability harder’ (1998: 59). They point to the difficulties inherent in good governance discourse where they claim that ‘the multiplicity of organisations and agencies involved in [sustainable development], together with the absence of clearly defined organisational responsibilities, makes the application of appropriate forms of accountability more difficult’ (*ibid.*). Regardless, the Independent Commission for Good Governance in Public Services asserts ‘Good governance means performing effectively in clearly defined functions and roles’ (2004: 5). The necessity for a designated Responsible Authority in SEA may help the SEA/good governance nexus avoid the governance pitfalls outlined by Stewart and Collett.

For Barker and Fischer (2003: 706), SEA’s role is ‘systematically judging potential environmental and socio-economic impacts’ which also, for those authors, enhances accountability. Barker and Fischer are, however, considering SEA as a device for the integration of social and economic, as well as environmental, considerations into PPS development. SEA in Scotland, while including anthropocentric environmental concerns such as potential impacts on human health and population, is designed specifically *not* to include broader social and economic impacts. Narrowing the scope, therefore, Jackson and Illsley see SEA in Scotland as ‘a policy instrument to promote greater public sector accountability with respect to the environment’ (2006: 362). In the SEA context, as well as generally, accountability is oft-mentioned and little-defined, changing meaning according to application (Behn, 2001: 3). It is useful then to consider the various *types* of accountability that may be applicable in the context of SEA.

While Philp (2009: 40) cites ‘bureaucratic, legal, professional and political’ accountabilities and Ling (2002: 628) outlines ‘financial, political, performance and partnership’ varieties, Stewart and Collett (1998) list the ‘forms of accountability’ they believe are most relevant to the sustainability context: market, user, political and ‘temporal accountability of generation to generation’ (1998: 58). Political accountability and temporal accountability are relevant to the SEA/good governance nexus, market accountability may, however, usefully be subsumed within managerial accountability, concerned partly, as that is, with value for money. Similarly, in the context of SEA, professional accountability may be more useful concept than ‘user’ accountability. The types of accountability considered within this study, and defined and described in this section, are, therefore: managerial; professional; political; temporal. The value that each of these adds to SEA is summarised in Table 2.2.

Table 2.2 Types of accountability and their roles in SEA

| <i>Type of Accountability</i> | <i>Value added in SEA</i> |
|-------------------------------|--|
| Managerial | <ul style="list-style-type: none"> procedural legitimacy ‘best value’/Four E’s: efficiency, effectiveness; economy; equal opportunities* |
| Professional | <ul style="list-style-type: none"> proliferation of best practice |
| Political | <ul style="list-style-type: none"> output legitimacy appreciates changing nature of constituencies e.g. transboundary; non-human species; young people |
| temporal | <ul style="list-style-type: none"> inter-generational equity |

* Local Government (Scotland) Act, s.1(3)

2.4.1 Managerial accountability

Part of the shift from government to governance has been the transfer of commercial management systems to the public sector. For Rhodes (1996: 663), managerialism ‘concentrates on the ‘3Es’ [efficiency, effectiveness and economy] and value for money; on hierarchical control and; the clear distribution of authority and responsibility’. Managerial accountability, promoted within NPM (Stewart and Collett, 1998: 55-56), not only invokes traditional book-keeping connotations (Bovens, 2007) but also encompasses the wider

good governance agenda: although hierarchical control can be counter to aspirations of meaningful stakeholder participation in PPS processes, alongside the joined-up government requirement for clarity of roles, two of the three Es, efficiency and effectiveness, appear amongst Bemelmans-Videc's 'dominant criteria' of good governance (1998: 7) (see table 2.1).

Managerial accountability is reflected in the 'best value' requirement of the Local Government (Scotland) Act 2003. Section 1(3) of the Act demands that local authorities consider the quality and cost of its performance. The subsequent section (*ibid.*: 1(4)) is more explicit in adopting the managerialism depicted by Rhodes: it requires Scottish local authorities to have 'have regard to— (a) efficiency; (b) effectiveness; (c) economy; and (d) the need to meet the equal opportunity requirements'.

Although the resources required for SEA may be seen as potentially compromising efficiency and effectiveness of PPS making, and thus the economy of the process, any detrimental impact on the aspirations of best value can be at least partly mitigated by the adoption of the tiering principle in SEA discussed in greater detail in section 2.6. Briefly, if tiering is properly applied, efficiency savings can be made by conducting the correct assessment at the appropriate level. For example, Fischer (2003: 162) includes the need for fewer project-level EIAs amongst justifications for undertaking SEA: in keeping with the European Commission's (2004: 19) *conflict prevention* principle of good governance, the costs of detailed assessment and consultations may be offset if the potential for conflict is offset at the strategic level.

The Local Government (Scotland) Act 2003 (s.1(5)) also demands that 'The local authority shall discharge its duties under this section in a way which contributes to the achievement of sustainable development'. Despite SEA being a potentially effective way to strive for environmental sustainability in local authority functions, research by Grace *et al* (2007: 26) reveals that, in Scotland, the equalities and sustainable development requirements of the Act receive 'relatively little attention' in best value auditing. Therefore, despite the resonance with good governance principles, and the presence of sustainable development as a stipulation in the legislation, best value may be missing opportunities to enhance the inclusivity and environmental credentials of Scottish local authorities, both of which can be encompassed within the SEA/good governance nexus. This will be considered further in the case study chapters.

2.4.2 Professional accountability

In the face of increasing demands for accountability at all tiers of governance Behn asks: 'How should empowered and discretion-exercising civil servants (or independent contractors) be accountable to the citizenry?' (2001: 35). The discretion of those working in the public sector is diminished by the tools and techniques of managerialism (Rhodes, 1996). Arguably, as a result, those workers may have less for which they should be personally accountable. Rather, SEA practitioners, whether employed by local authorities or brought in as consultants, must ensure only that the correct documentation is produced with appropriate content, at the correct time. There are no formal methods or requirements to audit quality of the documents, or the assessment itself. This has prompted accusations of SEA being practised as a box-ticking, bureaucratic exercise. The stages approach, too, for all its heuristic value (Hogwood and Gunn, 1984), facilitates a box-ticking approach to SEA thus contradicting the assertion of the Scottish Executive 'that bureaucracy must be as light as possible to ensure SEA's success and to minimise resource implications.' (Scottish Executive, 2005: 3.8).

Countering the concerns regarding SEA as merely a box-ticking exercise is the prevalence of references to *best practice* in SEA. While managerial accountability demands that professionals ensure a complete auditable trail, more integrity-based accountabilities, ideally encompassing the 'ethical and honest behaviour' facet of Bovaird and Löffler's (2003) 'good governance' (see Table 2.1), hope to ensure the quality of the process (Philp, 2009: 37-38). The UK Office of the Deputy Prime Minister's SEA guidance encourages practitioners to build on previous best practice in conducting SEAs as 'Environmental assessments conducted in the preparation of other relevant plans and programmes ... are likely to be useful sources of information' (2005: 28). Reflecting the shift to multi-sector governance, guidance on best practice is not restricted to governmental bodies. Levett-Thérivel, a sustainability consultancy, invites submissions reflecting best practice in UK SEA for posting to the corporate website (Levett-Thérivel, 2010). The webpage contains the following caveats:

No attempt was made to specify in advance what is meant by 'good practice', or to vet the recommendations. Consultants were encouraged to – and indeed often did – recommend reports prepared by their consultancies. The recommender's name is shown in the final column. *Inclusion of reports in this list does not mean that they are necessarily legally compliant, or even that the section being recommended is compliant! (ibid.)*

In the context of these significant caveats, even the examples provided within a good practice forum cannot claim to enhance accountability: as Philp (2009: 30) states, ‘...analysts often fail to distinguish the power to sanction for failing to give an account from the power to sanction for the content of that account ...’. None of the SEAs recommended by Levett-Thérivel’s webpage were undertaken in Scotland. However, the Scottish Government has undertaken a Pathfinder Project, aiming to identify specific examples of good practice amongst case studies conducted in Scotland (Scottish Government, 2010).

2.4.3 *Political accountability*

Bovens (2008: 465) outlines a democratic perspective on accountability whereby ‘[a]ccountability controls and legitimises government actions by linking them effectively to the “democratic chain of delegation”’. Within the public sector, democratically-elected decision makers will be informed by less clearly accountable officers. Saward calls for greater accountability of unelected officials through increased transparency (1992: 53):

...[a] the ways in which unelected officials are held accountable by elected officials should be thorough, regular, formal and open to public scrutiny ... [b] institute feasible ways of making unelected officials and bodies performing governing tasks accountable directly to citizens.

The requirement in SEA for publication of a post-adoption statement, detailing how consultation responses have been taken into consideration in decision making for a PPS, satisfies Weale’s definition of political accountability (2011: 64): ‘In its broadest sense, political accountability means that those exercising political authority have to give reasons for the public action they undertake’.

Generally, where PPSs are of a ‘public character’, electorally accountable representatives will hold the final veto over proposed PPSs. Voters can subsequently elect their representatives on the basis of the perceived legitimacy of decisions made. If concerned about the environmental impacts of decisions, the post-adoption statement of a given PPS can reveal for the electorate the degree of responsiveness of those involved in the decision process to contributions made by the public during formal consultations. The electorate’s satisfaction with the effectiveness of such indirect participation in decision processes can then be expressed through their electoral choice: as Taylor states (2010: 174), political representation is ‘an act of entrustment followed later by a judgement on the performance’. Saward (1992: 52) adds a caveat: ‘... the degree of effective

accountability varies widely'. Furthermore, in considering the lack of transparency concerning who is responsible for which stages of a PPS, common in contemporary partnership governance, Weale (2011: 66-67) highlights that, 'an elector may not know whether it is the policy or its implementation that is at fault, and therefore whether it is the politicians or the agency that is liable to blame'. While the chain of accountability described here is common to all SEA processes conducted within the public sector responsible authorities, less hierarchical forms of accountability may be encountered within SEA.

There are no specific methods of engagement proposed by Scottish SEA guidance. Indeed, the contingency of environmental assessment is acknowledged. Statutory consultees, other constituted bodies, and the public can be included in SEA at varying degrees of involvement. Where SEA is particularly inclusive the concept of *deliberative accountability*, where 'each is accountable to all', may become relevant (Gutmann and Thompson, 1996: 128 cited in Philp, 2009: 44). Indeed, looking specifically at environmental assessment, Wiklund points to its potential 'as an arena for deliberation, since it is a decision-support process that involves encounters between experts and ordinary citizens' (2005: 289). For Bäckstrand (2004: 708) 'the legitimacy of expertise depends on if it conforms to principles of accountability, transparency and open deliberation'. Both environmental and democratic aspirations of the SEA/good governance nexus are encompassed within deliberative efforts where, according to Weale (2011: 73), 'the democratic component of public reasoning is to be found in the claim that the protection and advancement of common interests is itself a constitutive ideal of democracy', assuming, of course, that the open consideration of environmental impacts is in the common interest.

Deliberation also widens the scope of political accountability to include those who may be excluded from participating in processes of electoral accountability, for example, those who do not have the vote including younger people and migrants (Taylor, 2010: 172), and, going beyond even 'ordinary citizens', non-humans who can be represented by advocates within deliberative processes.

SEA also holds the potential to extend accountability to those outwith the geographical boundaries covered by elected representatives. Electoral accountability involves representatives being accountable to geographically bound constituencies (Held, 2000: 18). SEA may, however, grant political accountability to those living outwith those

constituencies and are therefore excluded from the usual channels of electoral accountability, despite being subject to the transboundary environmental impacts of a PPS:

Where potential transboundary effects on another EU Member State are identified, Section 17(c) of the Act requires the Responsible Authority to take account of the outcome of any relevant consultations with other EU Member States under Regulation 14 of the Environmental Assessment of Plans and Programmes Regulations 2004 (UK Regulations). (Scottish Executive, 2006: 13.2.4)

The international nature of environmental threats has long been recognised, and while SEA seeks to address the reality of transboundary effects, traditional notions of democracy and national sovereignty are challenged by these provisions. This is what Mason (2005) calls 'the new accountability'. Mason cites the advocates of adaptive management who call for inclusion of 'affected publics' in an ongoing approach to mitigating the transnational impacts of PPSs.

2.4.4 Temporal accountability

The extension of accountability through SEA to affected communities outwith the electorate of a given geographical constituency leads to consideration of the longer term effects of PPSs: Lafferty and Meadowcroft ask '[to] what extent can or should the potential interests of future humans constrain present environmental choices?' (1996: 7). Temporal accountability is therefore crucial to the notion of sustainable development. Indeed, the oft-cited Brundtland Report's definition of sustainable development is primarily concerned with cross-generational impacts, or inter-generational equity: 'sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs' (WCED, 1987: 54). The Scottish Executive, in turn, places SEA at the centre of its approach to sustainable development. Its *Environmental Assessment (Scotland) Act 2005 1st Annual Report: Strategic Environmental Assessment (SEA) activity within Scotland from 1 January 2006 to 31 December 2006* opens with the assertion that 'Strategic Environmental Assessment (SEA) is a key component of sustainable development' (March 2007: 1.1).

If SEA provides an accurate account of the PPS and assessment processes that took place, such auditable material can facilitate not only the accountabilities already listed, but also into the future. While electoral accountability may be focused on the short to medium

term, archiving of documentation provides a means for future society to hold current decision makers to account for the long-term consequences of decisions made. Such accountability requires clear statement of responsibility for mitigation and monitoring of the environmental impacts of PPSs. Availability of time-stamped documentation through the Scottish Government's SEA Gateway provides a means for future researchers to consider the environmental impacts of decisions made and the environmental, economic, social and political context within which those decisions were made. It can be hoped that decision makers' awareness of the notion of temporal accountability can enhance their sense of political/environmental accountability in the present. However, lines of accountability can be blurred by the themes of contemporary governance, not least the partnership working that is central to 'light touch' approaches.

2.5 Partnership working and SEA

Partnership working, whereby cross-sectoral cooperation occurs in addressing issues previously undertaken by the public sector, is central to good governance discourse. Indeed, for Bovaird and Löffler (2003: 5), good governance *is* partnership working where they define the former as: 'the negotiation by all the stakeholders in an issue (or area) of improved public policy outcomes and agreed governance principles, which are both implemented and regularly evaluated by all stakeholders'. Chhotray and Stoker (2010: 115) point to the normative prescription of partnership working by the World Bank. For example, they cite its 1997 World Development Report where the Bank suggests that the state should 'take advantage of the opportunities represented by the private and voluntary sectors and not attempt to be the 'sole provider''. Accordingly, in its operation of SEA, the World Bank (2010) is '...committed to exploring potentially beneficial opportunities with a wide range of partners'.

The Labour Governments of 1997 - 2010 pursued this bringing together of relevant stakeholders at the UK level. According to Hudson *et al* (2007: 57), in its quest for those governance golden eggs, 'efficiency and effectiveness', 'New Labour have pushed formal partnerships onto the agenda'. Indeed, Prime Minister Blair spoke in 1998 about their role: 'It is in partnership with others that local government's future lies' (cited in Leach and Percy-Smith, 2001: 77). In the shift from government to governance, local authorities' role 'will be to weave and knot together the contribution of the various local stakeholders' (*ibid*).

Although partnership working involving ‘a range of stakeholders collaborat[ing] in flexible and often less-formalised structures’ (Connelly *et al*, 2006: 267-268) is generally seen to be ‘a good thing’, there are fears that transparency and lines of accountability may be obscured. Taylor and Warburton (2003), for example, warn that given their limited resources, third sector organisations need not satisfy the demands made of public sector. In 2010, Scotland’s Cabinet Secretary for Health and Wellbeing spoke of a ‘culture of secrecy’ and ‘fear of transparency’ in many of Scotland’s local authorities where council functions had been ‘hived off’ to arms-length companies and where accountability was ‘virtually non-existent’ (Sturgeon, 2010). In such circumstances, Bovaird and Löffler’s 2003 ‘ethical and honest behaviour’ criterion of good governance may be undermined. Regardless, the Scottish Government’s approach to governance is underpinned by ‘the belief that we must work in partnership to deliver real and lasting improvement’ (2008b: 18).

Although references to partnership-working are less explicit in the SEA literature there is an assumption that such an approach is necessary to ensure sustainable development. Mathur *et al* (2003: 30), for example, believe the involvement of ‘wider community actors’ to be ‘a more democratic and sustainable alternative to the dominant market oriented managerialist political economy’. Chatterton and Style go further (2001: 440): for them, the sustainable development that SEA seeks to ensure, ‘depends upon broad participation which goes beyond established partnership networks and engages a much wider range of organisations and individuals’.

As it stands, partnership working is advanced in Scottish SEA by the statutory inclusion, as consultees, of three agencies external to the Responsible Authority: Scottish Natural Heritage (SNH); Historic Scotland; and Scottish Environmental Protection Agency (SEPA). The involvement of these agencies is crucial to informed, strategic-level environmental assessment. The SEA/good governance nexus, however, requires more than the technical expertise of such organisations: contrary to the rhetoric of inclusion around strategic-level decisions, the statutory inclusion of quangos and government agencies but not community-based bodies such as community councils may indicate the tendency towards technocratic decision making rather than the democratisation of decision making.

For Holling, adaptive environmental management requires a ‘core group’ whose ‘prime experience should be integrating information and coordinating people’ (1978: 12-13). More concerned with the integration of environmental assessment into real decision

making than the integration of wider range of contributors into the assessment process, Holling's seminal book contains only one case study in which there is a significant degree of public participation (*ibid.*). The subsequent shift in emphasis to democratic process seeks to broaden inclusion.

The inclusion of Mathur *et al's* 'wider community actors' is embedded in Berkes approach, 'co-management as governance' (2007: 31). Applied at the strategic level, co-management should, for Berkes, provide 'higher-level decision-making rights that inform the operational level' (2007: 31). Indeed, in keeping with the SEA/good governance nexus, co-management, in Berkes' view, is 'consistent with the principles of good governance – legitimacy and authority based on a democratic mandate, transparency (openness), and accountability...' (*ibid.*). Berkes approach also draws in partnership working where co-management in environmental management involves 'a diversity of players, including public and private actors, linked to one another through a variety of relationships' (*ibid.*).

While the inclusion of relevant partners brings a range of knowledge and experience into environmental assessment, the shifting mix of public, private and third sector representation in policy development and implementation has fundamental implications for SEA where it is the public sector that is construed to be solely liable for SEA: an apparent loophole opens up where rather than screening being undertaken by those 'exercising functions of a public character', as required by the Scottish SEA Act, it is considered solely in the context of 'public sector policy formulation' (Jackson and Illsley, 2006: 379). Against a backdrop of an increasing number of PPSs of a public character being undertaken by non-public sector bodies, the SEA/good governance nexus' aspirations for democratisation of decision processes may thus be undermined. The importance of joined-up governance therefore comes to the fore.

2.6 Joined-up government and SEA

Optimistic approaches to partnership working for sustainability, as described above, can be considered as efforts to join up governance *across* sectors to ensure efficiency and effectiveness in decision processes and outcomes. Joined-up government, by contrast, is concerned with ensuring that the disparate elements of government *within* the public sector work together to produce sustainable PPSs. It is, with its contemporary inception under the Blair government, an effort to bring together relevant departments to deal with

'wicked' issues, such as poverty and environmental challenges, which transcended the remits of individual departments (Cowell, 2004). It is effectively partnership working within government. For Kirchhoff *et al* (2010: 336), SEA requires joined-up government and partnership working as, 'the problems are too complex to be resolved by any group acting alone'. More generally, Ling notes (2002: 622), 'wicked issues require:

- Holistic ... thinking ...;
- A capacity to think outside and work across organizational boundaries;
- Ways of involving the public in developing responses;
- Embracing a willingness to think and work in new ways...;
- A new style of governing for a learning society

While partnership working may bring in all those necessary for a holistic approach to sustainable development, Foster (2005: 124) emphasizes the necessity to 'clarify the chain of accountability' when attempting to join up government. Indeed, The Independent Commission for Good Governance in Public Services' good governance stipulation of 'performing effectively in clearly defined functions and roles' (2004: 5) should help join up governance horizontally, vertically and temporally.

2.6.1 Joining up government horizontally

Haughton points to the scale of the challenge of environmentally-sustainable development (1999: 52):

Environmental management and planning requires a necessarily multidisciplinary, multi-tooled approach combining aspects such as land-use planning, environmental assessment, information and education, targeted anti-poverty work, economic approaches (e.g. pricing and taxing) and administrative reform (from improving community engagement to well-regulated forms of privatization).

While Haughton's list above illustrates the necessity for effective coordination for sustainable development, the invocation of a variety of disparate disciplines in environmental assessment alone necessitates joined-up government. The development of a programme, plan or strategy may necessitate input from departments or sections across a local authority to address SEA objectives from biodiversity to air pollution to human population. Regardless, efficiencies may occur within SEA. The Scottish Guidance suggests (Scottish Executive, 2006: para.10.3.11):

Each SEA objective should be genuinely needed and should not duplicate or overlap with other objectives. Experience suggests that between 8 and 16 objectives are normally enough to cover the range of topics needed for SEA and to keep the process efficient and manageable

The European Directive seeks to avoid ‘duplication of assessment’ in permitting European Union Member States to ‘provide for coordinated or joint procedures fulfilling the requirements of [other] relevant Community legislation’ (EC, 2001, Art. 11; cf. Risse *et al*, 2003: 460). Similarly, the ANSEA Team sees ‘improving communication and coordination’ as one of the main benefits of undertaking SEA (2002: 7). In Scotland, guidance on conducting SEA for development planning suggests that ‘joining up’ SEAs can lead to the efficiency sought under good governance (Scottish Government, 2010a). However, with Scottish SEA focusing solely on the environment rather than seeking the integration of social and economic implications of a PPS, it can be argued that it contributes less to joined-up government than do more inclusive sustainability appraisals undertaken elsewhere.

Regardless, the online publication of best practice examples, whether by private or public sector bodies, provides a good example of joining up government to encourage both efficiencies and positive environmental outcomes. Those conducting SEAs can utilise work already undertaken by other Responsible Authorities. Furthermore, despite the abolition of the Scottish Regional Councils in the 1990s, there is strategic-level working between authorities on environmental issues, whether as part of strategic development plans or more specific environmentally-focused initiatives such as *The River Basin Management Plan for the Scotland River Basin District 2009–2015* and its SEA, undertaken by SEPA (2009a). The following quote from the SEA statement illustrates the centrality of joined-up thinking (*ibid.*: 4):

SEPA has prepared the RBMP in a way that cuts across many of its environmental protection activities. We are seeking to integrate the RBMP and its objectives, actions and targets into our day to day activities (eg regulation of emissions). This enables a very high degree of integration as well as ensuring that all environmental considerations are core to delivery of the RBMP.

Given the degree of consideration of environmental impacts at such a strategic-level, assessments at each level must consider the context within which they are being developed. At the same time as coordinating *across* departments and disciplines, SEA practitioners must examine the ‘vertical’ implications of PPSs.

2.6.2 *Joining up government vertically*

Within contemporary multi-level governance, effective government for sustainable development must communicate and coordinate across tiers as well as departments. Bina (2007) points out that originally EIA was intended to be applied at all levels of decision making. Regardless, Fischer (2002: 29) acknowledges the respective places of EIA and SEA within a tiered approach to decision making and assessment. He lists amongst the benefits of SEA his belief that it is capable of '[s]trengthening project EIA – increasing the efficiency of tiered decision making'. If properly implemented, SEA can, for Fischer, also ensure '[s]ystematic and effective consideration of the environment at higher tiers of decision making' (*ibid.*). This model of decision making assumes:

discrete, clearly distinguishable levels of decision-making, that projects derive from PPPs according to a top-down hierarchy, and that coherence between the top (policies) and bottom (projects) layers is ensured through transparent communication and feed-back loops between decision levels (Bina, 2007: 589).

Such a conception, it has been argued, is often not recognisable in reality (see, for example, Noble, 2003; Bina, 2007). Nevertheless, 'A wider range of alternatives will be available at a regional level than at a local level, and decisions made at the "higher" level will close off some alternatives' (Scottish Executive, 2006: para. 9.4.4). Environmental reports must therefore include a section devoted to listing all the PPSs that have a bearing on the PPSs being assessed, from international to local level. SEA therefore helps clarify the parameters set by PPSs at other tiers. Such clarity helps ensure the efficiency and effectiveness sought by communication and coordination across the tiers of government. Furthermore, the efficiency aspiration of effective tiering in SEA extends to the democratic aspirations of the SEA/good governance nexus.

The SEA/good governance nexus expects SEA to be a useful conduit to address the public's concerns at higher tiers thus smoothing planning processes further down the decision hierarchy. Fiorino asserts that '[b]y shaping the policy framework within which the more specific policy decisions are made, citizens have a greater opportunity to influence substantive policy outcomes' (1996: 204). The 'participation paradox', however, posits that it is easier to engage the public at local rather than strategic level. Contrary to SEA's hopes of engaging the public in higher tiers of governance, as Heiland states (2005: 427), 'the interest to participate will diminish with the increasing abstractness of plans or programmes'.

Where the public can be engaged in decision processes for strategic-level PPSs, the efficiencies sought by the SEA/good governance can be attained by SEA's contribution to what the RTPI calls 'joined-up consultations' (2005: 11). In keeping with Smith's (2009: 26) aspiration to efficiency of consultation, the RTPI holds that stakeholders, while appreciating 'the different roles played by different consultation exercises' (*ibid*), 'are less tolerant of avoidable proliferation of work from autonomous departments within the same authority, and increasingly look for a co-ordinated approach' (*ibid*). Clearly, if public concerns can be allayed through involvement at the strategic level, a proliferation of burdensome engagement exercises to address contention at subsequent, lower tiers can be avoided.

Ling identifies the boundaries across the horizontal and vertical dimensions which must be bridged, and which have been discussed so far: 'These boundaries are inter-departmental, central-local, and sectoral (corporate, public, voluntary/community)' (2002: 616). However, a holistic approach to sustainable development, and indeed joined-up government, must also operate within and across temporal boundaries.

2.6.3 *Joining up government temporally*

Ideal-type SEA involves integration of assessment from the outset of the PPS process. Thus, the theory goes, potential obstacles can be overcome early in the process. Efficiency savings can be gleaned as the processes are smoothed. As Jänicke observes (1996: 79), 'integration relates to the reduction of contradictions within governments'. This potential, and the role of SEA within it, is recognised in the Scottish Government's guidance for development planning. Its 'key point' in the section on integration is that '[c]are should be taken early on to ensure that key stages of the development plan process are supported by appropriate SEA outputs' (Scottish Government, 2010a: 4). There is, however, difficulty in stage-by-stage integration of PPS and SEA where the stages of SEA have been adapted, for implementation of SEA, from a stages model of the policy-making process. Indeed, Hogwood and Gunn (1984) acknowledge the real-life untidiness of the stages they present in *Policy Making in the Real World*.

Regardless of the shortcomings of a stagist approach (see section 2.2), it is important that decisions are understood across the temporal dimension. No single decision can usefully be viewed in isolation:

While one decision in the sequence may be seen as crucial – often the

‘moment of choice’ when one option is chosen from several contenders – an understanding of the larger policy requires some study of decisions both preceding and following the so-called ‘crucial’ episode. (Hogwood and Gunn, 1984: 19)

The significance of the environmental report section listing relevant PPSs is again relevant, outlining earlier PPSs across the tiers of decision making which are indicative not only of decisions that have already been made, but also revealing the PPS areas that the PPS under assessment may subsequently influence.

Within a single PPS process, SEA will be most effective if integrated step-by-step into decision making from the earliest possible stage. Pre-screening and formal screening ensure that environmental consequences of PPSs are considered at the outset of the decision process and that advice and guidance can be forthcoming from the statutory consultees. Subsequently, during the scoping stage, the Responsible Authority must ensure the scope of the SEA reflects that of the PPS. If integration between the PPS and SEA has been present heretofore, the PPS should acknowledge the contribution that SEA has made to shaping the options.

The decision of whether the PPS should be progressed should incorporate the information supplied by the environmental report and the post-adoption statement should indicate how that environmental report, and feedback on it, has been integrated into the decision made. The publication of the post-adoption statement is the stage at which the PPS and its relationship to the SEA is made most explicit. Integration should, however, continue beyond the adoption of the PPS.

The Scottish Executive advice on monitoring seeks to ensure the ongoing integration of SEA into a PPS (Scottish Executive, 2006: 14.3.5): ‘Monitoring measures should [...] be clearly linked to the SEA process’. The effective management of the environmental impacts of PPSs will be maximised where SEA and PPS development go hand-in-hand through the PPS process. As discussed above, a further dimension of ensuring effective and efficient processes is where consultation is also integrated from the start.

2.7 Consultation and SEA

The Scottish SEA guidance sees consultation as central to the transparency required in the SEA/good governance nexus: ‘One of the objectives of SEA is to facilitate transparency in

the decision-making process. Consultation is therefore an integral component of SEA and is included at key stages of the process' (Scottish Executive, 2006: para. 13.1.1). Consultation is considered herein to be a dialogue between the Responsible Authority and those with specialist knowledge outwith the experience and expertise of the Responsible Authority. It entails the *active* participation of such bodies.

As mentioned above, the statutory consultees in Scottish SEA are SEPA, SNH and Historic Scotland. A 'non-departmental public body' (SEPA, 2011), SEPA is an independent environmental regulator (*ibid.*). Although aiming to 'protect the environment and human health' (*ibid.*), SEPA's role does not directly include consultation on the SEA objective of 'population and human health', rather its remit covers climate change alongside 'air, land and water' quality (*ibid.*). Funded by the Scottish Government, SNH is charged with caring for Scotland's natural heritage. In its role as a statutory SEA consultee, it is primarily concerned with providing consultation responses on the potential impacts of PPSs on biodiversity, flora and fauna. SNH has also provided a guidance document on the consideration of landscape in SEA (SNH, n.d.). While the natural environment is protected by SEPA and SNH, Historic Scotland, 'an executive agency of the Scottish Government' (Historic Scotland, 2011), seeks to ensure potential environmental impacts of PPSs are not detrimental to the built environment, including listed buildings, conservation areas and human-made gardens and landscapes.

The three statutory Consultation Authorities are consulted at the earliest stages of SEA: they are forwarded the screening determination, that is, the short report which outlines whether or not the Responsible Authority deems it necessary to conduct SEA for a given PPS. The Responsible Authority sends the document to the SEA Gateway, which forwards copies to the three statutory consultees. Those consultees should then comment on whether they concur with the conclusion reached by the Responsible Authority.

The statutory consultees' input is further required at the scoping stage when they are consulted about the scope and the level of detail required for the SEA as well as the length of the formal consultation period. Where possible, a list of alternatives should also be included within the scoping report, '[t]o allow the Consultation Authorities early sight of the potential alternatives that may be assessed' (Scottish Executive, 2006: 7). The consultees must respond to scoping reports within five weeks. Finally, the Consultation Authorities are sent copies of environmental reports, although there is no statutory requirement for them to respond.

In addition to the *statutory* inclusion of the three Consultation Authorities in the SEA process, other relevant agencies *may* contribute. They may be invited to contribute by the Responsible Authority at an early stage in the process or are free to contribute during the formal consultation period, that is, upon the publication of the draft PPS and the environmental report. The RSPB, for example, aims ‘to help ensure that biodiversity considerations are appropriately addressed in SEAs’ (RSPB, no date).

Depending on the timing and nature of the involvement of the public, they too can be considered consultees. In Scotland, for example, Community Councils, populated by members of the public, are statutory consultees in the process to determine planning permission for individual developments. The involvement of such defined groups in SEA will be examined in the public participation section below. While the involvement of these groups is central to the participative turn in planning and assessment, they are not considered to be specialist bodies *per se*. They may bring a wealth of experience and local knowledge to the process but will not be consulted on a specific field of expertise relevant to SEA. This is what separates the discussion of consultation from the discussion on public participation. Consultation with specialist bodies is central to making informed choices supported by SEA. While technically-informed decision making is crucial to sustainable development, public participation, bringing further, including local, knowledges to the process, and discussed in the next section, is closer to the democratic aspirations of the SEA/good governance nexus.

2.8 Public participation and SEA

In keeping with good governance requirements, including the European Commission’s *equity* criterion whereby good governance involves the participation of ‘all interested stakeholders’ (2004: 18), consultation in SEA must also extend to the ‘members of the public’ (Scottish Executive, 2006: para. 13.1.1). Indeed, Brundtland (1987: 25) asserts that public participation is fundamental to the intra-generational equity element of sustainable development. Furthermore, the Scottish Executive suggests that ‘It is [...] good practice to give the term “the public” a broad interpretation embracing the principles of diversity, equality and accessibility’ (*ibid*: para. 13.3.7). Accordingly, statutorily the public must be kept informed on screening determinations and the opportunity should be provided for comment on the environmental report. This section, firstly, provides a discussion of the

recent history of public involvement in environmental policy. It then examines arguments supporting the involvement of the public in SEA. After looking at the requirement in the SEA Directive and Scottish legislation which calls for 'early and effective' public participation (EC, 2001: Art. 6.2), the section looks at the timing of public participation in Scottish SEA and finally considers the meaning of effectiveness.

2.8.1 *Background to participatory approaches to environmental policy*

The foundations for formal participatory inclusion in environmental policy processes were laid by Brundtland: 'Sustainable development requires [...] a political system that secures effective citizen participation in decision making' (WCED, 1987, cited in Carter, 2001: 205). Further developing the democratic credentials of environmental policy, Principle 10 of the Rio Declaration posited, 'Environmental issues are best handled with participation of all concerned citizens, at the relevant level' (United Nations Conference on Environment and Development, 1992). Therefore, following the fragmentation and resulting diminishment of transparency and accountability in the 1980s, conforming to the second phase of governance, Eden states (1996: 183), 'Policy-makers in the 1990s [...] accepted that the general public should be involved in policy discussions over contentious issues such as the environment'.

Public inclusion in the development of environmentally-focused policies then mirrored the partnership approaches being promoted within the wider shift to governance. Theorising on inclusion in partnerships focused on network analysis (for comprehensive review of the networks literature of the early 1990s see, for example, Dowding, 1995) and the role of social capital in accessing those governance networks (e.g. Taylor, 2002). The potential *exclusivity* of partnerships prompted, during the 1990s, the recognition of the range of routes into policy participatory approaches can take.

Looking globally, the Institute of Development Studies recognises the cumulative value of 'rumour, gossip, folktales and jokes' which can, over time, 'provide a conditioning influence on policy' (Holmes and Scoone, 2000: 7). More organised approaches include a variety of grassroots participatory forms and NGOs which may employ methods such as 'advocacy, protest and [...] legal challenge (*ibid.*). Holmes and Scoone describe a final way for participatory input into environmental policy formulation, besides representative and contentious politics; that of 'policy making institutions themselves [attempting] to establish

greater participation in the formulation of their policies' (*ibid.*). Deliberative and inclusionary processes accommodated by policy makers followed (*ibid.*: 8). Those emerging in the 1990s include: the citizens panels researched by Fiorino (1996); the 'round tables and interest group mixing' discussed by O'Riordan (1996); and 'planning for real' exercises (Haughton, 1999). Similarly, Wiklund (2005: 281) lists a range of deliberative tools which emerged during the 1990s including: planning cells; citizens' juries; and consensus conferences.

Although there is a plethora of deliberative and inclusionary processes, there is less said about the ability of the public to make best use of them. Ideal-type deliberative mechanisms remain the ideal as the competencies - or as Bowler and Donovan call it, 'internal efficacy (2002: 372-373) - of many participants fall short of that required for the most efficacious implementation of inclusionary methods. Even where participants do have a high level of 'subject competence' (Fiorino, 1996: 210), their input is not necessarily effectively incorporated. This potential gap is discussed in section 2.8.4. Regardless, such inclusion enhances the perceived democratic legitimacy of PPSs.

2.8.2 Purpose of public participation

The inclusion of the public in contemporary PPS processes aims to lend legitimacy to governance practices which have, as discussed in Chapter 1, been criticised as having undermined democracy in the rush to achieve efficiency, economy and effectiveness. The public participation required in subsequent demands for good governance is echoed in much of the SEA literature. For example, public participation is central to Meyer-Steinbrenner's (2005) hopes of SEA enhancing democracy, discussed in Chapter 1. Heiland (2005: 422) hopes that public participation in SEA processes will contribute to 'the transparency and comprehensibility of the planning process', and Bäckstrand and Lövbrand (2007: 12) provide a further indication of the assumed common ground between good governance and improved environmental outcomes where they state it is '[c]entral to strong ecological modernization' as it 'entail[s] participation, deliberation and inclusion of civil society and stakeholders in environmental policy processes'.

Similarly, good governance discourse is evident where the Local Agenda 21 training pack's list of benefits of community participation includes the belief that participation will 'engender feelings of ownership' and increase a sense of responsibility amongst

participants (Agyeman *et al*, 1995: 3), the implications of which, for accountability, will be discussed in section 6.3.2. Amongst Connelly and Richardson's list of 'rationales used to justify public involvement in sustainable development' are those appealing to good governance aspirations including 'democratic accountability as a way of protecting public interest' and, echoing Meyer-Steinbrenner (2005), the 'development of democratic civil society' (2005: 398).

More generally, Hajer and Kesselring neatly reduce the myriad arguments in favour of greater public inclusion in governance processes to three main headings (1999: 19): 'democracy as a goal in itself, the need to integrate new players, the capacity to generate new sorts of knowledge'. While the latter two are especially relevant to SEA, such a reduction does not acknowledge the possibility of the more pragmatic motivations for some degree of inclusion such as conferring legitimacy on potentially unpopular decisions. Indeed, Getimis and Heinelt's (2004: 10) 'input-legitimation' in decision processes, discussed in section 2.2, depends on effective public participation. Thérivel (2004: 71) acknowledges a wider array of motivations where her list includes that of 'improv[ing] democracy' as well as the aim of producing 'politically acceptable decisions'. The achievement of these aspirations of the democratising benefits of SEA will be largely conditional on the degree of involvement of the public, in turn partly determined by the timing of public participation – the stage at which the public becomes involved.

2.8.3 The stages approach to public participation

The three statutory consultees in Scotland (SEPA, SNH and Historic Scotland) are actively involved in the early stages of the SEA process; however, the statutory minimum for public participation in SEA in Scotland consists of the publication of screening determinations and the opportunity for comment by members of the public on the environmental report. These provisions conform to the SEA Directive in which 'early and effective' public input refers to the opportunity to respond to the environmental report (EC, 2001, Art. 6.2). A broad consensus can, however, be identified in the literature around the possibility of participatory input throughout the SEA process (e.g. Doelle and Sinclair, 2006; Heiland, 2005). Accordingly, the Scottish SEA guidance recommends that the views of the public, as well as the statutory consultees, are sought 'at various points in the process' (Scottish Executive, 2006: para. 2.2.5).

The initial formal SEA stage, screening, is conducted by the Responsible Authority in consultation with the statutory consultation bodies with the Scottish Government's SEA Gateway coordinating. The screening determination must be published on the Responsible Authority's website and in a local newspaper as well as being available for viewing at the Authority's office (Scottish Executive, 2006, para. 4.4.22).

Responsible Authorities are, however, able to undertake *pre-screening*: if an RA believes a PPS will have 'no effect; or [...] minimal effect, in relation to the environment' (Scottish Government, 2005: s.7(1)), it may lodge a notice of exemption to the Pre-screening Register, held by the SEA Gateway, which is open to public perusal (Scottish Government, 2011). The web publication of exemption notices may offset the challenge to democratic legitimacy posed by an SEA stage which otherwise has no need to involve either the statutory consultees or the public, a legitimacy maintained by the Scottish Executive and other respondents to the initial SEA legislation consultation: amongst the arguments presented in favour of a pre-screening facility in the Scottish SEA process was the assertion that it represents 'a legitimate and practical tool which will help to target resources effectively' (Scottish Executive, 2005).

Whereas the screening stage need involve only the communication of information from the Responsible Authority to the public, the subsequent scoping stage offers potential for the use of a range of inclusive techniques involving policy-making and implementation partners and the interested public. Moreover, Petts (1999: 158) argues that this stage of environmental assessment is where 'the scope for public influence is greatest'. It involves: defining 'the remit of the plan, programme or strategy (PPS); the geographical and temporal coverage of the PPS; and the nature of the receiving environment' (Scottish Executive, 2006, para. 5.1.2).

The democratic aspirations of SEA may be further enhanced at the scoping stage where inclusive deliberation may also facilitate the scoping in and out of SEA issue areas¹. Given the context-specific nature of SEA, inclusive consideration of the environmental parameters relevant to a given plan, programme or strategy will enhance the environmental, as well as governance, value of the SEA. Similarly, agreeing a methodology for assessing environmental impacts at this stage will increase the legitimacy of the

¹ 'biodiversity, flora and fauna; population; human health; soil; water; air and climatic factors; material assets; cultural heritage; and landscape' (Scottish Executive, 2006, para. 10.3.3)

process. As well as being made aware of the 'temporal coverage' of the PPS, if involved at the scoping stage, the public may also help determine the duration of the consultation period (*ibid.*: para. 2.2.11).

Inclusion in the development of 'reasonable alternatives' at the scoping stage may, however, provide the best opportunity for substantive contribution to the PPS on the part of non-RA participants although such a list must be included in the scoping report only '[i]f known at this point' (*ibid.*, para. 5.3.1). Although the lack of consideration of 'genuine alternatives' has been raised as an issue in project-level environmental assessment (Owens and Cowell, 2002: 51), inclusive deliberation at the scoping stage of SEA may generate a greater range of alternatives. For example, the Local Agenda 21 training pack for local authorities suggests techniques such as focus groups and interactive workshops that may be useful fora for 'generat[ing] new ideas' (Agyeman, Bishop, Levett, Tuxworth and Williams, 1995: 5-6). While this activity would appear to hold the greatest potential for transformative input in SEA, Young (2001: 685) offers the caveat that 'when discursive systems frame a deliberative process, people may come to an agreement ... at least partly conditioned by unjust power relations' which 'make it difficult to think critically about ... alternative possibilities'.

Following assessment of the alternatives an environmental report, including a non-technical summary, is published by the Responsible Authority, alongside the PPS, to inform the public and the decision maker of the likely significant environmental effects of the PPS and any alternatives, and how these may be mitigated or enhanced. The statutory consultation authorities and the public may then 'express their opinion' (EC, 2001, Art. 4). The Responsible Authority must report on how these responses were taken into account in the post-adoption statement. This document goes some way to satisfying the deliberative democratic conception of accountability that demands 'publicly articulating, explaining, and ... justifying public policy' (Delli Carpini, Cook and Jacobs, 2004: 317).

For the Scottish Executive, '[p]ublic reporting of performance is a key dimension of good governance, increasing transparency and accountability and making external scrutiny easier and more effective' (Scottish Executive, 2005: para.14.23). There is an 'expectation', therefore, that the results of post-adoption environmental monitoring activities will be made available although 'how or when to make SEA monitoring information available' is discretionary (Scottish Executive, 2006: paras.14.3.16-14.3.17). While such discretion may detract from the transparency principles of good governance by undermining the

predictability of SEA and policy processes, monitoring of the environmental impacts of the PPS can be inclusive and thus contribute to the participation principle. The importance of when participation and consultation occur in SEA is, however, overshadowed by the doubts arising around whether such input actually makes a difference. The next section will therefore discuss the effectiveness of public participation in SEA, a core theme of the SEA/good governance nexus.

2.8.4 *Effectiveness of public participation in SEA*

Fiorino cites 'the participatory ideal', where 'citizens are presented with real choices, and their views carry weight in determining the eventual outcome' (1996: 201). Orr and McAteer, however, cite one Scottish local authority Chief Officer who claimed to have 'no example of an original proposal being influenced either way' after consultation exercises had been carried out (2004: 148). Regardless of the subsequent impact of participation in decision processes, the legitimacy of PPSs is claimed where public participation exercises can be said to have been undertaken. It is therefore necessary to examine the quality of participation to ascertain how effective the public is in influencing PPSs through SEA and so assess that process's contribution to the SEA/good governance nexus.

The more idealistic conceptions of participation in SEA and other environmental appraisals are underpinned by the assumption that there is an eager public anxiously awaiting the opportunity to participate (Doelle and Sinclair, 2006: 187). Research in Scotland, however, reveals that '[m]ost respondents were content for political institutions to get on with their work provided they were aware of what the institutions were doing' (Hope and King, 2005: 1). Further deviation from the participatory ideal is provided by Connelly and Richardson's (2005: 395) contention that 'SEA is more likely to be shaped by the necessities of local political power struggles'. Similarly, Fischer (2003: 159) reports that although participatory processes in Local Agenda 21 initiatives 'appeared to be successful in strengthening the civil society, usually no implementation of the results was achieved'. In her discussion of participatory techniques, Thérivel (2004) implies that only the highest levels of participation in SEA such as 'involvement as members of an SEA steering group' are likely to be able to '*genuinely* influence the SEA and planning processes' (*ibid.*: 72, emphasis added). Such likelihood detracts from the straightforward good governance

aspiration of Article 8 of the SEA Directive (EC, 2001) which demands that contributions from the public ‘shall be taken into account during the preparation of the plan or program’.

Scottish guidance on engagement in planning processes outlines three levels of engagement with the public in planning: giving information; consulting and listening; and partnership (Planning Aid for Scotland, 2008). Previous, more nuanced, appreciations of the quality of public participation in PPS-making processes include Arnstein’s (1969) oft-cited ‘ladder of participation’ and Judith Petts’ version (1999), adapted from Arnstein (see Figure 2.2). This section will discuss these ladders in the context of SEA.

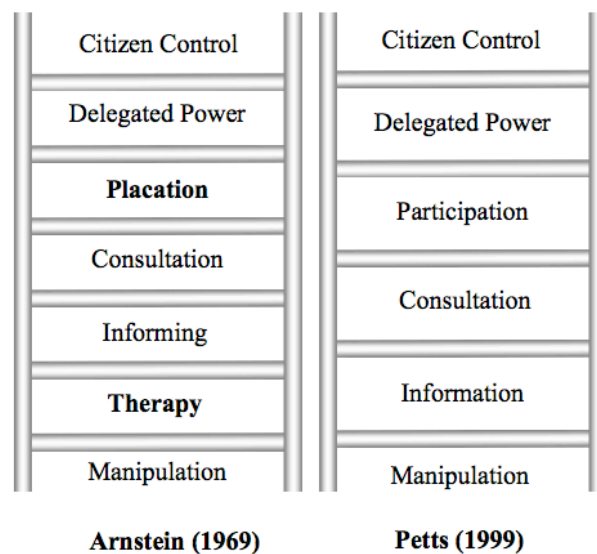


Figure 2.2 Arnstein's (1969) and Petts' (1999) ladders of participation. Arnstein’s rungs omitted from Petts’ ladder are shown in bold

Arnstein’s first rung, *manipulation*, represents ‘a distortion of participation into a public relations vehicle by the powerholders’ (1969: section 3.1). Hudson *et al* posit the democratising potential of state manipulation where ‘boosting participation may well require quite deliberate manipulation of a local policy network by the state in order to activate latent interests’ (2007: 65). Responsible Authorities may also, however, employ manipulation strategies which distort the input of participants or accounts of decision and decision-support processes to suit intentions. Ostensibly objective data may be similarly misused in SEA. Such efforts are not in keeping with Bovaird and Löffler’s (2003) ‘ethical and honest behaviour’ characteristic of good governance (see Table 2.1).

Although transparency in SEA processes seeks to prevent bias in results, this cannot be guaranteed. For example, the scoping report of Moray Council’s Renewable Energy

Strategy SEA states that data regarding ‘noise/air pollution’ – an unhelpful agglomeration of environmental receptors in itself – shall be sought from ‘industry statistics’ (Moray Council, 2006: 10). However Fry *et al*’s research reveals energy companies were singled out as being likely to ‘withhold valuable data’ (2002: 28). Clearly public participation in SEA where information supplied to the public is either misrepresented or flawed in the first instance contributes little to the SEA/good governance nexus. Arnstein’s next rung represents further undermining of the public’s potential role in decision and assessment processes.

Therapy in the context of citizen involvement is, for Arnstein, when ‘administrators ... assume that powerlessness is synonymous with mental illness’ (*ibid.*: section 3.2). While this view of non-participants is not explicit in environmental assessment discourses, the pejorative use of the term ‘nimbyism’ (‘not-in-my-backyard’) equates to the questioning of the motives of would-be participants voicing a potentially ‘legitimate response’ (McDowell and Chalmers, 1999: 82). Arnstein’s analysis describes efforts of administrators to ‘cure’ the pathologies of the powerless much in the same way as social learning can be presented as a ‘cure’ for the assumed self-interest and ignorance of ‘nimbyists’. These assumptions are clear in a list of the characteristics of nimbyism:

Nimby responses to development proposals are generally described as extreme opposition to local projects characterised by: distrust of project sponsors; high concern about project risks; limited information about project siting, risks, and benefits; highly emotional responses to the conflict; and parochial and localised attitudes toward the problem. (Michaud, Carlisle and Smith, 2008: 21)

However, Michaud *et al* (*ibid.*) add: ‘claims that project critics lack relevant knowledge and are responding emotionally or irrationally have been rejected by a number of studies’.

Power relations in the assessment process facilitate such discrimination against those objecting. This is borne out where Petts (1999) blames industry and politicians for deeming objections aired in the context of environmental assessment nimbyism, thus making Thérivel’s (2004) argument, that in some circumstances it may be more appropriate to involve elected representatives instead of the public, more difficult to sustain. That SEA deals not with project-level decision making but with the higher tiers of PPS development may not help those participating in SEA processes evade accusations of nimbyism if they are seeking to be heard in SEA processes related to, for example, local development plans or local transport strategies.

The rung above therapy on Arnstein's ladder is one-way communication or *informing*, 'from proponent or from those in a position of expertise or power to the public' (Petts, 1999: 146). The potential drawbacks of such an approach to participation are introduced above where data quality is variable and so the value of the provision of 'information' is also variable. Either way, if there are no feedback mechanisms upon the receipt of information by the public, this form of 'participation' adds little to the cohesion of the SEA/good governance nexus. The next rung of Arnstein's and Petts' ladders holds more potential for dialogue.

This thesis uses *consultation* to denote the dialogue between the statutory consultees and the Responsible Authority, rather than any involvement of the public. Such usage conforms to Petts' definition of consultation as focusing 'on the need of an authority or developer to consult other bodies and named individuals than the broader public' (1999: 147). It also accords with the RTPi's definition of consultation as '[the] dynamic process of dialogue between individuals or groups, based upon a genuine exchange of views, and normally with the objective of influencing decisions, policies or programmes of action' (2005: 4). For Arnstein, whose definition is concerned with consultation purely in the realm of *public* participation, if this rung 'is not combined with other modes of participation, [it] is still a sham since it offers no assurance that citizen concerns and ideas will be taken into account' (1969: section 3.4). Consultation, while adding value to SEA by bringing in relevant expertise, is of little significance to the democratising aspirations of the SEA/good governance nexus. The same can be said of Arnstein's next rung, *placation*.

Placation does not appear on Petts' ladder. For Arnstein (1969), placation means that 'a few hand-picked "worthy" poor' are included in the decision-making process (*ibid.*: section 3.5). She explains that 'if they are not accountable to a constituency in the community ... [they] can be easily outvoted and outfoxed' (*ibid.*). The imbalance of power undermines the legitimacy of ostensibly deliberative efforts: 'the ground rules allow have-nots to advise, but retain for the powerholders the continued right to decide' (*ibid.*: section 2). Placation can also be said to have undermined the spirit of good governance where SEA has been carried out as a tick-box exercise giving merely the 'veneer of legitimacy' (The Power Inquiry, 2006: 233), concerned more with satisfying procedural criteria than delivering sustainable outcomes.

Delegated power promises a degree of genuine, constructive engagement by the public with planning and assessment processes. Arnstein defines delegated power as

'citizens achieving dominant decision-making authority over a particular plan or program' (1969: section 3.7). This degree of responsibility for PPSs would logically require the public to take on the role of Responsible Authority, i.e. 'plan, programme or policy-makers' (Scottish Executive, 2006: para.2.2.4), and so be charged with undertaking SEAs for the PPSs for which they have delegated power. Detailed discussion of the issues around such an argument are outwith the bounds of this thesis, however the democratic and practical implications deserve to be included in future research.

The implications of Responsible Authority status being conferred on 'the public' where they are charged with the development of PPSs clearly apply to the top rung of both Arnstein and Petts' ladders, *citizen control*. Arnstein's citizen control infers community controlled services while Stewart and Collett (1998: 53) see a 'positive empowerment of individuals and communities where control of resources and decisions passes to local interests' as being desirable in moving towards sustainability. However, guidance on planning engagement in Scotland falls short of suggesting citizen control as being the ideal end point of the democratisation of planning. For Planning Aid for Scotland (2008), the top level of their SP=EED strategy is '...to work with communities as partners, in appropriate situations'. Within such partnerships, control, and Responsible Authority status, remains with the planning authority. Given the primacy of the public sector in PPS development and so in assuming the role of Responsible Authority, the effectiveness of public participation in SEA in Scotland can be currently be assessed on the ladder of participation only to a point short of citizen control.

2.9 Summary

The discussion in this chapter seeks to outline the governance backdrop against which the SEA/good governance nexus is posited. It clarifies the role of each of the elements of good governance drawn from the Independent Commission for Good Governance in Public Services (2004) within the SEA/good governance nexus. It describes the crucial place of transparency in enhancing the democratic credentials of the nexus and shown how these can be further enhanced by providing accountability, in various guises, in PPS making. The World Bank's concern with partnership working in SEA is discussed in the Scottish context, where the integration of specialist bodies into assessment processes is assured statutorily.

Partnership working is crucial to the success of contemporary multi-sector governance; however, joined-up government within Responsible Authorities remains a key element of the SEA/good governance nexus: it seeks to ensure efficiency within a tool that has been subject to criticisms of being a bureaucratic exercise, draining valuable resources that may be better spent elsewhere. Efficiencies may be further enhanced by undertaking the correct level of consultation at the appropriate stage. This chapter therefore discusses the provisions for consultation in Scottish SEA and finishes with consideration of public participation including: the supposed benefits it brings to environmental assessment at the strategic level; the stages at which the public may be brought into assessment processes; and the effectiveness of SEA in terms of placement on Arnstein's 'ladder of participation'. The next chapter looks at the methods employed in applying the SEA/good governance nexus to the case studies undertaken in the course of the research.

Chapter 3

Methodology

The central question of the thesis - how SEA contributes to good governance - is explored in the context of two Scottish local authority cases. The governance aspirations of efficiency and effectiveness are examined where SEA's contribution to joined-up government, partnership working and consultation are assessed. Within the SEA/good governance nexus, these institutional aspects of good governance coexist with claims that the nexus enhances democracy by assisting public participation, transparency and accountability. The research therefore helps address the question of whether SEA is enhancing Scottish democracy, making it, in the words of the Communities Minister, 'fit for the twenty-first century' (Neil, 2009). Consideration of the place of participation and consultation on Arnstein's (1969) 'ladder of participation', discussed in section 2.8.3, will help answer the question of whether SEA provides a useful meeting point for top-down and bottom-up approaches to sustainable development.

The research consisted of three main phases: a literature review which resulted in the formulation of the SEA/good governance nexus proposed in this thesis; examination of the performance of the SEA/good governance nexus in the two cases, where data collection and initial analysis was guided by the core categories of the SEA/good governance nexus; and analysis of the successes and failures of the nexus in those cases using a governmentality framework.

This chapter begins with an introduction to the philosophical underpinnings of the research (section 3.1). It introduces the critical realism of Roy Bhaskar and Margaret Archer, discussed further in Chapter 4, and highlights McAnulla's (2002) 'layered' reality. A critical realist position acknowledges the revisability of knowledge in light of the understanding that all cannot be known. This understanding has a bearing on the eclectic approach I took to data collection. The chapter continues in section 3.2 by outlining the case study method employed for the research. It then offers explanations for the number of cases examined and the rationale for the selection of the specific cases, after which it sets out the geographical

and temporal boundaries of the research. Within the cases a mix of methods was employed to ensure that, in the absence of the possibility of perfect knowledge, the fullest picture of the operation of the SEA/good governance nexus in those cases could be gleaned. The data collection methods – documentary analysis, non-participant observation and semi-structured interviewing – are described in section 3.3 and some common criticisms addressed. After a brief discussion of the ethical approach to the research, section 3.4 finishes the chapter with an introduction to the governmentality analytical framework utilised for the discussion in Chapter 7. That framework will be discussed fully in Chapter 4.

3.1 Philosophical underpinnings of the research

Prior to detailed examination of the approach and methods employed in the data-gathering phase of the research, this section will outline the philosophical foundations of the study. It will situate the research within a critical realist paradigm and discuss the ontological and epistemological implications of this position.

As with Cashmore's (2004) examination of 'The role of science in environmental impact assessment', the research can be accommodated within the critical realist perspective. Critical realism is located, by Fleetwood (n.d.), in 'the intellectual 'space' between positivism, with an ontology of observable events, and postmodernism and poststructuralism, often with a *strong* social constructionist ontology'. If the inter-generational equity of the Brundtland formulation is to be assured, 'the environment' must be considered as existing apart from our perceptions, and constructions, of it. Indeed, Roy Bhaskar asserts his will to escape such 'anthropocentricity' where he illustrates his critical realist position, one which entails a belief in 'the possibility and actuality of a world without human beings...' (in Laclau and Bhaskar, 1998: 10): 'Everything has being' states Bhaskar, 'and some things have being ... quite independently of their constitution in scientific or philosophical discourse' (*ibid.*: 14).

Such a perspective, however, recognises the roles of both structures and actors in the shaping, framing and implementation of policy. It requires that they should be treated as separate entities positing, as it does, the pre-existence of structures. This, it is argued, demonstrates their reality as distinct entities (Archer, 1998: 197). That this is so illustrates the critical realists' 'layered' conception of reality (McAnulla, 2002: 290). Sharp describes these ontological layers as 'the empirical', the 'actual' and the 'real' (in Archer *et al*, 1999:

12; see Figure 3.1).

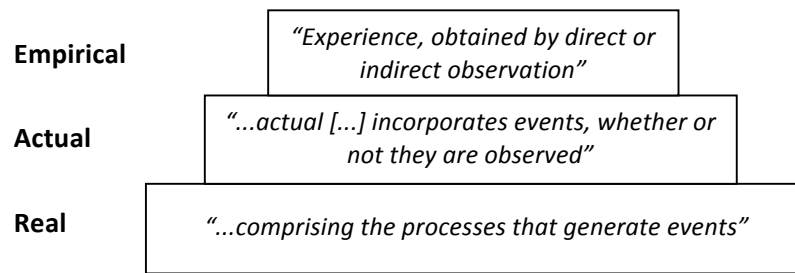


Figure 3.1 Layers of reality (Archer *et al*, 1999; Juma'h, 2006: 970).

For Archer, this 'stratified nature of reality ... entails temporality' as experiences and events 'are conditional upon antecedents' (1998: 196). Sayer reiterates the importance of the historical dimension to critical realism where he points to the revisability of all knowledge in the context of 'continuous historical ... change' (1992: 234). Indeed, the development of knowledge must be considered in the context of structures and history: it cannot, according to Bhaskar, be reducible to 'a purely individual acquisition' (1998: 14). Again, the inter-generational equity component of Brundtland's conception of sustainable development, to which SEA is meant to be contributing, can be invoked. There is explicit recognition in SEA of the context within which planning and assessment must take place

The stratified nature of reality demands an eclectic epistemological approach. Indeed, like Bhaskar, Ackroyd (2002) asserts the compatibility of critical realism and 'methodological pluralism' (Ackroyd, 2002; Archer, 1998). This compatibility becomes more explicit when it is appreciated that, contrary to the closed systems conceptualized and created by more positivist versions of science, a critical realist approach to social science characterizes the social world as being a place where 'all sorts of powers interact, creating and regenerating the experiences that we actually have' (Bhaskar and Callinicos, 2003: 93). While examination of context cannot predict outcomes, it can provide some understanding of the framing of actions and events by relevant actors in the study.

A critical realist philosophy therefore accommodates the examination of the implementation of SEA inasmuch as it accommodates an appreciation of both the 'hard' and 'soft' infrastructures of policy-making (Vigar, 2002: 3-4). The dialectic critical realism of Bhaskar and others is echoed by Hilding-Rydevik and Bjarnadóttir's assertion that '[i]ntegration [of environmental considerations] is about the mutual metamorphosis of those sectors, professionals, organisations, planning processes etc that take part in the

integration effort, such that something new and unified is created' (2007: 677). Although these authors are not explicit about this being an ongoing process, Thérivel (2004: 209) recognises that decision-makers 'thinking SEA' cannot be achieved immediately: it is an ideal towards which today's practitioners can contribute. From a critical realist perspective, aspirations to transformative strategies of SEA will be influenced by 'certain structured interests, resources, powers, constraints and predicaments' (Porpora, 1998: 344). Flyvbjerg, too, is explicit about contingency and notes, '... a realist's experience that power, effective communication, and day-by-day monitoring have to be used to sustain ideals, norms, plans, and rationalities when these proceed from the drawing board to reality' (1998: 123). Examination of the context of SEA implementation, including resistance, will help assess whether Hilding-Rydevik and Bjarnadóttir's and Thérivel's transformative approaches are possible (Wallington *et al.*, 2007: 573). Therefore, in accordance with Ackroyd (2002), the adoption of a case study approach in examining the implementation of SEA will 'seek to show how mechanisms work themselves out in ... particular instance[s]'.

3.2 Case study approach

Yin defines a case study as the assembled components of the method: 'research questions, theoretical perspectives, empirical findings, interpretations, and conclusions' (2004: xiv). Recognising the individuality of each context, a case is 'the real-life set of events from which data will be drawn' (*ibid.*). Case-based research is necessarily grounded, however Flyvbjerg (2004: 430) recommends that cases should be related 'to the broader philosophical positions that cut across specializations', while Stake views issues as requiring 'attention both to ordinary experience and ... the disciplines of knowledge' (2005: 448). Having outlined the overarching philosophical position in section 3.1, this section describes the approach I employed in the collection of case data.

Following Yin (2003), I have utilised pre-determined concepts in steering the collection of data. Indeed, Yin (*ibid.*: 14) states explicitly that case study 'benefits from the prior development of theoretical propositions to guide data collection and analysis'. In this thesis data collection is steered by the prior assertion of the SEA/good governance nexus, detailed in Chapter 2. The elements utilised herein are drawn from good governance standards to represent the most common themes, applicable to Scottish SEA, emerging

from good governance literature (see Table 2.1). Wiklund (2005: 282) uses a similar approach in his exploration of 'the deliberative democratic potential of EA', extracting four principles, based on Habermas, and using them to identify barriers to effective deliberation in environmental assessment. Partidário (2005: 52) supports the use of IAIA SEA performance criteria which stipulate that SEA should be: integrated; sustainability-led; focused; accountable; participative; and iterative. Clearly, there are significant overlaps between these criteria and the good governance components I identify and utilise herein. Saward's (1992: 33) 'principles of legitimacy', against which he assesses the value of various democratic devices, also overlap with the good governance components. In Smith's (2009) broader study of 'participation in political decision-making at strategic levels', he identifies six ingredients of democracy : inclusiveness; popular control; considered judgement; transparency; efficiency; and transferability.

After inductive development of the core categories, a subsequent purely deductive assessment of the functioning of the SEA/good governance nexus in the cases would not provide a rich enough picture of its operation. For example, in looking at the transparency of SEA, the overwhelming subjectivity of the notion soon became clear: transparency for whom? This apparently simplistic realisation - that transparency in SEA varied according to standpoint - was echoed in examining the value of consultation and participation in the cases investigated. Clearly, in order to gain the fullest picture, the SEA/good governance nexus had to be approached from a qualitative, more nuanced appreciation of its inherent complexities rather than simply asserting that the SEA process facilitates good governance, and ticking the boxes accordingly, or as Fleetwood (n.d.) puts it, '[critical realism] rejects positivism's preoccupations with [...] (often inappropriate) quantification and measurement'. Fleetwood continues, 'For CR, social phenomena can, often with great difficulty, be *understood*, but not often (meaningfully) *measured*, hence its preference for qualitative methods'.

The tension between constructivist grounded theory and Yin's pre-determined framework approach is exemplified where Yin asserts that 'empirical research advances only when it is accompanied by theory and logical inquiry' (*ibid.*: xv): the inherent flexibility of a purely grounded approach is, in this view, unhelpful. Rather, the case study approach I adopted examines the theoretical assertions of the OECD, World Bank and the UK and Scottish Governments in the contexts of the chosen cases. The initial good governance categories developed from a review of the literature form a framework within which

further sub-categories can be developed. This approach conforms to the *objectivist* grounded theory approach identified by Charmaz (Bryman, 2001: 431).

The use of pre-determined categories drawn from the Independent Commission for Good Governance in Public Services' (2004) conception of good governance gives a greater degree of focus than would be possible in the initial stages of a purely inductive grounded approach. Within this broad good governance framework, however, it is possible to employ a grounded approach whereby 'researchers make the codes fit the data, rather than forcing the data into codes' (Charmaz, 1994 [orig. 1983]: 98). Stern highlights this point where he states that 'concepts must earn their way into the theory by virtue of their relevance to the empirical world' (1994: 126).

The research method here is similar to that of the research consortium that has developed the 'ANSEA' (analytical SEA) approach to maximising the value of SEA (ANSEA Consortium, 2002). By basing the ANSEA principles of good decision making on a 'literature review, good practice and the case study experience' (*ibid.*: 5), the consortium has formulated its criteria using a grounded theory approach. Similarly, Olivia Bina's (2003) study of the implementation of SEA in Chile uses a grounded approach. Bina notes that her method may not initially seem to accord with the principles of grounded theory: she tests 'propositions', as I do, using a case. These propositions, however, were developed from her own previous empirical work and so the research can indeed be located firmly within the grounded theory tradition (*ibid.*: 121). A further example of the use of grounded approach within case studies is Fitzpatrick's (2006) research on organizational learning through participation in environmental assessment.

Yin approves of an inclusive approach to case study research: '[y]ou can use multiple strategies in any given study' (2003: 8). While the case study method can accommodate a mix of data collection and analytical strategies, Knopp and Albrecht (2005) rely entirely on documentary analysis in their discussion of the 'challenges and possibilities' of transposing SEA into national law. Their examination of legislation and reports on EIA practice help them theorise problems that may occur in the implementation of SEA. They use hypothetical cases to illustrate the points they seek to make. In contrast, Fischer uses three *actual* cases in his comparative case study, *Current SEA Practice in England* (2005). The PPSs (policies, plans and programmes) are assessed against criteria derived directly from the SEA Directive (*ibid.*: 84). Despite its widespread application in environmental assessment research, the case study method is not without its critics.

Punch discusses the ‘knee-jerk’ ‘lack-of-generalizability criticism’ (1998: 155). Although statistical generalisation is not possible using the case study method, analytic generalisation is (Yin, 2003: 10). Yin states, ‘case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes’ (2003: 10). Even if such arguments are not accepted, the value of case study research is clear: it can contribute by providing exemplars of ‘valued and trustworthy knowledge’ (Stake, 2005: 458). Indeed, lack of generalisability need not be a hindrance to research entering into ‘the collective process of knowledge accumulation in a given field ...’ (Flyvbjerg, 2004: 424). In some instances, case study research is the necessary approach:

The distinction between strategies of normalization and tactics of resistance can be appreciated only at the micro-analytical level, in the sense that only detailed, localized studies of events can capture that distinction within the specificity of its own context. (Darier, 1999: 18)

Punch’s (1998: 156) assertion that ‘... only the in-depth case study can provide understanding of the important aspects of a new or persistently problematic research area’ is particularly relevant to my research, herein, on nascent SEA in Scotland. Indeed, the value of case research of a relatively new phenomenon is highlighted where Stake notes that ‘program evaluators, institutional researchers, and practitioners in all professions are interested in the individual case without necessarily caring what it is a case *of*’ (emphasis added) (2005: 444). For Stake, the emphasis need not be on generalisation as ‘the case itself’ should be thoroughly understood (*ibid.*: 448).

3.2.1 Justification of number of cases

I decided to use two cases, not to provide explicit comparison between them, but because two cases would provide a clearer picture of the implementation of SEA and manifestation of the SEA/good governance nexus than would examination of a single case. I considered adding further cases to extend the variety of settings within which SEA is applied; however, the richness sought within qualitative research, and the resource requirements thereof, necessarily restricted examination to two. Hudson *et al* (2007) use two English local authorities to examine ‘participatory approaches to environmental policy-making’. In their study of participation in local transport planning, Bickerstaff and Walker (2005: 2127-2128), too, examine the participatory processes employed in two local authority case studies. However, while those authors prefer to ‘[avoid] the mechanistic assessment of the specific

process and/or outcomes of particular exercises prevalent in much participation evaluation', my approach is to look at both a 'mechanistic assessment' of the SEA/good governance nexus within specific processes *and* to glean the reflections of the participants within the two processes.

In her study of the implementation of SEA in Chile, Bina justifies limiting the number of cases in a case study approach in terms of:

the need to document the content, dynamics, and underlying discourses of the processes defining the aim and role of SEA in a particular institutional, organisational and social context, thus comparing the theoretical propositions with the complexity of a particular case. (2003: 124).

My own approach echoes that of Bina whereby I compare the functioning of the elements of SEA/good governance nexus in the cases with the ideal-type assertions made in its name. In this way, comparison is aimed to be more in keeping with the 'constant comparative' method than in comparing the two selected cases against each other. The constant comparative method assists in validation as it 'systematically develops concepts in terms of their properties and dimensions and at the same time validates interpretations by comparing them against incoming data ...' (Corbin and Strauss, 2008: 48). Coding and analysis occur concurrently within an iterative process which allows for ongoing revision and integration of 'theoretical notions' in light of new data (Glaser, 1995: 182). Crucially, data are being constantly compared with previous themes, existing categories generating sub-categories. This allows the researcher to reach a point of theoretical saturation when no new categories are being generated by the data.

Peters (1998: 152) describes a case study whereby a process is followed, rather than the focus being on one decision or event, as 'a comparative case study across time'. Decision windows aligned with the stages of policy development can be compared with previous instances. In the case of an SEA process, for example, the integration of various good governance elements during the consultation period for the Environmental Report can be compared with their integration at the earlier stages.

3.2.2 Rationale for case selection

Amongst the purposes of the research is that of testing the asserted link between SEA and good governance. The good governance elements described in previous chapters are being

examined in the context of two cases: the Clackmannanshire Alliance Community Plan Environment Framework, *Greening Clackmannanshire*, and Highland Council's A96 Development Masterplan.

I was particularly interested in examining the SEA/good governance nexus in Scotland for three reasons. Firstly, the research commenced in 2007, just a year after the implementation of SEA in Scotland through the *Environmental Assessment (Scotland) Act 2005*. Little research on the impact of the legislation in the Scottish context had therefore been possible. Secondly, specific arrangements for SEA in Scotland means there must be a clear SEA process, distinct from the PPS and any other assessments that may be undertaken. The contribution of SEA to good governance in Scotland should, therefore, be clearer. Thirdly, the democracy-enhancing aspirations of the SEA/good governance nexus in Scotland are particularly relevant given the comparative youth of the legislative body, the Scottish Parliament. The Parliament opened in 1999 after decades of popular perception of democratic deficit: Scotland had for decades been subject to Conservative governments for which it did not vote. The Parliament therefore contributed, for many, to Scotland's democratic re-birth. The implications for generalisation of research limited to two cases in a single country have already been discussed.

Initially I looked for an SEA process that was at its beginning and where the local authority might agree to be an 'industrial partner', a funding stipulation. I approached a contact I had met through the David Livingstone Centre for Sustainability, and who worked for Clackmannanshire Council, to ascertain whether there was a live SEA case. I knew that Council to be a good performer in environmental terms and imagined that it may supply a proto-typical case to examine the SEA/good governance nexus. Fortunately the Clackmannanshire Community Plan Environment Framework planning process had recently begun, as had the SEA process. The PPS had been screened in for SEA but scoping had yet to be undertaken. Clackmannanshire Council then agreed to be the required industrial partner for the research. It was possible therefore for me to enter the case early in the process, between the screening and scoping stages of the SEA, the first non-participant observation (NPO) taking place at the second meeting of the PPS development process. For the reasons described above I then sought an additional case.

I became aware of the Highland case at the Sustainable Development Research Centre (SDRC) conference in Inverness in 2007 where a representative from a SEA/planning

consultancy firm was presenting on the innovative, collaborative approach being taken in the development of the masterplan. I was interested in how SEA would engage with that company's SMART Growth approach, one concerned with sustainability issues, when the masterplan's primary focus was on facilitating development along a road and adjacent to an airport. Far from being the proto-typical case as the Clackmannanshire case promised to be, it appeared that this case would stretch the SEA/good governance nexus, with the full integration of environmental considerations into systems of governance, to the limit. My interest was further stirred when, during the subsequent question and answer session, the presenter railed loudly against SEA.

In the Highland case the development of the masterplan pre-dated my observation of it: the consultation draft was published in September 2007, coinciding with the commencement of the research. Although the two cases were not entirely concomitant, I considered them to be 'live' enough that interviewees would be able to recall their experience of their involvement. They both purported to represent inclusive planning practices that I believed would facilitate the SEA/good governance nexus on the ground. The cases differed, however, across a number of axes which I considered would test the SEA/good governance nexus in significant ways.

Peters (1998:141) cites authors including Skocpol (1979) who applied a 'common theoretical framework, [...] to a series of cases, each case selected to demonstrate a relatively wide range of variation'. Such purposive sampling would not, according to Peters 'meet the canons of experimental or statistical methodology, but it still permitted these scholars to make reasonable theoretical statements with a strong comparative basis' (*ibid.*). Clackmannanshire appears in many ways as a 'best case' scenario, or as it is called in comparative politics, a 'crucial case', in examining the SEA/good governance nexus. The value of examining such cases is clear where Peters (1998: 150) states that 'if a very likely case is studied and the theory does not hold in that case then there may be good grounds for rejecting the theory'. The likelihood of a successful instance of the SEA/good governance nexus is enhanced by the nature of the PPS itself, i.e. Community Planning, with its implications of participation, consultation and partnership working. The small geographical area covered by the local authority and the Community Planning Alliance can be seen as helping the population to physically access events and documentation pertaining to the planning and SEA processes. Indeed, Clackmannanshire is known, and marketed, as the 'Wee County'. Similarly, the area has a relatively small population for a

Scottish local authority, so it should be easier for the Responsible Authority to reach a significant proportion of the population if the intention is inclusive and transparent planning and assessment processes. Even the most remote inhabitants of Clackmannanshire will be significantly physically closer to any opportunities presented to participate in the PPS process.

Where Clackmannanshire may be considered a proto-typical ‘best’ case, this is not to say that Highland is therefore ‘worst case’. Rather, it could be described as ‘most different’. Peters (1998: 144) points to the value of case selection on a ‘most different’ basis:

If the pattern of relationship among variables holds up in ... [a] ‘most different’ case, then we have even greater assurance that the relationship is indeed very robust, and there is reason to accept that there is some stable and reliable pattern of political behaviour.

While the cases share some common ground, the Highland case contrasts with the Clackmannanshire case in several important aspects (see Table 3.1):

Table 3.1: Key differences between Clackmannanshire and Highland cases

| | Clackmannanshire | Highland |
|---|--------------------------|------------------------------|
| <i>Human population (2009)</i> <i>(Scotland: 5,194,000*)</i> | 50,540* | 220,490* |
| <i>Geographical extent</i> <i>(Scotland: 77,925 sq km**)</i> | 159 sq km** | 25,659 sq km** |
| <i>Population distribution</i> | 318 people/sq km (urban) | 9 people/sq km (rural) |
| <i>Expected environmental impacts</i> | positive | negative |
| <i>(Initial) sector - SEA</i> | in-house (public sector) | consultants (private sector) |

Sources: *General Register Office for Scotland (2010); **General Register Office for Scotland (2009).

The population of Highland is over four times that of Clackmannanshire. Democratic legitimisation of PPSs may be greater where, for example, two per cent of the population has contributed to the process, as in the ‘Clacks 1000’ exercise described in Chapter 6. The same absolute number of participants in Highland would lend less credence to claims of an inclusive process, given the significantly larger population in that area.

In looking at aspirations to good governance, again, Highland would appear to be of a scale whereby public participation and joined-up government may encounter more physical barriers. The geographical extent of the local authority areas selected raises issues around access and accessibility to governance processes. Bristow *et al* (2001: 242) use

Highland as a case study in their evaluation of rural development policies in Scotland because it 'typif[ied] the transport problems of rural areas'. Highland Council's administrative responsibility extends across the north of Scotland covering a comparatively vast area. By contrast, Clackmannanshire Council's leader believes, 'In many areas [Clackmannanshire's] size is a positive advantage', giving the example of having Scotland's most efficient planning application system (Clackmannanshire Council, 2006).

The demographic and geographical differences between the two cases lead to a further distinction: local authorities in Scotland are classed as either 'urban' or 'rural' for the application of sustainability indicators (Scottish Executive Environment Group, 2005a: 78). Given that the research is in part concerned with access to, and accessibility of opportunities to participate in, policy making, it is noteworthy in examining the SEA/good governance nexus that Clackmannanshire is classified as 'urban' while Highland is deemed 'rural'.

Further distinctions exist when focusing more closely on the specific PPS/SEA cases. The PPSs in both cases involve a degree of partnership working, central to most conceptions of contemporary governance. The SEAs, however, provide a further point of departure: if, in keeping with Thérivel's SEA aspirations, decision-makers are ultimately to be 'thinking SEA' (2004: 209), they should be directly involved in SEA rather than simply reading a non-technical summary of a consultants' report. However, contemporary governance norms, whereby government functions are contracted out to other sectors, ensure that the likelihood of Responsible Authorities engaging consultants is high. In the Clackmannanshire case the SEA was initially to be conducted in-house. However, during the PPS process, the officer charged with undertaking the SEA took time off. Responsibility for the preparation of the environmental report therefore shifted, during the SEA process, to a private-sector SEA consultancy firm, one which had already conducted SEAs for the Council. In the Highland case the planning consultancy responsible for the Plan document was contracted to undertake the SEA from its outset.

A further differentiating characteristic separating the two cases is that the PPS in the Clackmannanshire case was screened in for SEA because the Responsible Authority anticipated significant *positive* environmental impacts: SEA was seen as a way to enhance the anticipated positive effects of the PPS. By contrast, in the Highland case the consulting firm acting for the Responsible Authority expected significant *negative* environmental impacts and so SEA became, amongst other things, a way to mitigate the negative effects.

The differences outlined here present challenges for the SEA/good governance nexus, covering, as they do, demographic, geographical and sectoral aspects, as well as significant differences in the expected effects of the PPSs and so role of SEA. Having selected the cases, it is important to state the boundaries of the case study across the geographical and temporal dimensions.

3.2.3 Case study boundaries: geographical and temporal

For Punch (1998: 152) a case is ‘... a phenomenon of some sort occurring in a bounded context ... could ... be a decision, or a policy, or a process’. The cases presented here are SEA processes. Occurring within Scotland, and with the local authority as Responsible Authority in each case, the cases are subject to the same regulatory and macro-economic backdrop. They share a tier of operations inasmuch as they are concerned with meso-level planning, that is, they are at local authority plan level rather than micro project-level or national-level planning. As when scoping within SEA involves the definition of the boundaries of the environmental assessment, so boundaries must also be set within the case study approach. The boundaries are therefore defined across geographical and temporal dimensions.

Geographical boundaries

Although the Highland case focuses on the area along the A96 between Inverness and Nairn, there are potential repercussions for the whole region that have been voiced both in the development of the second Scottish National Planning Framework (NPF2) and in the course of my research. Indeed, one interviewee questioned the wisdom of concentrating proposed developments around such a small areas as it threatens the social sustainability of more remote settlements in the Council’s area. In the Highland case, the social and economic impacts of the development proposed within the Masterplan area were therefore anticipated by some to extend beyond the stated boundaries of the plan and some anticipated environmental impacts can, to some measure, be expected to impact negatively beyond the boundaries of Highland.

Similarly, the environmental benefits expected from the implementation of the Clackmannanshire Environment Framework would benefit, albeit, in a minor way, the environment beyond the physical borders of Clackmannanshire. Notwithstanding these

caveats, the geographical boundaries in the cases considered herein were determined by the stated physical extent of the PPS: in the Clackmannanshire case, Clackmannanshire, and in the Highland case, the A96 Corridor between Inverness and Nairn (see Figures 5.1 and 6.1).

Temporal boundaries

Given that the research was conducted within my home country, data gathering took place throughout the three-year funded period between October 2007 and September 2010. The PPS process and SEA processes, however, did not fit neatly within these dates. In the Highland case the PPS process had begun several years prior to the start of the data gathering period, although the formal SEA process spanned from 2006 - the first formal SEA document, the Scoping Report was published in August 2006 - to the publication of the post-adoption statement in September 2008. In the Clackmannanshire case, the SEA process pre- and post-dated the funded research period with the screening report being submitted in July 2007 and the post-adoption statement published in October 2010. The next section examines the data collection methods employed during the research period.

3.3 Data collection methods employed

Critical realism posits that, in the field of politics, all cannot be known. However, the range of qualitative methods employed in investigating the cases helps validate the qualitative route to knowledge. In keeping with Ferlie and Mark's (2002: 318) list of 'typical' methods, I have used 'observation, semi-structured interviews and analysis of archival material'. Such a mix is common in the social sciences. Clough and Vanderbeck (2006) employ the same mix of methods in their study on *The Geographies of Political Activism*. The methods support each other. For example, like Clough and Vanderbeck (*ibid.*), I found that the observation facilitated the identification of interviewees, and interviewees at times helped with the identification of relevant documentation and non-participant observation opportunities.

As outlined above, both cases were 'live' at the beginning of the research. They were, however, at different stages of the planning and SEA processes. This had implications for the weighting of data collection methods (see Table 3.2).

Table 3.2: Summary of data collection methods

| | Total interviews | Documents | Non-participant observation |
|------------------|-------------------------|------------------|------------------------------------|
| Highland | 8 | 56 | 3 |
| Clackmannanshire | 11 | 42 | 14 |

In the Clackmannanshire case early entry into the process ensured it was possible to attend most of the meetings pertaining to the SEA and so the data collection in this case is focused more on NPO and semi-structured interviews with participants, although all PPS and SEA documentation was also examined. Later entry to the Highland case, by contrast, meant less NPO, although I did attend three public meetings which took place during the period of the research. Data gathering and analysis focused more on documentation in this case.

3.3.1 Documents

Scott (1990) presents four criteria for documentary analysis – authenticity, credibility, representativeness and meaning (cited in Bryman, 2001). The documents I examined are authentic inasmuch as they are sourced from those involved in the SEAs. Credibility, where documents should be ‘free from error and distortion’ (*ibid.*: 370), is central to transparency and accountability elements of the SEA/good governance nexus and will be discussed further in those contexts. The representativeness of the documents will be considered in relation to the Scottish SEA guidance on the preparation of SEA reports. The final criterion, meaning, is again crucial to the transparency function of the SEA/good governance nexus where meaning must be clear to those consuming and, where relevant, responding to the documentation.

Most of the documentation made publicly available represents the *formal* account – the statutory paper trail - pertaining to the PPS and SEA processes. In both cases extensive documentation has been made available by the Responsible Authorities on their websites. While their authenticity is assured, the documents’ credibility cannot be guaranteed. It is in light of that criterion that, ‘it is precisely their official or quasi-official character that makes them interesting in their own right’ (Bryman, 2001: 375).

While the voice of the decision-maker, as gatekeeper, may dominate, that is not to say the official account cannot be challenged. Indeed, Owens and Cowell (2002: 22) highlight the value of analysis of successive drafts of documentation throughout the

planning process in terms of institutional learning. Indeed, this is part of the *raison d'être* of SEA: the environmental report, published alongside the *draft* PPS, is intended precisely to highlight the environmental implications of the PPS so it can be enhanced both prior to and in response to consultation on the draft.

Alongside authorship, following Charmaz (2006: 39-40), consideration is given to: the purpose of the documents, and so the intended audience; context; structure; discourses evoked; dominant discourse; and use of language. Examination of documentation relating to the cases helps establish the sequential ordering of events and, particularly in SEA, with the requirement to provide information on those PPSs that may have a bearing on the PPS and SEA can help to establish the policy context.

The structure of SEA documentation has a bearing on the transparency of the information therein. Is the information organised in such a way as to render it understandable for the lay reader? Does it provide *clear* pointers to enhance the good governance credentials of the SEA process such as procedures for consultation and points of contact? Does the structure of documentation provide evidence of a joined-up approach to SEA or is, for example, a scoping report obviously a “copy and paste job” with information gleaned from a variety of sources inserted without any relationship between sections established?

In investigating the SEA/good governance nexus, the discourses evoked and language used in documentary accounts of SEA processes helps give an indication of the existence or strength of the nexus in a given case. Are the documents explicit about SEA's role in enhancing transparency and accountability of PPS processes? Again, do they provide helpful information regarding future participation and consultation opportunities? Do they provide accurate accounts of participation and consultation that has already taken place? What weight is afforded to the various interests who have been given voice through the SEA process?

While there is clearly much to be gleaned from the official accounts of SEA processes, easily-available, web-published formal accounts do not reveal the ‘behind-the-scenes’, less transparent action. Access to SEA documentation not available from the websites has been facilitated by making requests to the relevant Responsible Authority officers and other contacts involved in the PPS/SEA processes. To ensure that the fullest range of voices involved in the SEA/PPS processes are heard, further documentation was also examined including formal correspondence between parties involved regarding the

governance of the overall planning processes, and while use of *informal* communications has been kept to a minimum, it has been included where appropriate and ethical. Methods other than documentary analysis were employed to add to the mix, admitting relevant actors to the research and thus giving a fuller picture of the SEA processes.

3.3.2 *Non-participant observation (NPO)*

As discussed above, in light of the advanced nature of the SEA/PPS processes, data collection in the Highland case was focused mainly on documentation and semi-structured interviews. I did, however, attend several public meetings to observe the reaction to the planning and assessment processes that had been undertaken. During the meetings I sought to remain anonymous, sitting half way back in the hall, taking notes. The note-taking was not conspicuous as others were doing likewise. While much useful material was gained during the course of the meetings, informal discussions afterwards also assisted greatly in establishing that the feelings of those I had been interviewing were far more widely held: I had discussions with many of the attendees who reiterated the concerns of my interviewees and, importantly, independently identified those I had interviewed as those most involved and most knowledgeable about the concerned local residents' position. These expressions therefore validated my selection of interviewees.

Criticisms of NPO include that of researchers inadvertently influencing the processes they are observing. Given my entry into the Highland case late in the SEA process, I do not believe I influenced proceedings in that case. Entry at that stage did, however, mean that participants had been able to become informed on the details of the PPS and then reflect upon and articulate their positions in a way that may not have been possible earlier.

Concern that the presence of the observer influences proceedings is more appropriate in the Clackmannanshire case. Having established the Responsible Authority as an industrial partner in the research, I was afforded access to meetings relevant to the SEA. The PPS process began in June 2007, prior to the commencement of the research in September of that year. I did not, therefore, attend the workshop which initiated the process. However, I was able to attend most of the meetings that took place thereafter. As Table 3.3 indicates, in total, I conducted NPO at 13 meetings in the Clackmannanshire case.

Table 3.3: Non-participant observation events attended during Clackmannanshire SEA process

| <i>Date</i> | <i>Event</i> |
|---------------------------------|--|
| 17 th September 2007 | Scoping focus group |
| 25 th January 2008 | Meeting between PPS consultant and sustainability team |
| 10 th March 2008 | SEA data meeting |
| 11 th March 2008 | 'Kick-off meeting' for SEA |
| 18 th March 2008 | Meeting between PPS & SEA consultants |
| 8 th May 2008 | PPS action meeting |
| 21 st July 2008 | In-house meeting – Responsible Authority |
| 19 th December 2008 | Meeting between PPS consultant and sustainability team |
| 12 th January 2009 | Environment Partnership Team (EPT) meeting |
| 27 th April 2009 | EPT meeting |
| 18 th June 2009 | EPT meeting |
| 28 th October 2009 | EPT meeting |
| 9 th March 2010 | EPT meeting |

While in the Highland case the meetings I attended were public meetings, in the Clackmannanshire case, although many of the meetings were open to the community, they were attended by invitees. It was ethically necessary, therefore, to announce my presence at these meetings, generally as part of the round-the-table introductions performed as a customary part of the meetings. It can be argued that my attendance at meetings may have influenced proceedings by prompting actors to “clean up” their contributions. Indeed, in her discussion of transparency, Prat (2005: 869) cites the U.S. Supreme Court’s ruling in the Watergate case: ‘Human experience teaches us that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interest to the detriment of the decision-making process’. However, in the Clackmannanshire case, the stated intention of the Responsible Authority, the Theme Team/Partnership Team, the PPS and the SEA was to enhance the environment and quality of environmental governance in the County. Therefore, where my presence in the proceedings could be suspected to have encouraged actors involved to be on their best behaviour,

given this was their collective aspiration I do not believe my presence to have made an appreciable difference in the direction of the processes. My regular attendance at meetings over a prolonged period also helped minimise my effect on the process.

I observed at six closed-door meetings involving PPS/SEA consultants and the Responsible Authority and one meeting of Clackmannanshire Council officers, where the SEA lead reported on the SEA to managers and the Director. I also attended meetings where the various cross-sectoral partners were present: in addition to a focus group held early in the SEA process, I attended five Environment Partnership Team meetings. Reflecting the shift in emphasis from outcomes to process, environment to governance, the Community Planning *Partnership* Teams had originally been called *Theme* Teams. The regular meetings of the Partnership Team were intended to determine the content of, and priorities within, the Framework document. SEA objectives were an explicit element of content selection and priority setting.

3.3.3 *Semi-structured interviews*

Interviews were conducted with those most closely involved in the SEA processes, including: Council officers; private-sector PPS and SEA consultants; voluntary sector representatives; and members of the public who commented on Environmental Report. Interviews lasted between 40mins and 1hour 40mins. Some were conducted in the interviewees' places of work; while others took place in neutral venues including a local coffee shop and, in one case, a pub close to the interviewee's place of work.

I prepared semi-structured interview schedules prior to each interview. Interviewees were asked general questions about governance and SEA, for example, their attitudes to the value of public participation and their perceptions of the value of SEA in enhancing transparency of PPS making. I asked additional questions more tailored to the interviewees' roles. For example, I enquired as to whether Council officers worked more closely with colleagues from other departments as a result of the SEA. I also focused at times on the coordination responsibilities of a Community Planning policy officer (see Appendix C – *Community Planning Officer #2: example semi-structured interview schedule*) and asked both Responsible Authority and *non*-Responsible Authority participants whether they believed their contribution during the process were reflected in the outputs.

Clackmannanshire interviews

In addition to NPO, examination of all documentation relating to the SEA, and ongoing informal discussions with several of those close to the SEA process, I conducted 11 semi-structured interviews with those involved in the Clackmannanshire SEA. Clackmannanshire Council was acting as the Responsible Authority. I therefore interviewed the Council officers responsible for the SEA: the Sustainability Team Leader who was responsible for screening and scoping stages; the Environmental Policy Officer who assisted with the initial stages; and the Planning Officer who became SEA lead and so was charged with conducting and reporting on the consultation at the Environmental Report and Post-Adoption Statement stages. I also interviewed other Council officers closely involved in the PPS/SEA process but not responsible for it: the Strategy and Support Manager who was Chair of the Environment Partnership Team and had a strategic awareness of the context of the SEA and PPS; the Biodiversity Officer who was familiar with SEA having undertaken a recent SEA for another PPS, and who attended several of the Partnership Team meetings during the PPS/SEA process; and the Community Planning policy officer responsible for the governance aspects of the PPS.

In striving to interview all those directly involved with the SEA process, I conducted two further interviews with both those associated with the SEA who were working within the private sector. Although the SEA process had begun in-house, a private-sector SEA consultant prepared the Environmental Report after the Sustainability Officer originally charged with the SEA took time off work. A private-sector consultant was engaged from the outset to facilitate the initial workshop and subsequent focus group meeting. This interviewee was also required to provide early drafts of the PPS document and so, given the centrality of SEA objectives as decision criteria from early in the process, had to be mindful of them.

Participants from the third sector who had consistent involvement with the PPS/SEA process were interviewed. These included two *voluntary sector* employees representing the Council for Voluntary Services. The first had been invited into the process as a result of being actively involved in a range of environmental initiatives being undertaken in the Clackmannanshire area. That participant had been involved since the beginning of the PPS/SEA process. The second entered the process later, taking the place in the Partnership Team of the first, for whom funding had been stopped. Also from the

third sector, but from the *volunteer*, unpaid side of the voluntary sector, a representative from a local Heritage Trust who had attended the initial workshop and was part of the scoping group was interviewed.

While one Community Council took part in the formal consultation for the SEA, providing a written response, the one Community Councillor who had attended the initial workshop, and who had been part of the focus group at the scoping stage, declined to be interviewed.

Highland interviews

The Highland case presented a plethora of documentation on the SEA and PPS. There was, therefore, a strong voice from the Responsible Authority. To verify the account of the SEA process presented in the formal documentation I sought to follow up with semi-structured interviewing of those involved. I therefore interviewed the SEA consultant responsible for the Scoping and Environmental Reports, and two planning consultants from the consultancy firm responsible for the final PPS document, including the one who presented at the conference I had attended, and who had originally stirred my interest in the case. While my attempts, throughout the period of the research, at engagement with Responsible Authority officer named on the post-adoption statement were largely fruitless, I secured an interview with the Responsible Authority's sustainability officer, working with the Executive's office, with a strategic overview of environment and sustainability issues and functions.

My first contact relating to the case had implied there was a degree of contention not revealed by the formal accounts of the PPS/SEA process. It was necessary, therefore, to try to dig below the 'veneer of legitimacy' afforded in the document trail, discussed in Chapter 2, to give voice to those less represented in the official documentation. I employed the snowballing technique for identification of potential interviewees. I had met the initial contact at the *Sustainable Development Research Centre* conference in October 2007 where we had discussed the PPS consultant's presentation on the Plan. That contact in turn provided contact details for a Community Councillor who was active in representing the community's voice vis-à-vis the PPS. I contacted the Community Councillor who, in turn, gave me the contact details of someone who was 'compiling the dossier'. This contact then provided other contacts with an interest in the case. I had numerous informal

discussions about the case with many of those who had shown an interest and without exception these all recommended I speak to one particular individual, the dossier compiler. Such was that individual's knowledge and experience of the case that we had several hours of discussion. I also conducted further hours of semi-structured interviewing with another member of the action group. After conducting eight semi-structured interviews, I continued discussions with others; however, saturation of the categories emerging from the interview data took place.

3.3.4 Ethics

Interviewees were asked to complete and sign consent forms. An information sheet was provided with the forms outlining the purpose of the research, providing contact details for both me, as researcher, and my first supervisor (Appendix D). Interviewees were also assured of anonymity and that they could withdraw at any time. The anonymity assurance means that participants are referred to by their job titles rather than their names. Where statements are construed to be particularly sensitive and their identity could be devised, with some effort, from their job title, I have striven to refer to the participant more generally: for example 'Planning Officer' may become 'council officer'. I considered anonymising the local authorities but, given the emphasis on best practice and lesson learning in SEA, and that both Responsible Authorities operated according to at least the legal minimum for SEA, I decided that actual cases should be identified to allow further research.

3.4 Data analysis

An initial analysis of the literature identified the six core categories, the elements of good governance most commonly identified with SEA and appropriate to the UK/Scottish context, which guided the data collection. The second phase of the research consisted of data collection and analysis within the SEA/good governance nexus framework. Using that framework, I coded notes made from the documentation, NPO, and interview transcripts, drawing and grouping relevant material. The nuances of each of the core categories explored within the initial analysis of the data led to the emergence of sub-categories (see Appendix A). These core and sub-categories form the basis for the discussion of the case Chapters, 5 and 6.

Additional themes and tensions emerged which were less easily accommodated within the core categories of the SEA/good governance nexus (Appendix B). New codes were developed to accommodate these. This flexibility (see section 4.3) helped open up the study to identify an appropriate analytical framework outwith a strictly ‘good governance’ one which had served well to understand the rhetoric of the Responsible Authorities but contributed little to explaining the incidents of failure of the SEA/good governance nexus in the cases. The emergence of numerous tensions within the SEA/good governance nexus also illustrated the necessity of a more suitable analytical template. The accommodation of these tensions with a governmentality framework is shown in Table 3.4.

Table 3.4: Conceptual tensions emerging in the Clackmannanshire case and their accommodation within a governmentality framework

| <i>Tensions identified during stage 2</i> | <i>Axis of governmentality</i> |
|--|---|
| local vs. national individual vs. whole joined-up govt. vs. accountability SEA vs. SA bottom-up vs. top-down strategic vs. local strategic vs. silo'd | centralisation |
| deliberative vs. representative consultation vs. efficiency participation vs. partnership information vs. participation iterative vs. one-off | intensification of the effects of power |
| art vs. science best practice vs. discretion ‘experts’ vs. public in-house vs. consultants formal vs. informal economy vs. environment social vs. economic | power/knowledge |

In the context of cases in which Responsible Authorities claim ostensibly contemporary governance arrangements, a purely governance framework does little to clarify how the successes and failures of the SEA/good governance in the cases came about: as Pratt (2009: 860) puts it, the ‘frame did not fit the data’. Therefore, the next challenge was to identify a framework which *could* explain them. Jorgensen (1989) describes the process of analysis. It is:

a breaking up, separating, or disassembling of research materials into pieces, parts, elements, or units [*stages 1 and 2*]. With facts broken down into manageable pieces, the researcher sorts and sifts them, searching for types, classes, sequences, processes, patterns, or wholes. The aim of this process is to assemble or reconstruct the data in meaningful or comprehensible fashion [*stage 3*].

Analysis of the successes and failures, including the tensions identified during the second phase of the research, took place within a governmentality analytical framework, a theoretical template which proved, in the words of Langley (1999: 698), better able to '[contribute] to a satisfactory explanation'. Bevir (2011) states that governance and governmentality can learn from each other. Indeed, tensions, such as 'economy vs environment', 'local vs national' and '[public] participation vs partnership', which had emerged from the good governance framework analysis could then be explained in terms of contrasting *rationalities* at play amongst the various actors, whether in the documentation produced or identified during observation and interviews. Counter to the aspirations of democratisation of PPS processes through SEA, looking at the close identification of good governance principles with SEA through a governmentality lens casts SEA as a technique of government seeking to ensure its rationality dominates through the intensification of the effects of power facilitated by the flow of bio-power (see section 4.2.3) through transparency, public participation and so on. I was then able to re-visit the data and results through the alternative governmentality 'template'. That interpretation forms the basis for the discussion in Chapter 7.

3.5 Conclusion

This chapter began by outlining the philosophical underpinnings of the research. It discussed critical realism which presents a layered understanding of reality. Contrary to positivist approaches, it understands that an external reality is open to interpretation depending on the standpoint of the observer. It also understands that examination of that reality, in the social sciences, may be best undertaken using qualitative techniques where quantitative approaches are unable to 'measure' what is going on. Hilding-Rydevik and Bjarnadóttir's discussion of the 'mutual metamorphosis' of actors and structure echoes critical realist Margaret Archer's appreciation of the separation of those entities but the possibility of transformation, subject to context and resistance, that lies in the interplay between them.

The chapter then sought to explain the choice of a case study approach to the

examination of the SEA/good governance nexus. Having addressed common criticisms of a case study approach, it describes the analysis of the case data, in an approach similar to that of Wiklund (2005) and Partidário (2005), within the SEA/good governance framework with its core categories of: transparency; accountability; joined-up government; partnership working; consultation and public participation. That analysis saw the emergence of sub-categories including tensions within the SEA/good governance nexus, the explanation of which was more suited to a governmentality analysis which provides the framework for discussion of the case study results in Chapter 7.

Having provided justification for the selection of two cases, and for the specific cases examined, I outlined their geographical and temporal boundaries. The subsequent section then described the data collection methods employed during the research and explained the pragmatic necessity for different weighting of methods between the cases. Finally, a section on data analysis described the analytical stages of the study, from the development of core categories from the literature which then guided data collection, through the generation of sub-categories, tensions and additional categories during analysis of documentation, NPO notes and interview transcripts, to the utilisation of an alternative explanatory template (Langley, 1999) which provides a better fit to the data than the initial good governance framework.

The governmentality analytical framework used in the study is discussed in detail in the next chapter. The chapter bridges the critical realism, described in this chapter, and Michel Foucault's governmentality theory. It will then outline the three-axis framework drawn from Darier (1996) which is employed to provide the discussion in Chapter 7.

Chapter 4

Governmentality analytical framework

Chapter 2 described the data collection methods employed during the course of the empirical research. This chapter examines the analytical lens I have employed in my examination of the operation of the SEA/good governance nexus in the two Scottish local authority cases. The chapter will provide links from the critical realist philosophical underpinnings which, as well as steering the direction of data gathering, feeds into the analytical approach employed.

Benda-Beckmann describes good governance as a 'normative fairyland' (1994: 59): for Benda-Beckmann, 'governance issues in reality deal with *bad* rather than with good governance (*ibid.*: 55). As Rose and Miller state (1992: 190), 'Things, persons or events always appear to escape those bodies of knowledge that inform governmental programmes, refusing to respond according to the programmatic logic that seeks to govern them'. It is useful therefore to adopt a broader analytical approach to the conjoining of SEA and good governance by national and international bodies.

Section 4.1 outlines a realist governmentality approach which goes beyond the analysis of dominant discourses in seeking to understand the successes and failures of the SEA/good governance nexus in practice. Section 4.2 then examines Darier's (1996) summary of Foucault's conception of power in governmentality and its application to the SEA/good governance nexus in Scotland. In doing so it focuses on three axes: centralisation; intensification of the effects of power; and power/knowledge. Crucially, it also pursues a central theme in Foucault's governmentality: resistance. Setting the backdrop of the research as an inherently liberal governmentality, and countering conceptions of government as all-encompassing and inescapable, Foucault reveals the constructive nature of power. However, in the context of the SEA/good governance nexus this recalcitrance of will may not be the positive perceived as the evasion of subjection by powerful forces of government. Rather, section 4.3 discusses how the possibility for resistance renders uncertain assumptions that populations of lower-tier decision makers

will implement SEA legislation, and any associated good governance benefits, without question.

4.1 Governmentality as an analytical approach

McKee points to the dominant post-Foucauldian governmentality approach which 'draws on discursive, as opposed to material practice, for its evidence base' (2009: 473). The tendency for discursive governmentality to 'disregard messy empirical actualities' (*ibid.*) means it falls short in useful analyses of the realities of governmental failure. My analytical approach, by contrast, follows both McKee (2009) and Stenson (2008) in using a realist governmentality which 'highlight[s] the interaction between governance from above and below' (Stenson, 2008). Rather than examining only top-down discourses imposed upon subjugated populations, by focusing on the local, realist governmentality 'renders visible the actual affects of governing practices, and the behaviour and situated knowledge of subjugated populations' (McKee, 2009: 467). However, counter to criticisms that governmentality approaches focus too much on the local, the analytical framework I have adopted attempts precisely to locate the deviations of empirical reality from rhetoric within a tiered reality. The framework can accommodate conflict between tiers of governance rather than ensure the top-down imposition of specific rationalities of government upon a homogeneous subjugated population. Thus actual efforts at, and effects of, resistance can be revealed.

While the 'good governance' framework is inherently normative, McKee asserts that 'governmentality offers a critical approach by transcending moral judgements about the proper form of 'good' and 'democratic' government' (2009: 471). Therefore, in contrast with a good governance discourse that struggles to explain or reconcile the many tensions inherent to it and its relationship to techniques of government such as SEA, a realist governmentality approach allows for failure. For, McKee (*ibid*: 482), realist governmentality 'represents a useful way forward to transcend the limits of traditional 'discursive governmentality' whilst also retaining its key analytical insights': whilst revealing the discourses and aspirations of governing bodies, realist governmentality can also, for McKee (*ibid*), 'avoid the pitfall of assuming that governmental ambitions are always successful in realizing their desired outcomes'. Thérivel's (2004: 209) hopes of SEA's ultimate redundancy (as decision makers begin 'thinking SEA') are undermined by the

governmentality view such as that of Agrawal (2005: 225) who, while acknowledging the *possibility* of success of governmental technologies such as SEA, makes no assumptions. Rose and Miller (1992: 191), too, are explicit about government being virtually self-fulfilling in as much as its continual failure defines its necessity:

We do not live in a governed world so much as a world traversed by the 'will to govern', fuelled by the constant registration of 'failure', the discrepancy between ambition and outcome, and the constant injunction to do better next time.

According to Bevir (1999: 346-347), Foucault 'never really embraced a realist ontology'. Darier adds to the argument about the non-realist Foucault where he asserts that '[t]he only level of factual 'reality' that interests Foucault is statements about a presumed objective reality' (Darier, 1999: 10). However, Rabinow offers up more of a realist Foucault who is concerned with 'the concrete functioning of power in Western societies' that has been obscured hitherto by a 'will to knowledge' evidenced by reliance on models and principles (1984: 5). Foucault's concern here meets the realists' 'dichotomy between reality and appearance' (Marsh and Furlong, 2002: 30). Foucault's 'firmly empirical' endeavour (McKee, 2009: 473) supports the argument that he acknowledged a reality outwith discourse: with the advent of modern governmentality, 'it is over life, throughout its unfolding, that power establishes its domination' (Foucault, 1984b: 261). Foucault calls this power over life *bio-politics*.

The notion of bio-politics is central to a governmentality approach. Elden puts it succinctly in stating: 'Biopolitics is the means by which the group of living beings understood as a population is measured in order to be governed, tied to the political rationality of liberalism' (2007: 32). Bio-power itself is manifest, in Foucault's governmentality, by the 'creation of an exhaustively detailed knowledge of the governed reality of the state' (Gordon, 1991: 10). Elden emphasises Foucault's focus on the governmental concern with life rather than land (2007: 32):

What seems striking on reading the lectures is how territory is marginalized in Foucault's story. The mechanisms of security are brought to bear on a population, rather than the sovereign territory or disciplinary space of previous models of political rule.

Foucault's focus on population rather than bounded territories does not, however, preclude acknowledgement of physical space: 'space is fundamental in any exercise of power' (Foucault, 2002a: 361). Indeed, the reach of bio-politics to encompass not only the

decision-making body but also the physical environment and resources necessary for its maintenance prompts Darier (1999) to propose a new category, *ecopolitics*. However, the context of [or 'focus on'] the SEA/good governance nexus, with its markedly anthropocentric discourses of environment and governance, does not warrant the use of an eco-politics apart from the bio-politics heretofore employed within governmentality. Indeed, Foucault's conception of bio-politics encompasses both the concerns with the social body including, 'births and mortality, the level of health, life expectancy and longevity' and with 'all the conditions that can cause these to vary' (1984b: 262). Its concerns include 'the relations between a living population and its environment' (Foucault, 2002e: 416), precisely those relations considered within environmental assessment. Similarly, Neale (1997) illustrates the aptness of a realist governmentality approach in his account of *environmentality* in which '...'the real' includes not only the human actors whose support has to be mobilised and sustained, but also the natural world of which they are a part, that cannot be reduced solely to a construction of human discourse' (*ibid*: 20).

As with Stenson's (2008) study of the local governance of community safety, I am employing a realist governmentality 'optic' to analyse the operation of the SEA/good governance nexus in the two Scottish local authority settings, rather than asserting the superiority of one or other governmentalities. Wallington *et al* contrast procedural and transformative strategies of SEA. In doing so they portray a procedural approach to SEA as essentially a 'do-minimum' strategy, and while they see such an approach as inherently failing to engage the transformative potential of SEA, according to Rutherford (1999: 58), 'The particular strength of EIA ... is that it *structures the institutional and normative fields in which actions and governmental programmes take place without specifying final outcomes*' [orig. emphasis]. Regardless, the governmentality role of SEA as a technology of government is illustrated by Wallington *et al*'s transformative strategies encompassing, as they do, 'changes in the range of values, worldviews, behaviours and practices of actors and institutions' (2007: 574-575). Whilst not being prescriptive, an explicit governmentality analytical approach, in the context of SEA, recognises the roles of both ecological discourses that seek to contribute to particular outcomes, and the governmental processes themselves.

By imposing normative notions of good governance on SEA, the nexus appears to reverse what Wallington *et al* (2007: 575) state is '... the original intention of environmental assessment: to promote change by inducing ecological rationality into systems of

governance'. A governmentality approach can help clarify the rationalities at play in such a situation. However, prior to further consideration of the applicability of a governmentality analytical approach to the SEA/good governance nexus, it will be useful to re-visit Foucault's conception of a specifically liberal governmentality which provides the backdrop for the implementation of SEA in Scotland.

For Foucault, governmentality is inherently liberal: it is specific to the emergence of modern liberal political economy and its concomitant 'bureaucratic and the administrative apparatus of the state' (1991: 102-103). Gordon (1991: 14) describes Foucault's understanding of liberalism as 'a style of thinking quintessentially concerned with the art of governing'. Dean (1999: 171) goes further in illustrating the centrality of liberalism to a governmentality framework where he outlines his 'analytics of government' which 'engages contemporary liberal rule as a general rationality or mentality on the one hand, and as a particular regime or assemblage of government on the other'.

For Joseph (2004), Foucault's strength is precisely in being able to explain 'how' capital operates through mechanisms of power and provides the detail of political economy'. Bringing the managerialism discussed in Chapters 1 and 2 under the gaze of a governmentality approach, MacKinnon (2000: 298) further clarifies the relationship between action and ideology where he argues, 'the local state has been restructured through the deployment of 'managerial' technologies designed to realise the objectives of neoliberal programmes of government. For MacKinnon the managerialist practices advocated by neoliberalism have been 'promoted and legitimated through elaborate rhetorics of accountability and openness' (*ibid*).

Formal environmental impact assessment processes, since their origins in NEPA, have been contemporaneous with the advent and proliferation of neoliberalism. The SEA/good governance nexus, with its own 'elaborate rhetorics of accountability and openness' (see Chapter 2), illustrates the developing affinity between SEA and neoliberalism. Accordingly, any attempt to extend the concept of governmentality into the environmental realm by employing a specifically environmental governmentality must, as Dean (1999) does, acknowledge contemporary neoliberalism as a backdrop to efforts to expand 'government' in a comprehensive way, outwith the social into an (albeit anthropocentrically-defined) environmental context.

The shift from government to governance that has driven the demand for the elements that constitute much of good governance discourse, including accountability and

openness, also remains as a backdrop for consideration of the applicability of a governmentality analytical approach to the examination of SEA. Dean (1999: 165), for example, notes that '[a]dvanced liberal practices of rule [...] set norms, standards, benchmarks, performance indicators, quality controls and best practice standards, to monitor, measure and render calculable the performance of these various agencies'. Following Rutherford (1999) it is possible to locate SEA and the SEA/good governance nexus within these 'technologies of government' (MacKinnon, 2000: 296), that is, 'the set of mechanisms, techniques and procedures through which programmes are activated and put into practice' (*ibid*).

Where environmental assessment is a programme to ensure the consideration of significant environmental impacts within decision-making processes, it can be considered to be such a technology. For Rutherford, EIA, as 'a regulatory mechanism', 'attempts to enhance the effectiveness of government (in the Foucauldian sense) in regulating the complex and multiple materiality of the species body' (1999: 59). While EIA in Scotland has been restricted to project-level decision-making processes, in keeping with governmentality's expansive role, SEA extends liability for environmental assessment vertically to encompass plans, programmes and strategies. For Rutherford, 'the international spread of procedures for *environmental impact assessment*' indicates the institutionalisation of a 'new [form] of ecological governmentality' (*ibid*: 55). However, given the inherent liberalism of contemporary governmentality, the possibility of resistance, and ongoing environmental crises, it can be argued that such an assertion may be premature.

4.2 Governmentality and the SEA/good governance nexus

Darier asserts that '[t]he concept of governmentality has potential for an environmental critique, because it deals with issues of (state) 'security', techniques of control of the population, and new forms of knowledge (savoirs)' (1999, 22). Indeed, SEA raises issues of "security" when significant environmental issues impact upon the population. Moreover, not only is SEA concerned with impacts on the given national territory, under the European SEA Directive it extends redress to citizens of other EU states in the consideration of transboundary effects, thus challenging traditional notions of sovereignty.

Given the selection of meso-level PPSs in the cases considered in Chapters 5 and 6, the sovereignty implications of consultation and participation of SEA and the international

security implications of environmental impacts and SEA are outwith the scope of this thesis. Rather, attention here is focused on three axes identified by Foucault and summarised by Darier (1996: 589) as: 'institutional centralisation, intensification of the effects of power and power/knowledge'. Darier's (1996) study employs the three axes of a governmentality perspective on power to examine the gap between rhetoric and reality in Canada's *Green Plan*. I use the axes to analyse the same gap in the operation of the SEA/good governance nexus in the context of the two Scottish local authority SEA processes.

The first axis, centralisation (section 4.2.1), in keeping with joined-up government aspiration of the SEA/good governance nexus, is crucial in considering whether, in keeping with Stenson (2008), SEA can be a useful meeting point between top-down and bottom-up approaches to sustainable development. A governmentality analytical approach facilitates examination of SEA as a managerial governmental technology alongside the democratisation claims of the SEA/good governance nexus: it allows us to look at whether and how the SEA/good governance nexus manages the 'coexistence of governmental strategies that seek to devolve control to the local, whilst simultaneously recentralizing political control within the state apparatus' (McKee, 2009: 481; cf. Taylor 2007).

SEA can also be considered a 'technique of control of the population' where it attempts to have decision makers 'thinking SEA' (Thérivel, 2004: 209), and encourages all tiers, including members of the public, to become involved in SEA across a range of activities and roles, from actively incorporating environmental considerations into their decision-making work to consuming and contributing to environmental reports. The flow of bio-power is then opened up, facilitating the intensification of the effects of power; the second axis, discussed in section 4.2.2.

Although a realist governmentality approach aims to transcend a purely discursive approach, the third axis – power/knowledge - focuses on creation of, and competition between, asserted knowledges. SEA is, in keeping with Darier's concerns, dependent upon 'new forms of knowledge' where it employs those emerging from schools of environmental science (Luke, 2003). The power/knowledge axis therefore opens up for discussion the role of expertise vis-à-vis an increasingly dominant discursive emphasis on the role of social learning in assessment. This will be considered in section 4.2.3.

4.2.1 Centralisation

For Darier (1996: 601), environmental impact assessment legislation itself is indicative of centralisation tendencies in the operation of an environmental governmentality. Such a view may be in keeping with the aspiration to ‘joined-up’ government contained within the SEA/good governance nexus, be it the networking approach of Barker and Fischer (2003: 706), for example, who posit SEA in England as providing ‘strategic connectivity’ in the face of the shortcomings of increasing devolution, or a more hierarchical approach. As McKee states (2009: 476), ‘centralizing and decentralizing forces are not necessarily mutually exclusive’.

These arguments may, however, overstate coherence in discipline-based SEA practice. While various disciplines may provide information towards an assessment where it is relevant to their function, it does not follow that this will mean they will be more likely to work with other departments or be more mindful of other Responsible Authority functions. Hajer asserts that ‘[t]he 1970s idea to control environmental pollution, dividing the environment into components ... and then drawing on specialized knowledge to define routine solutions for each sub-category, has failed’ (1995: 31). However, such a separation is central to SEA in Scotland. SEA topic areas, mirroring those of the SEA Directive, echo the very fragmented practices that Hajer bemoans. Fragmentation (or ‘departmentalism’ if found within the public sector) is supported by the sub-division that is encouraged by specialist knowledge areas required for the supply of data on SEA topics.

Fragmentation encountered by practitioners of SEA has led to demands for centralised data for SEA, feasible where practitioners are using the common taxonomy defined by the Directive. For example, Haklay *et al* recommend the use of a single national repository for the storage of environmental data (1998: 454). Such a repository would, they assert, facilitate the assessment of cumulative impacts (*ibid*: 441), a central objective of SEA. Rather than embracing the optimistic view of those who advocate inclusion of a broader array of knowledges at the local level, in accordance with the democratic aspirations of a ‘good governance’ approach, Haklay *et al* suggest the use of an ‘objective’ procedure that uses the same databases and the same technique for different projects’ thus alleviating pressure from stakeholders (*ibid*: 456). The Royal Town Planning Institute (RTPI) supports the joining-up of government in this way where it recommends, ‘developing centralised services where appropriate’ (2005: 15).

Centralisation is thus justified in the name of joining-up government, although cooperative working models would reject such a hierarchical model (Jänicke, 1996). As discussed in Chapter 2, environmental assessment in the UK has been implemented and operating within a wider agenda of joined-up government and centralisation: in 1999 The Economist deemed Prime Minister Blair to be ‘... ‘reinventing’ the centre of British government by disempowering the departments ... and strengthening the coordination and control at the centre’ (Gray and Jenkins, 2000: 239). However, countering the view that centralisation is being driven from the top as The Economist asserts, ‘It must be remembered’, the Royal Town Planning Institute (RTPI) states (2005: 1), ‘that stakeholders are right to demand improved co-ordination and consistency between the various public bodies and functions who wish to hear their views’. Thus centralisation is framed in terms of satisfaction of demand from below (and governmentality becomes good governance). And as opportunities for consultation are expanded so, as ‘consultation fatigue’ sets in, they are to be streamlined. As discussed in Chapter 2, the tiering principle in SEA suggests that benefits are to be gleaned from considering the environmental impacts of strategic-level PPSs because issues resolved at that level should not need to be re-visited further down the hierarchy of PPSs. Preferring horizontal ‘integration by networking and cooperation’, Jänicke (1996: 76) is less enthusiastic about the opportunities afforded by ‘vertical integration’: ‘hierarchical integration is generally seen as an advantage of dictatorships’ (*ibid.*).

Centralised data repositories, too, contribute to the ‘tendency [for SEA] to pull in a technocratic rather than participatory direction’ recognised by Owens and Cowell (2002: 51). Thus, rather than SEA being, in the hopes of the Scottish Executive, and the SEA/good governance nexus, an opportunity to enhance democracy and good governance, it may, in the words of Owens and Cowell (*ibid.*: 50), ‘epitomise the managerialist practices through which modern states legitimise dominant patterns of growth and development’. Rather than representing a move to ecological governmentality (Rutherford, 1999), environmental governmentality (Darier, 1996), or green governmentality (Luke 1999), centralising, technocratic tendencies in the service of ‘growth and development’ place SEA firmly within Foucault’s liberal governmentality.

Contemporary neoliberal governance extends ‘management’ by joining-up government to include partners outwith the state (Hudson *et al*, 2007: 57). Taylor (2002: 114), however, highlights the subjection of ‘partners’ within governmentality where they

are 'disciplined in [...] 'the politics of meeting targets' with definitions of success and probity generated from central government'. While McKee (2009) believes that such contradictory forces are particularly prevalent in the context of the 'housing arena', Chapter 6 herein argues that the introduction of the Single Outcome Agreement mechanism into Community Planning provides an arena in which locally defined environmental priorities identified and defined by Community Planning partners must be 'tweaked' to fit priorities set by central government.

There is further evidence of the occurrence of simultaneous devolution (assuming consultation is effective) and centralising tendencies in the Scottish SEA guidance: 'Figure 13.1: Overview of SEA consultation requirements (NB – To ease administration, Responsible Authorities are asked to consult the Consultation Authorities via the [Scottish government] SEA Gateway)' (Scottish Executive, 2006). Within Scottish SEA, again bureaucratic centralisation is framed as being driven from the bottom up: 'In line with the majority of respondents, the Executive considers that a focal point performing advisory, co-ordinating and management information functions is crucial to ensuring quality, consistency and transparency' (Scottish Executive Environment Group, 2005: para. 3.17). In the assertion that the designated central body, part of the Government, should be responsible for 'quality, consistency and transparency', the SEA Gateway becomes the *panopticon*. As discussed in Chapter 2, it holds documentation across all SEA stages from pre-screening through to post-adoption.

Foucault (1979) highlights the transparency afforded by Jeremy Bentham's (1791) panopticon prison design, whereby cells are arranged around a central viewing tower. Prisoners may or may not be under surveillance at any given time and so must self-regulate accordingly: in assuming that they *may* be under surveillance, subjects behave *as if* they are. The concept of the panopticon is appropriated by Foucault to illustrate the disciplinary power of the technologies employed within governmentality to assure compliance. As Darier (1996: 600) assigns the panopticon role to eco-labelling inasmuch as 'we cannot escape shopping on a regular basis', so, if properly implemented, should the central Gateway be identified as having that role as it (perhaps) casts its gaze across the range of SEA activities. The objects of this manifestation of bio-power, the population of SEA practitioners, PPS developers and decision makers, are thus 'disciplined' in exercising a regulated autonomy. While surveilling the whole, the Gateway ensures individuals are self-policing: *omnes et singulatum* – 'the state is both individualizing and totalitarian' (Foucault, 2002c: 325).

The centre has a further role in Scottish SEA where the Scottish Government is the ultimate arbiter in contentious situations in SEA: for example, the Scottish guidance counsels that 'if the Responsible Authority and the Consultation Authorities are unable to agree on whether or not a PPS is likely to have significant environmental effects, the Responsible Authority should refer the matter to the Scottish Ministers for a determination (Scottish Executive, 2006: para. 4.4.10). Scottish Ministers may also step in if they consider the consultation arrangements inadequate to ensure the Consultation Authorities and the public are afforded 'an early and effective opportunity to express their opinion on the PPS and the accompanying Environmental Report' (*ibid*: para. 5.2.4). Thus, in the operation of Scottish SEA, the centre may be involved in the intensification of the effects of power.

4.2.2 *Intensification of the effects of power*

The second facet of governmentality considered herein is the intensification of the effects of power, described by Darier as 'the capillary diffusion of power effects across the entire social body' (1999: 21). As environmental data requirements burgeon across all tiers of decision-making, the extension of bio-power beyond the social body occurs. The introduction of 'good governance' discourse into SEA by transnational bodies and national governments can be considered symptomatic of the intensification of the effects of power where it results in a particular formula of what constitutes 'good' governance being inserted, via SEA, potentially into lower tiers of decision making. Good governance demands for transparency, accountability and so on are added to the ambition that decision makers be 'thinking SEA' thus risking SEA becoming a conduit for normative governance-focused political goals rather than primarily a technique of environmental sustainability-focused ecological governmentality, as Rutherford (1999: 55) asserts. That a technique ostensibly concerned with improving environmental quality can be co-opted in such a way is clear where Dean (1999: 191) states that it is a

fundamental tenet of the governmentality literature ... that calculative rationalities such as those of risk have a certain political polyvalence ... they can be invested with different sets of purposes depending on the political programmes and rationalities they come to be latched onto.

While SEA can be employed as a technology of government according to a particular dominant rationality, *within* SEA the intensification of the effects of power is demonstrated where documented environmental assessment processes are extended

beyond project-level EIA to cover the higher tiers of decision making. Indeed, the Scottish guidance states that '[a]lthough the Act refers to plans and programmes, it includes plans, programmes and strategies (which include policies)' (Scottish Executive, 2006: para.6.2.2). Therefore, if SEA is meticulously applied, decisions on PPSs subject to SEA, across *all* tiers of decision making are rendered transparent and accountable to the Scottish Ministers.

In a 'good governance' approach to SEA, with a focus on inter-sectoral partnership working, the extension of formal environmental assessment from project-level EIA to SEA is complemented by an increased *breadth* of governance to include the third sector (including NGOs, voluntary and community sectors), the private sector and the public. From a governmentality perspective, this is an acknowledgement and a consolidation of what already was; the public sector/state being but one manifestation of power amongst others.

The promotion of partnership working in governance approaches demonstrates the fluid boundaries between the 'public' and other sectors. Regardless, McKee's point is worth re-iterating: 'a governmental analysis highlights that less direct government in society does not necessarily entail less governing' (2009: 469-70). SEA provides a mechanism whereby those outwith the state sector, if their responsibilities are clearly defined, can be brought within formal assessment procedures.

Alongside the expansion vertically through the tiers of decision making and horizontally to encompass actors outwith the public sector, SEA facilitates scrutiny along the temporal dimension where public participation and consultation are encouraged at the various stages of the process covering timeframes both before (screening, scoping, Environmental Report) and after (post-adoption statement, monitoring) the adoption of the PPS. As discussed in Chapter 1, the failings of a stagist approach to policy making are well rehearsed elsewhere (cf. Parsons, 1995: 80), however, it is employed here because it represents the organising principle for SEA in Scotland.

The statutory minimum for public participation in SEA in Scotland consists of the publication of *screening determinations* and the opportunity for comment by members of the public on the *Environmental Report*. However, as discussed in Chapter 2, the public may be brought in at any stage. In keeping with its significance within a governmentality approach, monitoring is a distinct stage in SEA. SEA training in Scotland encourages those undertaking SEA to involve the public in monitoring for SEA. Therefore, even if they have not contributed to the decisions that have been made prior to the implementation of the PPS, members of the interested public, as well as decision makers, can be encouraged to be

'thinking SEA' if involved in ongoing monitoring thereafter.

As capitalism, according to Foucault (1984b: 263), 'would not have been possible without the controlled insertion of bodies into the machinery of production and the adjustment of the phenomena of population to economic processes', so its progeny, ecological modernisation, represented in this case by the SEA/good governance nexus, is not possible without the insertion of bodies into its processes. As discussed in Chapters 1 and 2, the inclusion of participant bodies helps to ensure the legitimacy of PPSs. As Foucault warns, however, '[t]he exercise of power can produce as much acceptance as may be wished for' (2002d: 341). Indeed, much of the SEA literature describes the desirability of public participation in SEA in terms of how it will intensify the effects of power or, as is more likely to be asserted in the context of SEA, smooth the development process, thus supporting the efficiency that is at the heart of contemporary governance discourse. Heiland's list of 'opportunities [...] of public participation in SEA includes: 'a simpler and faster procedure' and 'a better acceptance of the strategic action' (2005: 422). Similarly, Farrington and Ryder are encouraged by the Department of Trade and Industry's implementation of environmental assessment, which, it hopes, 'will help avoid delays at a later stage' (1993: 110).

Individual subjects need not act within any particular SEA to become embroiled in the bio-power prevalent in the process. The various accountabilities evoked by environmental assessment demonstrate the array of power relationships that exist within SEA. Electoral accountability, for example, affords a passive public an active role where PPSs can be afforded legitimacy if a public fails to react negatively to an elected member responsible for decision making on a PPS during an election. As this form of accountability is central to 'good governance' discourse, the SEA/good governance nexus implicates micro-level individuals regardless of their awareness of either the PPS or SEA.

4.2.3 Power/knowledge

While individuals are implicated in SEA inasmuch as it is a technique of government that exemplifies the operation of a bio-power seeking to encapsulate the whole population (and its environment), their potential role in the SEA process will depend on that which they bring to it. Foucault's governmentality perspective on power is tied to the production of knowledges: 'there is no power relation without the correlative constitution of a field of

knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations' (Foucault, 1979: 27). Or, as Bryant puts it: 'power and knowledge were flip sides of the same coin' (2002: 270). Neither power nor knowledge (nor opportunity for access to these) is equally distributed amongst participants in SEA and the PPSs they support:

The accumulation of inscriptions in certain locales, by certain persons or groups, makes them powerful in the sense that it confers upon them the capacity to engage in certain calculations and to lay a claim to legitimacy for their plans and strategies because they are, in a real sense, in the know about that which they seek to govern. (Rose and Miller, 1992: 185-186)

While such locales may be entirely visible and so transparent and accountable, as within the formal consultation and participation provisions of a 'good governance' framework, Pelling *et al* (2008) discuss the informal (and thus less transparent) 'shadow systems' that exist within organisations. These 'constellations of communities of practice held together by bridging ties of social capital [...] could be a source of inequality between those people, ideas, or values inside and outside the network' (*ibid*: 879). The recognition of inequalities rooted in access to networks of governance illustrates the exclusive conception of 'social capital' (cf. Bourdieu, 1986). So 'enclosures of expertise' (Rose and Miller, 1992) are able to dominate ostensibly inclusive assessment practices and, furthermore, define what constitutes 'best practice'. As Taylor (2002: 117) states, 'much depends on who is defining 'best' and for whom and what assumptions lie behind this'. And again, highlighting the inherent liberalism of governmentality, Dean (1999: 165) reminds us that 'best practice standards' are set in the context of 'advanced liberal practices of rule'. Taylor too raises concerns about best practice where 'it can also suppress learning' (2002: 118).

Power exercised through the 'enclosures of expertise' in the environmental context prompts Luke to outline an 'eco-managerialism' that is facilitated by the dominant sustainability discourse (1999: 142): 'Encircled by grids of ecological alarm, sustainability discourse tells us that today's allegedly unsustainable environments need to be disassembled, recombined and subjected to the disciplinary designs of expert management'. For Luke (2003), existing and emerging disciplines in environmental science, based within state-approved institutional environments, perpetuate such eco-managerialist practices:

Professional technical experts working on and off campus create disciplinary articulations of various knowledge to generate performative techniques of power over, but also within and through, what is worked

up as nature in the managerial structures of modern economies and societies. (*ibid*)

Luke's position is supported in Scotland where the only Scottish-based SEA training provider that is listed on the Scottish Government's website is located within a university (as of 11th March 2010). In addition, where SEA training takes place, numbers will necessarily be limited to those for whom conducting SEA is a rising priority. Given the resource requirements, it is less likely to occur for those with a lesser but nonetheless potentially contributory role.

Regardless, alongside institutional learning, social learning is a recurrent thread in the SEA literature. Where Marshall and Fischer point to SEA's potential for 'supporting a 'social learning process' among the different actors' with a view to 'chang[ing] hearts and minds of actors and stakeholders in policy, plan and programme procedures' (2006: 284), they underline the importance within a governmentality approach of Lehtonen's statement that: 'To study learning entails asking 'who learns?'' (2007: 17-19). This question is particularly appropriate where claims of 'double-loop learning' and inclusive adaptive management are made (cf. Lehtonen, 2007; Fennell *et al*, 2007).

The power/knowledge connection is illustrated by Foucault's contention that "'savoir" [...] is what enables one both to modify the subject and to construct the object' (2002b: 256), while the subjects of social learning in Darier's (1996) research are identified by his finding that 'the majority of the six objectives of the [Canadian] environmental citizenship programme, deal with 'education' objectives' (*ibid*: 598). That 'social' learning may be directed *towards* rather than *from* the population is supported by Rose and Miller's assertion: 'By means of expertise, self regulatory techniques can be installed in citizens that will align their personal choices with the ends of government' (1992: 188-189).

Bäckstrand (2004) helps bind the power/knowledge axis of governmentality to the SEA/good governance nexus where she states that 'research under the banner of 'civic expertise' (including notions of citizen science, stakeholder and democratic science) provide a coherent agenda for reforming the scientific endeavour toward incorporating transparency, accountability and participation' (*ibid*: 696). The rhetorical centrality of public participation to previously technocratic processes is echoed by the Scottish government where it cites the benefits of SEA as both the protection of the environment and 'extending opportunities for public participation in policy decision making' (Scottish Executive, 2007: para. 1.1). In this view, SEA, if implemented in adherence to the SEA/good governance nexus, could again provide a useful meeting point between top-down and

bottom-up approaches to sustainable development and help end what Parsons calls ‘the conflict between technological elitism and democratic decision-making’ (1995: 266).

However, in project-level EIA, contrary to a broader involvement of the public as prescribed by the SEA/good governance nexus, the drive towards efficiency, improved prediction and clearer communication of results (transparency) has resulted, in Bissett’s view, in a ‘greater emphasis on the role of science’ (1988: 58). The same emphasis may be identified in Scottish SEA by the centrality of the statutory consultation authorities. They have a say in the screening and scoping stages and are sent copies of Environmental Reports, although response at that stage is discretionary. The post-adoption statement must outline and explain the treatment of the input from the statutory consultees.

Moreover, while involvement of CAs is expected, there are reservations amongst SEA practitioners around the involvement of the public. Contrary to the higher rungs of citizen involvement described by Arnstein (1969) and Petts (1999) (see Chapter 2), Thérivel (2004: 72), for example, is ‘not certain that the benefits of such involvement outweigh its costs in all circumstances’. Similarly, although Wiklund appreciates the potential value of public participation in environmental assessment (2005: 288), there are caveats: ‘... the right level and form of participation is most likely context-specific, and applying the wrong level and form may do more harm than good’. A tension therefore arises where a contextually sensitive approach to democratising SEA is met with a totalising approach to good governance: Bovaird and Löffler (2003) argue for a ‘standardisation of approaches’ to the assessment of ‘good governance’. Such a backdrop may encourage the practice described by Bickerstaff and Walker whereby, rather than incorporating the knowledges brought to the SEA process by public participants (including non state-approved groups) ‘... the use of participatory outputs often served a rather symbolic role—to signal good decision-making without necessarily influencing it’ (2005: 2134). Indeed, Bickerstaff and Walker’s review of research on ‘the impacts of participation’ concludes that ‘participation is not having a substantive effect on policy processes and decision outcomes’ (*ibid*: 2132). Those authors’ findings point to the centrality of the legitimising role of participation in environmental assessment and open the discussion about resistance in SEA.

4.2.4 *Resistance in SEA*

MacKinnon reminds us that ‘it is not technologies or programmes of government that act,

but rather the social forces deploying these technologies and programmes for their own particular purposes' (2000: 299). The potential for resistance to such 'particular purposes' (as well as the inherent liberalism of Foucault's governmentality) is demonstrated by McKee (2009: 471) where she states, following Foucault, that: 'subjects have the ability to react to, and resist, governmental ambitions to regulate their conduct': echoing critical realists who see actors as either transforming their environments or perpetuating the status quo, there is room for manoeuvre within the regulated autonomy demanded by the panopticon. In the practice of SEA there is therefore the possibility of exercising and/or meeting resistance across the levels. This section highlights actual resistance to the 'spirit' of SEA at a macro level and further opportunities for resistance at lower levels.

It should be remembered that the body responsible for the European SEA Directive exists to ensure a 'common market'. Its purpose was, and remains, primarily economic. As a result of resistance to the inclusion of policy-level SEA by EU Member States, the European Directive limited liability of environmental assessment to programmes and plans (Kläne and Albrecht, 2005: 23). In its transposition of the Directive into national law, Scotland similarly declined to maximise the reach of SEA where it too limited consideration to plans and programmes, although 'any reference to plans or programmes includes strategies' (Environmental assessment (Scotland Act), 2005 sec.4(4)). The non-statutory guidance asserts (in brackets) that 'strategies' includes policies (Scottish Executive, 2006: para. 6.2.2). Such relegation of the potential of SEA to bring environmental consideration into policy-level decision making into brackets within non-statutory guidance undermines Stinchcombe and Gibson's ambition to bring, through SEA, the 'creative and transformative potential' of environmental assessment 'into the policy realm' (2001: 349).

A further area of resistance, on the macro-level, is liability to conduct SEA. On the question of which PPSs should be 'subject to screening' the Scottish Executive stated,

Reflecting the majority view, the Executive proposes to proceed with a case by case approach. In addition, the Executive will continue its commitment to developing an indicative list of strategies, plans and programmes to be based on experience and developed over time. (Scottish Executive Environment Group, 2005: 1)

Regardless, despite Scotland's rhetorical efforts to be seen to be stepping beyond the narrow confines of the Directive, and in keeping with Article 4 of the SEA Protocol, categories of exemptions that will be excluded from such 'case by case' consideration

include 'financial or budgetary plans and programmes' (Scottish Executive, 2006: para. 2.2.17). This despite the protests of the environmental lobby, seeking to maximise the environmental benefits of SEA, during the consultation on the legislation: Friends of the Earth (FoE) sought to 'enable financial and budgetary plans to be included' (2005: 2) while the RSPB too hoped that the legislation 'be amended to remove the exclusion currently applied to financial or budgetary plans and programmes' (2005: 2). Successful resistance to the maximising the potential for the development of an environmental governmentality through the technique of SEA has thus been demonstrated at the national level in Scotland. Such opportunities for resistance can also be found further down the hierarchy.

At the core of governmentality is the recognition that, 'it is often in the mundane and humble procedures of examination and assessment at the micro-level that we can discern the operation of biopower' (Rutherford, 1999: 56). For Rutherford (*ibid*) it is 'in this context the environmental impact assessment (EIA) process provides a useful illustration of one aspect of ecological governmentality'. The examination of environmental assessment, either EIA or SEA, from a realist governmentality perspective affords a useful illustration not only of the efforts of environmental governmentality but also of conflicting governmentalities that may exist, and from which resistance may arise.

Highlighting the possibility of resistance, and contrary to the negative view of governmentality where all are subjected within a totalising power from which there is no escape, Foucault looks at the productive potential of power: 'Power is everywhere; not because it embraces everything, but because it comes from everywhere' (cited in Jessop, 2007: 37). Indeed, Rose and Miller point to a matrix of opportunities for resistance (1992: 190): 'Each actor, each locale, is the point of intersection between forces, and hence a point of potential resistance to any one way of thinking and acting, or a point of organization and promulgation of a different or oppositional programme'. The following will focus on the opportunities that exist in Scotland for resistance to an SEA-focused 'way of thinking and acting' at each of its stages.

Screening

The screening stage provides a potentially rich seam of resistance to/within SEA. The inclusion of a pre-screening opportunity in the draft legislation was met with opposition including from Friends of the Earth (FoE) who were 'concerned at the inclusion of a pre-

screening opt-out clause in the Bill which enables Responsible Authorities who deem that a proposal would have either 'no' or 'minimal' significant environmental impact to avoid undertaking an SEA' (2005:1). Similarly, the Royal Society for the Protection of Birds (RSPB) wanted pre-screening to be incorporated with formal screening (RSPB, 2005: 1). If, in keeping with the SEA/good governance nexus, SEA requires partnership working with informed stakeholders, then it can be argued that the initial decision on whether to conduct SEA at all would require such expertise. Despite these pre-legislative objections, as discussed in Chapter 2, there is a distinct pre-screening opportunity in Scotland, although CAs must be informed (Environmental Assessment (Scotland) Act, 2005: s.7(3)) and the pre-screening should be publicised (*ibid.*: s.7(6)). Further opportunity for resistance to undertaking SEA exists at the formal screening stage.

The relevance of a governmentality approach in the context of a neoliberally-driven shift from government to governance is underlined where Foucault asserts that 'it is the tactics of government which make possible the continual definition and redefinition of what is within the competence of the state and what is not, the public versus the private...' (1991: 103). The simple contracting out of public sector functions is covered by section 2(2) of the Act, designating responsible authority status to 'the authority by whom, *or on whose behalf*, the plan or programme is prepared' (emphasis added). There is more room for resistance where SEA is intended to be applicable to PPSs of a 'public character' (section 2(1)). The SEA Toolkit for Scotland states (in a footnote) that the phrase 'public character'

seeks to capture the full extent of the public sector, from central and local government, across the range of public bodies and to those private companies who perform public functions under licence or in accordance with statutory powers (Scottish Executive, 2006: 4).

Concerns arise, however, around the arguably built-in space for resistance to the environmental governmentality aspirations of SEA where 'public character' is conceived as being purely 'public sector', for example, Jackson and Illsley's (2006, 379) focus on 'public sector policy formulation' mentioned in Chapter 1. A barrier is thus erected to the intensification of the effects of power as the flow of control outwith the public sector is blocked. In 2005 the Scottish Executive Environment Group stated that they would 'consider how best to address these concerns [about agencies and private companies which perform functions of a public character] and will explore the possibility of providing further guidance' (2005: 20). No such guidance has been forthcoming and the SEA

Gateway asserts it has, thus far, not been necessary (pers. comm. 10th June 2009).

Scoping

Where an SEA is to be conducted for a PPS, the subsequent stage, scoping, offers opportunities to resist the transformative potential of SEA as an effective technique of environmental governmentality. As discussed in Chapter 2, the scoping stage of SEA is that at which the ‘the remit of the plan, programme or strategy [and] geographical and temporal coverage’ of the PPS are defined as well as the environmental baseline (Scottish Executive, 2006: para.5.1.2). It is also the point at which the SEA objectives are articulated and documented. The definition at the scoping stage of the PPS components and environmental issues to be included within the assessment opens up space for resistance where the politics of planning and development can come into play at the local level (see further discussion in the case study chapters, 5 and 6).

Although Petts argues that the scoping stage is when ‘the scope for public influence is greatest’ (1999: 158), the definition of the consultation period at the scoping stage provides further space for resistance to the enhanced consultation and participation sought by those proposing a transformative SEA. For example, consultation periods can be set to coincide with holiday periods. The duration of the consultation period is also important where documentation is extensive (as is often the case in SEA). Lengthy consultations facilitate organised, informed resistance by those opposed to either the PPS or aspects of the SEA.

A further opportunity for resistance exists at the scoping stage. The tiering concept may facilitate procrastination and resistance by budget-aware higher tiers of decision making: assessment may be deferred to lower, subsequent tiers of PPS or project making. Where SEA is largely conducted by the public sector, the private sector is more often liable for lower-tier EIA. This aspect of resistance to SEA will be discussed further in Chapter 5. Concern regarding resource outlay may impact on other aspects of the SEA process.

Environmental Report

The scoping report need only include alternatives ‘if known at this point’ (Scottish Executive, 2006: para.5.3.1). However, according to the Scottish guidance (*ibid.*: para.6.3.3), ‘reasonable alternatives to the PPS must be identified, described and evaluated in the

Environmental Report'. Thus Foucault's conception of power is made explicit: it is, as McKee notes (2009: 471), 'more about the 'management of possibilities' and the ability to 'structure the (possible) actions of others' than recourse to violence or coercion' (cf. Foucault, 2002d: 341). While the proponents of SEA view the generation of alternatives as a significant opportunity for innovation, the Scottish guidance states that '[a]lternatives may include those to the PPS, and also those within the PPS' (Scottish Executive, 2006: 10): it is not strictly necessary to provide alternatives *to* the PPS. The 'management of possibilities' is therefore facilitated for the Responsible Authority still able to 'structure the (possible) actions' around the PPS rather than having to work according to the results of a comprehensive inclusive (of all reasonable alternatives) SEA.

The management of possibilities is further evidenced where the power/knowledge axis presents arenas of resistance as conflicts of knowledges occur. For example, opinion is split between those who are reluctant to incorporate participatory contributions and those who see the key to transformative SEA as lying precisely in those alternative knowledges. Fry *et al* emphasise that consultation and data assembly 'should not be seen as separate exercises' (2002: ii). An opportunity for resistance to the incorporation of potentially transformative lay knowledges appears, however, where consultations are limited to 'requests for external baseline data' (Marshall and Fischer, 2006: 289). Devlin and Yap (2008: 18) believe that even, '[p]articipatory data collection is not the same as effective public participation in policy making'. Rather than fully inclusive participation, which would require a degree of power sharing in PPS and assessment processes, such perfunctory efforts send participation to the lower rungs of Arnstein's ladder.

Post-adoption statement

In a study of public participation in Forest Service activities in the U.S., Schwarze offers another example of resistance to inclusive consideration of a variety of perspectives (2004: 144):

The quantification and listing of public participation ... makes clear the variety of means by which publics could have been involved with the agency ... [but] empties the substantive content of public participation and represents it instead in terms of aggregate data.

So while Getimis and Heinel's (2004) input legitimacy and throughput legitimacy can be claimed by PPS makers ostensibly opening up decision processes to public participation, again

the participation cannot be proven to have been effective towards outcomes, despite having been included in the process.

In SEA the Responsible Authority must, however, report on how consultation responses were taken into account in a post-adoption statement. While the power/knowledge nexus privileges certain input into assessment and decision-making processes, the output of public participation which is contributed may be open to manipulation by misrepresentation. For example, Chapter 5 describes how an action group was formed precisely because its members felt that the participation process they saw represented in official documentation bore little resemblance to the process in which they had participated.

The Responsible Authority may further resist potentially transformative input from participation and consultation by refusing to take it on board at all. The post adoption statement may merely report that although public participation and other consultative inputs have been taken into consideration there will be no change to the PPS. Each incidence of resistance to public engagement in SEA undermines the integrity of the SEA/good governance nexus while ensuring the status quo.

4.3 Conclusion

The World Bank is prescribing the SEA/good governance nexus through its institutions-centred approach to SEA, seeking to bring systems of governance into an environmental improvement instrument which, in contrast, was originally intended for 'inducing ecological rationality into systems of governance' (Bina, 2007: 599):

Unlike the traditional approach on "impact-centred SEA", the institutions-centred approach to SEA does not focus primarily on assessing potential impacts and mitigating these impacts. Rather, it places *special emphasis on improved governance and social accountability ... on a continuous basis as well as social learning...* (OECD, 2006: 53, emphasis added).

The application of good governance to SEA is a normative exercise that fails to acknowledge, except in rhetoric, the necessity of an appreciation of the context-specificity of SEA. While '[c]oherence is not an essential feature of discourse' (Hajer, 1995: 42), it can be argued that for a successful instance of discursive affinity, such as that sought by the World Bank, OECD and national governments in their attempt to encumber SEA with the

normative baggage of good governance, incompatibilities should not render effective practice impossible.

While Wallington *et al* (2007: 575) conclude that 'no one theory or model of SEA will adequately explain how and why SEA works (or doesn't work) to achieve its intended purpose', the argument herein suggests that a realist governmentality approach to SEA accommodates both the 'positives' of SEA (from the perspective of its proponents) – the attempt to institutionalise an environmental governmentality, and have the population, at least the population of decision makers, 'thinking SEA' – and the 'negatives' (again from the perspective of its proponents), specifically the resistance that may be encountered in such a strategy.

Wallington *et al* finish their review of approaches to the 'conceptual foundations' of SEA with an exhortation for the 'SEA community' to:

'Know yourself (the values, goals and assumptions underpinning SEA).

Know the 'enemy' (the specific decision-making process of a PPP, the values held by the many actors involved, political dispositions and motivations, etc.).

Know the terrain (the biophysical environment, as well as the key characteristics of the wider context and how they affect decision-making processes)' (*ibid*: 581).

While such guidance may be invaluable to practitioners, this chapter has hoped to demonstrate that an examination of knowledge in environmental assessment is only one part of the framework necessary to understand fully the operation of SEA. As Foucault states: 'the will to knowledge does not achieve a universal truth; man is not given an exact and serene mastery of nature' (1984a: 95). Approaching SEA from a governmentality perspective means that the tensions and debates within SEA can be accommodated within a framework that acknowledges the power dimension, little discussed within the SEA/good governance nexus, thus helping to explain why the assessment process may not produce the benign outcomes that one may expect from the application of a technique designed ostensibly to facilitate such outcomes.

Dean (1999: 36) succinctly describes the usefulness of a governmentality approach where he outlines its potential:

to open the space in which to think about how it is possible to do things in a different fashion, to highlight the points at which resistance and contestation bring an urgency to their transformation, and even to demonstrate the degree to which that transformation may prove difficult.

The plethora of potential points of resistance in the SEA process highlights its vulnerability; its dependence on a continuity of rationality throughout the PPS and SEA processes. The application of a realist governmentality approach facilitates the examination of often conflicting neoliberal and environmental rationalities that generate and exacerbate resistance both vertically across the tiers of decision making and temporally, throughout the decision-making and SEA processes. Regardless, and further underlining the applicability of a governmentality approach to the examination of SEA, 'the calculated management of life' continues to envelop not only the social body but its environment (Foucault, 1984a: 262).

The next two chapters examine the operation of the SEA/good governance nexus within the two Scottish local authority cases described in the previous chapter, detailing the success and failure in the application of the six elements introduced in Chapter 2: transparency, accountability, joined-up government, partnership working, consultation and participation. Chapter 7 will then apply a governmentality lens to the results presented in Chapters 5 and 6.

Chapter 5

Case 1: A96 Corridor Growth Development Framework SEA

The *A96 Corridor Growth Development Framework* (hereafter ‘the Plan’) is aimed at providing a structured approach to accommodating population growth in the Moray Firth in the north of Scotland from 2011 until 2041 (Halcrow Group Limited, 2007d). The Responsible Authority for the SEA is The Highland Council whose administration covers almost a third of the geographical area of Scotland, though with less than five per cent of its human population (see Figure 5.1).

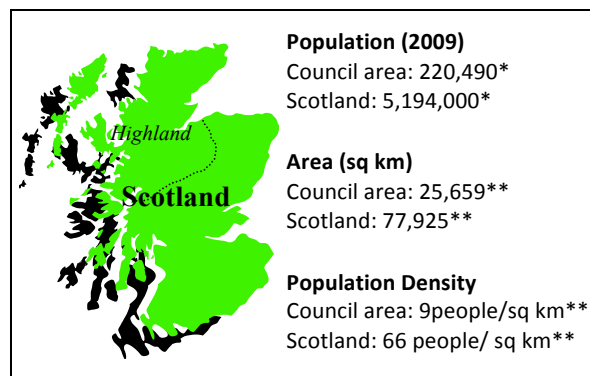


Figure 5.1 Highland Council's geographic and demographic characteristics

Sources: *General Register Office for Scotland (2010b); **General Register Office for Scotland (2009)].

The planning process for the Plan was divided into two main phases. Phase 1 determined the strategic distribution of development in the A96 Corridor while Phase 2 focused on the specific development areas and a Green Framework. Phase 1 was not subject to formal strategic environmental assessment but formed the foundations for Phase 2 which did undergo SEA.

The chapter begins with an introduction to the SEA/good governance nexus as manifest in the planning and SEA processes of the Plan (section 5.1). Structured around the stages of SEA, section 5.2 will examine the SEA and PPS processes in light of the elements of good governance detailed in Chapter 2 (sections 2.3-2.8): transparency; accountability;

partnership working; joined-up government; consultation with statutory consultees; and public participation. Section 5.3 will then consider, in more detail, each of the elements of good governance and whether the SEA process that took place helped those elements contribute to the SEA/good governance nexus in this case.

5.1 Aspirations to the SEA/good governance nexus in Highland

Section 1.1 described the varied roles attributed to SEA, from the technically-focused documentation of scientifically-based environmental assessment, to grander claims where it enhances democracy and allays international conflict. That spectrum is reflected in the roles attributed to SEA in the Highland case. For the SEA consultant, the process brings environmental considerations to the fore (Interview, May 2009): 'I see one of the roles of SEA as highlighting the importance of sustainability and environmental issues within a plan, a programme or a policy'. The Scoping Report describes how the consideration of options facilitated by SEA will improve the PPS (Halcrow Group Limited, 2006a: para. 1.2.2): '[SEA] will provide recommendations to assist in option development, so as to reduce any potential negative impacts'. The subsequent Environmental Report goes further: not only will SEA help in option development, it will then ensure an overall higher standard of options emerge from the initial stages. It states, 'The application of SEA processes to the Draft Masterplan highlights those features that stand up to detailed scrutiny and leads to the improvement of those that do not' (Halcrow Group Limited, 2007a: para. 1.2.2). The Scoping Report describes SEA as being central to strategic decision making: 'the Environmental Report is a tool used to aid the decision making process and will be used as such to determine the final content of policies, proposals and development sites to be contained within the masterplan' (Halcrow Group Limited, 2006a: para. 1.2.4).

While these roles are focused on the value of SEA in terms of environmental benefit and consequent improvement of the PPSs, the Plan's SEA documentation includes references to the elements of good governance discussed in Chapter 2. The SEA consultants deem the enhancement of transparency, introduced in section 2.3, and re-visited in section 5.3.1, to be central to SEA. According to the Scoping Report (*ibid.*: para. 1.2.2.), SEA is 'not only a decision-aiding tool in the plan-making process, but also provides a transparent audit/record of decisions taken'. That report, the first documentation of the SEA process in this case, sets out its hopes for SEA facilitating transparency in the planning process (*ibid.*: para. 5.3.2):

The Environmental Report will detail the reasons for selecting those sites identified in the masterplan for development purposes, describe why other alternative sites were discarded, and explain the reasons for excluding suggested development sites (which were not considered realistically capable of development) from a more detailed assessment, *in the interests of transparency and openness* [emphasis added]

The Environmental Report further explains itself in terms of transparency: ‘The SEA Act requires the production of an Environmental Report (ER) documenting the process, as a means to aid transparency in decision making by public bodies’ (Halcrow Group Limited, 2007a: non-technical summary, section 3).

Transparency requires only one-way communication, that is, the production of reports outlining the processes undertaken. However, accountability, discussed in section 2.4, requires more two-way communication. For example, in discussing the role of the public in SEA, the Responsible Authority’s Sustainable Development Officer believes that it ‘helps us to make sure ... well obviously we’re a local authority and we’re delivering services on behalf of the public so we want to make sure that what we’re doing is what the public wants us to be doing and that helps us’ (Interview, March 2009). Accountability in the Highland case is examined fully in section 5.3.2

Where the governing bodies and the governed hold common objectives, the likelihood of efficient decision processes is increased. Similarly, effective integration of SEA and planning processes will further efficiency and satisfy the joined-up government requirement of good governance examined fully in section 2.6. This element of the SEA/good governance nexus can be said to be where the governance imperative of efficiency meets the objective of the integration of environment into decision making: the Scoping Report acknowledges, ‘The Regulations require the SEA process to be fully integrated with the Development Plan preparation process, with both processes running in parallel and being clearly defined’ (Halcrow Group Limited, 2006a: para.1.2.4).

The SEA and PPS processes discussed in section 5.3.4 belie that account of joined-up government through SEA in the Highland case. Regardless, within SEA itself, the Scoping Report echoes the guidance in stating that not only should the SEA topics listed be subject to consideration in assessing the impacts of the Plan, but also the ‘the inter-relationship of all of the above factors’ should also be examined (*ibid.*: para. 5.4.1). Indeed, the Scoping Report makes clear that ‘It is intended that the Environmental Report will detail any interrelated impacts that are identified through the assessment process.’ (*ibid.*: para.5.4.2). Data gathering for the assessment will also be conducted efficiently as, ‘It is not intended to

collect any superfluous information that is of no direct relevance to the environmental assessment process itself.' (*ibid.*: para.4.2.1).

To satisfy the SEA/good governance nexus, integration should occur not only between the SEA and plan-making processes: to ensure the accountability outlined above, consultation, both public and expert, should also be integrated into the parallel processes. Indeed, according to the Scoping Report, '[SEA] provides the opportunity to integrate the results of public consultation into the Masterplan' (*ibid.*: para.1.2.2). And again, 'SEA requires the integration of the results of public consultation and Consultation Authority engagement into the plan-making process.' (*ibid.*: para.6.2.1). The discussion of these elements of the SEA/good governance nexus in sections 2.7 and 2.8 is continued, in the context of the Highland case, in sections 5.3.5 and 5.3.6.

Explicit references to partnership working in the SEA documentation are limited to discussion of implementation of the Plan. However, there is acknowledgement of multi-party working in the development of PPSs. For example, the Sustainable Development Officer has an inclusive view of planning (Interview, March 2009): 'I count [the] public as partners as well because we put it out to consultation to all our partners too and it helps build a robust plan'. Indeed, according to the Scoping Report, the opportunity to integrate the results of public consultation into the Plan is amongst 'The key benefits of undertaking an SEA of the A96 Corridor Masterplan' (Halcrow Group Limited, 2006a: para.1.2.2). Furthermore, listed amongst the 'purpose [*sic*] of this ER' is that it '[p]rovide[s] an opportunity for the Consulting Authorities (CAs) and the public to offer views on the Plan and this ER' (Halcrow Group Limited, 2007a: para.1.1.9).

This section has highlighted the Highland SEA's aspirations to achieving each of the elements of good governance. The next section, section 5.2, will discuss adherence to the SEA/good governance nexus at each stage of the SEA process.

5.2 The SEA process for *The A96 Corridor Growth Development Framework*

This section presents a chronological account of the stages of the SEA process in the Highland case and discusses the operation of the elements of SEA/good governance nexus during those stages.

5.2.1 Screening

No formal screening exercise was undertaken. Its proposed status as supplementary guidance to the development plan meant the Plan was automatically liable for SEA. Therefore, in accordance with the statutory requirements, '[t]he need for an SEA to accompany the Draft Masterplan [...] was identified directly by The Highland Council' (Halcrow Group Limited, 2007a: para.1.1.7). That 'the screening stage was not documented' (*ibid.*) limits the opportunity for early engagement, thwarting the hopes of Doelle and Sinclair, (2006) and Heiland (2005) (see section 2.8.2). It also compromises transparency and accountability as, contrary to Heald's (2006) event transparency (cf. section 2.3), not only is there no opportunity to engage at this earliest SEA stage, SEA has not facilitated the visibility of the Plan to the public.

However, Smith's efficiency of consultation *is* evident (2009: 26), as, given the requirement to conduct SEA in this case, engaging on the issue with either Consultation Authorities or the public would not have been an efficient use of resources. Consultation, at least with the statutory consultees, is, however, required at the next stage: scoping.

5.2.2 Scoping

Scoping was undertaken by a private-sector SEA consultant. While involvement of private-sector agents can obscure governance processes (Sturgeon, 2010), the Scoping Report assists transparency of process where it defines the purpose of the scoping stage. This

key stage [...] is used to decide the scope and level of detail of an SEA including the environmental effects and alternatives that need to be considered, the assessment methods that are to be used, and ultimately the structure and content of the Environmental Report itself (Halcrow Group Limited, 2006a: para. 1.2.3)

Scope of the plan

The scope of the SEA should encompass that of the PPS. In this case the Plan states: 'The A96 Growth Corridor Development Framework has established the development proposals to accommodate the projected growth for the Inverness city-region over the long term. This is focussed through five Development Zones across the Corridor' (Halcrow Group Limited, 2007d: 33). The Development Zones are: East Inverness; Nairn; Dalcross (including Tornagrain); Whiteness and Central (*ibid.*) (see Figure 5.2). The broad scope of the Plan is

reiterated in a *Public Consultation Report* presented to the Responsible Authority's Planning, Development, Europe and Tourism Committee in November 2006 (The Highland Council, 2006b): 'The draft Strategy proposes a threefold approach: 'polar' expansion of Inverness and Nairn, continued growth of the five main village centres within the Corridor, and the creation of two new settlements at Whiteness and Tornagrain'.

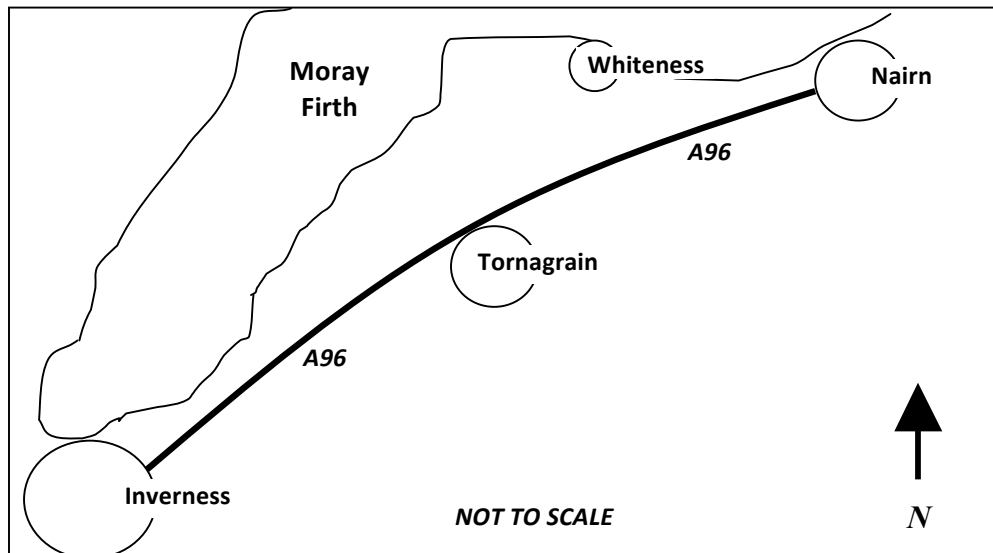


Figure 5.2: Planned sites of major development July 2006

Development of options at scoping stage (and before)

Keeping to the temporal boundaries defined in section 3.2.3, the case study excludes detailed discussion and analysis of events significantly before or after the SEA process. However, given the direct relevance of early strategic decisions made under the auspices of the Plan, as a fundamental part of the Plan process if not the SEA, this section will briefly discuss the development of alternatives to, and within, the Plan.

The Scottish SEA Act 'requires the assessment of alternatives to the PPS' (Scottish Executive, 2006: para. 9.3.1). Despite objections from those concerned about the depopulation of the rest of the Highlands which, they argued, would be corollary to encouraging an A96-focused strategy for development (for example, APT, 2008b), there were no alternatives to the initial most strategic-level phase 1 Plan offered. However, despite purporting to open up strategic decision making to partners and public, Scottish SEA legislation and guidance allow for consideration of options only *within* a given PPS (Scottish Executive, 2006: para.6.3.3 [Figure 2]). It should be noted that options need not

even be declared at the scoping stage: as section 2.7 states, the declaration of alternatives to, or within, a PPS in the Scoping Report is not a statutory requirement (*ibid.*: para.5.3.1).

The Plan was developed and documented in a phased approach. The development of options during the first phase of planning led to a broad range of options: the Scoping Report explains (Halcrow Group Limited, 2006a: para. 1.1.2), 'Through a collaborative approach, eight options for the Corridor were developed. Each of these was tested through stakeholder engagement, technical considerations (relating to infrastructure, transport, land use and landscape) and community consultation'. This account is re-iterated in the Plan document (Halcrow Group Limited, 2007d: 3). However, the report of community consultation on Phase 1 reveals that the community was consulted at that point on four - Eastern Growth, Polar Growth, Smaller Settlement Growth and Mainly Central Growth - rather than eight options (Craigforth, 2004). The additional four were 'technical development options' developed and considered by relevant technical consultants, for example a *Transport Report* (Brown, 2004). The Phase 1 *Planning Report* states (FG Burnett, 2005: para. 10.14), 'In undertaking technical assessments of the Corridor four further options were developed:

- Development Option 5: Land Use
- Development Option 6: Transport
- Development Option 7: Landscape
- Development Option 8: Infrastructure'

The main findings from focus groups made up of the public were: 'some support for a new central settlement [...] although support was generally stronger for the creation of a series of smaller settlements [...] Opinion was similarly split regarding the expansion of Nairn and Inverness' (FG Burnett, 2005: 25).

The Stage 1 *Planning Report* reveals that 'technical assessments relating to planning policy, infrastructural capacity and Airport growth impacts indicate that the Eastern Growth and Polar Growth options have limitations that would make them non-viable' (FG Burnett, 2005: para. 11.153). The preferred option at the end of Stage 1 emerges as the 'Transport' option: one of the 'technical options'. The *Planning Report* reflects the technical 'transport' option where it recommends 'a discrete larger settlement, rather than [...] a string or patchwork of villages' (FG Burnett, et al, 2005: para. 5.4).

The Report states (*ibid.*: 11.109), 'Development Model Option 2 - Polar Growth and Development Model Option 6 - Transport clearly emerged as the top ranked options from

the sustainability appraisal undertaken by the stakeholders'. However, it continues: 'Polar Growth has limitations in all technical areas, other than transport' (FG Burnett, 2005: 11.105). Regardless, the *A96 Corridor Masterplan – Final Report* by the Director of Planning and Development concludes that 'After consideration of the representations received in August 2005, the HQ Committee approved a strategy based on 'polar' expansion of the existing settlements of Nairn and East Inverness, together with the creation of two new communities at Whiteness and Tornagrain' (March 2007: 1.3).

While this exercise is referenced as public consultation in the subsequent accounts of consultation involvement (Halcrow Group Limited, 2006a: para. 1.1.2; Halcrow Group Limited, 2007a: [16]), the emerging preferred options were the polar growth case, which had been deemed technically 'non-viable' and Tornagrain (named Dalcross at that stage) which was not presented to the community representatives, having emerged from the specialists' 'transport' option.

Scoped in

The Scoping Report starts with a caveat that 'As far as possible, the analysis of issues, appraisal of options and monitoring of indicators set out in this Scoping Report relate to the study area including the A96 itself, east Inverness, south Nairn and new settlements at Whiteness and Tornagrain' (Halcrow Group Limited, 2006a: para. 1.1.1 - 1.1.2). Referring repeatedly to the 'the Inverness and Nairn Corridor' (*ibid.*: para.: 4.1.2; 4.3.1; 5.2.2; 5.2.3), the 'strategic policy context' section of the report re-emphasizes the potential for development *between* the Inverness and Nairn (*ibid.*: 2.3): it states, 'the Highland Structure Plan supports new settlements in the Inner Moray Firth area' and continues, '[t]he A96 Corridor is recognised as providing an option of linking new housing development to business opportunities associated with the Airport' (*ibid.*: para.2.3.4). The Scoping document reports, contrary to the conclusions of the focus groups, that Phase 1 option development and consultation 'concluded that an option to focus development in a new settlement offered the most sustainable and attractive solution' (*ibid.*: para.1.1.2).

Later, the Scoping Report states,

It is the SEA consultant's intention [...] to assess, in environmental terms, all those sites that are considered to be realistically capable of development and compatible with the approved and replacement Structure Plan, Local Plan, the National Planning Framework and all national planning policy, guidance and advice' (*ibid.*: para.5.3.2).

Further recognising the importance of an inclusive assessment, the Report is emphatic that, 'all of the various aims, strategies, policies, proposals and development options identified in the masterplan, together with all those that were considered to be reasonable alternatives, *will be fully assessed in the Environmental Report*' [emphasis added] (*ibid.*: para.5.6.1). The Scoping Report is less clear about what is to be subject to assessment, however, where a section entitled 'A96 Corridor Masterplan Development Options' describes ongoing option development: 'A number of development options are currently being developed in Stage 2 Session 1 by the masterplanning [*sic*] team' (*ibid.*: para.5.5.1). Regardless, amongst the features upon which the Report invites comments are, 'The options and aspects that will be considered in the next stages' (*ibid.*: para.7.3.1). The Scoping Report was submitted to the SEA Gateway for distribution to the three statutory consultees - SEPA, Historic Scotland and SNH - in August 2006, with responses being received in mid-September 2006.

During the period of the research the Scoping Report was not published on the Responsible Authority website. It was later made publicly available through the SEA Gateway's SEA database, accessible through the Scottish Government's website (Scottish Government, 2011). Although there is no statutory requirement to make scoping reports publicly available, the lack of effort to do so in this case raises questions around the satisfaction of the recommendation of the RTPI that Responsible Authorities should be, '[m]aking best use of new technology by posting relevant publications on the internet, whilst also providing a facility for non-digital organisations and individuals to obtain equivalent information' (2005: 25). In reality, the Scoping Report was not made publicly available in either format during the SEA process curtailing Heald's (2006) event transparency and the opportunity for active engagement by constituted bodies, besides the statutory consultees, and the public.

5.2.3 *Environmental Report*

According to the Scottish guidance, 'The Environmental Report has to describe the effects on the environment of the PPS and its reasonable alternatives identified by the environmental assessment' (Scottish Executive, 2006: para.2.2.12). The purpose is stated even more succinctly later in the Toolkit: 'The SEA simply provides information on the relative environmental performance of alternatives...' (*ibid.*: para.9.4.1). The purpose of the Environmental Report in this case is described as: informing on the Plan, affording a degree of transparency and joined-up government inasmuch as accounts of the content

and purpose of the Plan should tally; assessing environmental impacts ‘of the plan and reasonable alternatives’ (Halcrow Group Limited, 2007a: 1.1.9), providing decision makers with sufficient knowledge, courtesy of both consultants and statutory consultees, of the possible consequences of each option to make an informed choice; and affording statutory consultees the opportunity to ‘offer views’ on both the Plan and the environmental assessment, thus satisfying the public participation and consultation elements of the SEA/good governance nexus (*ibid.*).

The Plan provides background information on its development during Phase 1. It lists the proposals that were approved by the relevant Council Committee at the conclusion of that phase (Halcrow Group Limited, 2007d: 3):

- Commitment to the principle of planning for population growth of 20-30,000 people over the next 30-50 years.
- A new settlement of 10,000 located south of Inverness Airport to be developed post-2011.
- A new community/resort at Whiteness (Ardersier Fabrication Yard) for around 3,000 people.
- Growth of existing smaller settlements in the Corridor as allocated in the relevant development plans accommodating up to 3,000 people.
- Review of the scope for long-term development at Nairn and Inverness East incorporating transport improvements to include dualling of the A96 and a strategy to enhance landscape/heritage features supplemented by recreational facilities including a network of cycle/walkways

In terms of SEA informing the reader on the contents of the Plan, the overall purpose as stated in the Environmental Report is

to accommodate expected population growth of around 30,000 people over a period of 30 – 50 years within the A96 Corridor area, in a sustainable manner, whilst maintaining distinctive environmental, natural historic features and the green character of the area. (Halcrow Group Limited, 2007a: para.3.1.3)

To this end, sustainable development will be addressed by adopting a mix of approaches (*ibid.*: para.3.1.2): ‘polar growth’ involving the expansion of Nairn and Inverness (as discounted in Phase 1 as being technically unfeasible); ‘village consolidation’; and the development of new settlements at Whiteness and Tornagrain. The Environmental Report’s account of the Plan in the section headed ‘Outline and Objectives of the A96 Corridor Masterplan’ (*ibid.*: 3.1) therefore largely reflects the content as outlined in the Plan itself. The next section will look more closely at the scope of the Environmental Report.

The scope of the SEA re-visited, or the mystery of the missing town

Echoing the descriptions provided above regarding the comprehensive breadth of the Plan, the *A96 Corridor Masterplan – Final Report* by the Director of Planning and Development describes the reach of the Plan as ‘compris[ing] all of the land eastwards from Inverness to the border with Moray and south to the B9006’ (The Highland Council, 2007a: para.1.1).

Despite the scope of the Plan being defined as such, the Environmental Report explains, ‘The scope of the SEA will be limited to direct consideration of the Urban Frameworks developed for Inverness and Nairn, and the Green Framework for the Corridor’ (Halcrow Group Limited, 2007a: para.2.3.2). Despite lack of support on the part of the public, and scoring badly in technical assessments, only the options for the development areas of Inverness East and Nairn, which conform to the polar growth model, are assessed in the SEA. The Environmental Report explicitly states: ‘The SEA will not consider proposals for future development around Inverness Airport, Whiteness and Tornagrain as these private developments are subject to further and separate detailed assessment and planning consent, outwith the scope of the A96 Corridor Masterplan’ (*ibid.*).

The Environmental Report does not say that its scope is different to that described in the Scoping Report. Rather, it asserts, ‘The scope of the A96 Corridor Masterplan was outlined in a SEA Scoping Report sent to the Consultation Authorities (CAs) in August 2006’ (Halcrow Group Limited, 2007a: para. 2.3.1). The omissions are, however, mentioned in the consultation response from one of the statutory consultees where it notes that the Scoping Report ‘implied that the Masterplan would apply to the whole of the study area’ (Historic Scotland, April 2007: Annex B, para. 3). Historic Scotland’s response also states that they ‘expect that the alternatives to the Masterplan identified in Stage 1 will be assessed’ (14th September 2006). The Environmental Report does not, therefore, fully inform decision makers of the potential environmental effects of all elements brought forward from Phase 1.

The inconsistency between the scope of the Plan and that of the SEA is highlighted in an appendix to the Environmental Report, a ‘Review of Policies, Plans and Programmes’ relevant to the Plan, which refers to SPP3 (Scottish Planning Policy, Planning for Housing, Scottish Executive, 2003b): ‘Within the scope of the Masterplan there are proposals for numerous new settlements and housing developments, each of which will be considered in the context of this planning guidance and ‘Smart Growth’ principles’ (Halcrow Group Limited, 2007a: Appendix A). The report simultaneously acknowledges that development

proposals in the Plan are broader than the two major development zones that are assessed within the SEA and demonstrates that all but two of the new settlements are to be excluded from SEA. So, contrary to the Scoping Report's aspiration to 'detailed assessment, in the interests of transparency and openness' (Halcrow Group Limited, 2006a: para. 5.3.2), the Environmental Report promises only that while it 'assesses the major infrastructural arrangements', it '*recognises* development proposals at Whiteness and Tornagrain' [emphases added] (Halcrow Group Limited, 2007a: Non-technical summary, Table 1.1).

While the proposals for Whiteness, village expansion and dualling of the A96 are excluded from the SEA, it is worth focusing on arguably the most significant absentee: the proposal for a new town, Tornagrain, to be built on a greenfield site with no existing infrastructure (Halcrow Group Limited, 2007d: 26). The omission has implications for the SEA/good governance nexus as it compromises transparency and forecloses the opportunity for the statutory consultees and the public to contribute to strategic-level discussion of the proposal through the SEA.

The Director of Planning and Development's Report to the PDET Committee on 14th March 2007 states, 'It is considered that Tornagrain remains a key element given the central location, and links to the expanding airport and business park' (The Highland Council 2007a: Appendix 1). The claim that Tornagrain is excluded because the SEA was to consider only Phase 2 of the masterplanning process (Interview, SEA consultant, May 2009) is undermined where the final plan document describes the outcome of a Responsible authority meeting: 'A clear strategy for the A96 Corridor was approved, that comprised the following elements to be taken forward to Stage 2 of the project [incl.]: A new settlement of 10,000 located south of Inverness Airport to be developed post-2011' (Halcrow Group Limited, 2007d: 3).

An appendix to the *Community Engagement Statement* supporting the planning application states, 'the principle of a new town at Tornagrain is explicitly in the Guidance' (Moray Estates Development Company Limited, 2009). The explicit inclusion in the Plan compels the development company therefore to feel it is

necessary to outline the processes of public engagement that preceded The Highland Council's adoption of the Framework as Interim Planning Guidance. This will serve to illustrate that the principle of development at Tornagrain has arisen through an extensive processes of public engagement undertaken by The Highland Council. (*ibid.*)

Furthermore, the Director of Planning reiterates the centrality of the new Town to the Plan in his final report to the PDET Committee (2007a: para.3.2):

The majority of representations relate to the proposed new community at Tornagrain and seek either its removal from the Strategy or a delayed commencement to building in favour of other locations. This new settlement proposal has been an integral part of the masterplan work since 2005, comprises one-third of the overall population target of 30,000 people, and is closely linked to major infrastructure investment required to serve both the Airport and A96 Corridor as a whole.

During the discussion of the Plan at the meeting, the Head of Development and Strategy defended the proposals for the town on the basis that:

significant infrastructure investment was required in the centre of the corridor for the airport business park development and Tornagrain would ensure both that the infrastructure was provided and that it was located where local people and businesses wished, rather than this being determined by the Scottish Executive. (The Highland Council, 2007b)

Despite its omission from the SEA on the basis of it being a private development, the split in public and private funding for the new town, detailed in the final Plan document, is roughly equal to that for the two development areas that are considered within the SEA (Halcrow Group Limited, 2007d). The town is to contain public sector housing, public roads, public facilities and services. In seeking to 'avoid segregation of socioeconomic groups and tenures', the planning for the new town 'will include dispersed provision of affordable housing on a "tenure blind" basis' (Moray Estates Development Company Limited, n.d. a: 37). The Planning Statement submitted in support of the planning application emphasises the public character of the town: it will '[r]ecognis[e] the importance of the public realm over the private realm' (*ibid.*). Tornagrain is also afforded equal status within the 'delivery' section of the final Plan document to the two development areas that were considered within the SEA. The public/private divide invoked by the Responsible Authority was also questioned by participants. One asked,

who's to bear the cost of all this infrastructure? ... in order to please the developers ... the percentage the developers will put in has decreased ... these shifting percentages have been agreed without the public. I'd be grateful if the Community Council can put that to the Council. (NPO, public meeting, March 2009)

While the notable omission from the SEA discussed here proved to be the most controversial aspect of the Plan, the next section examines the consideration of options for

those elements of the Plan that did appear within the Environmental Report.

Consideration of alternatives within the Environmental Report

The strategic development options for the A96 Corridor considered during Phase 1 were not assessed within SEA (Halcrow Group Limited, 2007a: para.3.1.1). The alternatives at that stage were, however, subject to various 'technical' assessments which discounted some and highlighted others. Alternatives to the overall development pattern were not presented as options within the subsequent SEA to which the Plan was subjected. Rather, the focus was on assessment of specific design and layout proposals for the two development areas, Inverness East and Nairn.

The Scottish guidance states, 'Alternatives should be sufficiently distinct in order to highlight the different environmental implications of each, allowing meaningful comparisons to be made at a strategic level' (Scottish Executive, 2006: para.9.4.2). This stipulation is reflected in the intention, stated in the Scoping Report (Halcrow Group Limited, 2006a: para.5.3.1), that,

the Strategic Environmental Assessment process in respect of the masterplan will identify and assess the reasonable alternatives considered by the Council and its partners when choosing the preferred option and development framework and the general location of possible future development

At this early stage, however, concerns are raised about the assessment of such strategic decisions:

SEPA notes that the preparation of the Plan has been divided up into two phases and that SEA is only being carried out on stage 2 of the preparation. This means that a number of the strategic decisions, such as where to locate the two new settlements, are not included as part of the assessment. (SEPA, 14th September 2006)

By the time the process reached the Environmental Report stage the scope had narrowed, not only in terms of the exclusion of significant elements that had emerged during Phase 1 and were being carried into phase 2, but also inasmuch as only one option each for Nairn, Inverness East and the Green Framework were subject to assessment using SEA objectives (Halcrow Group Limited, 2007a: Appendix D).

While the Environmental Report provides information on the background, assessment and consultation processes, and assessment results, a further 103 pages of

appendices include: 39 pages of contextual material on relevant policies, programmes and plans; the 'Urban Frameworks – Options/Alternatives Assessment' – not tested against SEA objectives; seven pages of matrices testing 'Masterplan Vision and Development Principles' against SEA objectives; and the assessment matrices for each of the three elements included in the SEA. The 'headline options' for each of these is then subject to testing against SEA criteria.

A table early in the Environmental Report outlines 'SEA Activities to date' and points to, 'A summary of the consultations and the outcomes of the alternatives assessment [which] is provided in Appendix B' (Halcrow Group Limited, 2007a: Table 2.1). However, a subsequent reference to Appendix B notes that, 'The appraisal process outlined does not specifically consider SEA objectives, as these were considered in the appraisal of Urban Frameworks' (*ibid.*: para. 7.1.5). Moreover, a criticism concerning Appendix B was raised by one Consultation Authority (SEPA, cited in The Highland Council, 2008: 23): the appendix, 'seems to provide a summary description of the options but not of the assessment. It is therefore not clear that the alternatives have been assessed in any meaningful way. SEPA considers this a significant weakness in the ER'.

The post-adoption statement cites another statutory consultee echoing the concerns of the first (*ibid.*: 30). Indeed, Historic Scotland (April, 2007) complain 'The assessment of alternatives has not been undertaken using the SEA objectives and has not taken into account the information provided to The Highland Council by Historic Scotland'. These important criticisms drew the following response in which the Responsible Authority sought to highlight assessments that had been undertaken outwith the auspices of SEA (The Highland Council, 2008: 23):

During Stage 1 of the masterplanning process, eight options for accommodating growth across the Corridor were proposed and sustainably appraised.

During Stage 2, the 5 framework options were assessed through extensive stakeholder consultation and sustainability appraisals. These appraisals are documented and available on The Highland Council website[...]. It was not considered necessary to evaluate further against SEA objectives specifically.

The Environmental Report summarises the 'Development Option Appraisal Process' (Halcrow Group Limited, 2007a: para.7.1.1-7.1.2): 'Framework options for Inverness East and Nairn were produced through a stakeholder consultation process termed Collaboration for Success

(CfS)', and subsequently, 'The framework options/alternatives were reviewed by technical staff to allow ease of comparison across a range of indicators. The updated framework options were then subject to a second round of CfS workshop events'.

The five framework options for each of the Inverness East and Nairn development zones were not subject to assessment against SEA objectives. However, the sustainability appraisal to which they were subject included environmental, as well as social and economic, criteria (Halcrow Group Limited, 2007a: para.7.1.1):

- Transport, access and accessibility
- Education & lifelong learning
- Development capacity
- Marketability
- Infrastructure
- Community
- Existing development
- Adjoining land uses and relationship with surrounding communities
- Pollution, waste and resources
- Energy
- Buildings, urban design and land use
- Open spaces
- Site characteristics
- Topography
- Landscape features
- Wildlife and habitat
- Views

Although alternative options *within* the Inverness East and Nairn contexts were considered against the sustainability criteria listed above, the first criticism from SEPA listed in the post-adoption statement is that, '[a]lternatives to the Framework do not seem to have been assessed in a manner which allows consideration and comparison of potential effects' [emphasis added] (The Highland Council, 2008:12); an accusation which, given the centrality of comparison of options in SEA, undermines both the *raison d'être* of the SEA and the SEA/good governance nexus in this case. The Responsible Authority and SEA consultants therefore failed to assess either the alternatives to the Framework or alternatives to the three (including the Green Framework) 'options' – one for each of Inverness East, Nairn and the Green Framework - that *were* assessed within the SEA.

Regardless, the Environmental Report was put out to public consultation in February 2007. The only explicitly *public* consultation listed under 'Consultees' in the chapter devoted

to SEA consultation is the Collaboration for Success exercises provided for 'Stakeholder consultation process involving Multi-Agency Groups, Local Government, Private Developers, Green Inverness, Community Groups, Land Owners' (Halcrow Group Limited, 2007a: para.2.4.1). As discussed above, SEA was not, however, part of the CfS exercises. The report informs of the formal consultation period on the Plan and accompanying SEA to take place between 6th February 2007 and 5th March 2007 (*ibid.*: para.9.2.2). It continues, 'The Council will organise consultation with the public on the Interim Masterplan and ER during this period. If you would like to attend the public consultation events please forward your contact details to Mike Greaves⁴⁴ at Highland Council' (*ibid.*: para.9.2.3). The council officer's e-mail address is then supplied in the footnote. Electronic means of engagement is further encouraged by the on-line publication of the Environmental Report (The Highland Council, 2011a). It should be noted, however, that on-line availability does not mean universal access: for example, one of the participants in this case has vision problems which preclude use of computers (Interview, Participant A, 28th March 2008).

Paper copies were also available for viewing at Council offices and were to appear at the consultation events for the Plan conducted by the Responsible Authority. The leaflet produced by the Responsible Authority and distributed at the consultation events includes, in the following order: East Inverness; Tornagrain; Whiteness; Nairn; 'existing villages' which will be subject to a degree of expansion; 'other developments'; and the Green framework (The Highland Council, 2007d). The information provided regarding the SEA gives no indication that strategic environmental assessment of the Plan will only cover the Inverness and Nairn developments and the Green Framework. Similarly, a newsletter, *A96 Corridor Masterplan – Newsletter* (Halcrow Group Limited, 2007c) produced by the planning (and SEA) consultants lists the consultation events that were taking place – the only mention of the SEA appears in very small print, asterisked, at the bottom of the second page of the two-page document.

5.2.4 The decision to progress the Plan

For the Responsible Authority's Sustainable Development Officer, '... the assessment framework is a useful process for engaging with your own organisation and asking them to think about the impacts' (Sustainability Officer, Interview, March 2009). However, there was concern that the Plan was to be passed as supplementary planning guidance *before* the statutory consultee responses to the Environmental Report were made available. Concerns

were voiced about the time allowed for consideration of consultation responses prior to the preparation of the report presented to elected members (The Highland Council, 2007a). The report from a local action group asks elected members

Does the committee share our concern that the few days between the deadline for the last consultation, March 5th 2007, and the report date, 7th March 2007, gave very little time for Highland Council to properly consider the representations being made. (Analysis of the related appendix to the Director's Report shows that at least 65% of representations were received during the last two available days for summation of responses) (APT, 2007b)

Decision time A: pre-election

The Planning, Development, Europe and Tourism Committee met on the 14th March 2007 to consider, amongst other matters, the adoption of the Plan as 'interim guidance' (The Highland Council, 2007b). The minutes of the meeting record

notwithstanding that responses to the Strategic Environmental Assessment had not been received from the statutory consultees, the report had been brought before Committee that day so that an indication could be given by Members as to *whether they were minded to include the Masterplan in the development plan review*. [emphasis added] (*ibid.*)

According to the minutes (*ibid.*), discussion of the Plan during the 14th March meeting, and relevant to the discussion here of SEA, focused on:

- i. *Strategic approach* - discussed above and excluded from assessment through SEA;
- ii. *Developer contributions* – the point was made 'a 66% contribution from developers to infrastructure costs appeared high', pertinent to the exclusion of Tornagrain from the SEA on the grounds of it being a private sector development;
- iii. *Tornagrain* – during the meeting's discussions on the proposals for the new town, there was no reference made to its exclusion from the Environmental Report. Rather, an appendix to the report states that 'Full appraisal of the implications for the development of the corridor in environmental impact terms are set out in the Strategic Environmental Assessment' (The Highland Council, 2007a: Appendix 1, para.10.23).
- iv. *Consultation* – the point was raised that:

There was a statutory obligation for all responses to the Strategic Environmental Assessment to be made public, the inference being that

all the responses should be considered at the same time; however, the public's responses were being considered today, whilst the responses from statutory consultees (SEPA, Scottish Water and Historic Scotland) would not be available until early April and would be considered by the new Council; this could have implications for the weight given to the public's comments. (The Highland Council, 2007b)

These concerns, in terms of decision makers making a fully informed decision were raised by the 'well respected group of local residents' in their report (APT, 2007b), sent to Councillors prior to the September meeting, which included their request, '[t]o clarify whether or not there are any procedural difficulties relating to what appears to us to be the splitting of a decision between 2 separate committees pre and post a council election [May, 2007]' [*ibid.*]. In their response to the Environmental Report, one community council complained '[r]etiring councillors cannot vote authoritatively before responses from statutory consultees on the SEA/ER have been perceived' (The Highland Council, 2008: 63).

On the Plan, the decision was made to adopt the recommendations of the Director's Report including that the Plan should be issued as interim guidance and fed into the forthcoming Development Plan 'subject to consideration of outstanding Strategic Environmental Assessment (SEA) consultation responses from the statutory agencies by the incoming Council' (The Highland Council, 2007b).

Decision time B: post-election

Following re-organisation of the Council committees, the Plan became the responsibility of the new Planning, Environment and Development Committee. It was next discussed in Committee during the September 26th 2007 meeting when the recommendation was made that it 'be issued as interim guidance' (The Highland Council, 2007e). It could then be 'fed into the preparation of the Highland wide Local Development Plan' (*ibid.*: para.2.5).

The minutes reveal the Development Plans Manager 'acknowledged that many representations had been received relating to the Tornagrain proposals, but stated that the new settlement was an integral part of the Framework package' (The Highland Council, 2007c). Furthermore, arguments presented in support of agreement of the Plan included that 'Agreement of the Framework would allow the plans to be included in the forthcoming revised National Planning Framework' (*ibid.*). The meeting was also asked to agree the content of an attached SEA Statement attached as an appendix to the Director's Report (The Highland Council, 2007e: Appendix 1).

The SEA Statement is a table presenting consultation responses, proffered in response to the formal consultation of February/March 2007 and received in March/April 2007 from statutory consultees and others. The table also presents the Responsible Authority's responses to these contributions and outlines any prescribed actions. The appendix does not present any information on baseline conditions, consideration of alternatives or proposals for monitoring except where such information forms part of a comment or response to a consultation response. While most of the responses that require action by the Responsible Authority prescribe changes to the Environmental Report, no Environmental Report is attached to the SEA Statement or the Director's Report (*ibid.*).

Indeed, returning to the concerns of the local residents, the new committee is being requested to make their decision based not on the Environmental Report (Halcrow Group Limited, 2007a), but on the SEA Statement (The Highland Council, 2007e) which conforms to the statutory requirements for content in the post-adoption statement rather than the that for an Environmental Report.

The meeting agreed all the recommendations of the Director's report including: the adoption of the Plan as interim guidance; the content of the SEA Statement; and, in terms of governance in the implementation of the Plan, that 'a strategic partnership without executive powers, be formed to facilitate liaison between major bodies involved in the proposals' (The Highland Council, 2007c).

5.2.5 *Post-adoption statement*

The legislation and guidance describe the report that should be produced in response to consultations as the 'SEA Statement' (Scottish Executive, 2006: para.7.2.3). An SEA Statement, described in the preceding section, was attached as an appendix to the Director's Report for the meeting of the 26th September 2007 (The Highland Council, 2007e). In this case, however, a further statement was produced containing similar information and entitled the *Post-Adoption Statement* (The Highland Council, 2008). This section will use that term to describe the 2008 document. It will be assumed that the published post-adoption statement (PAS) (*ibid.*), rather than the SEA Statement (The Highland Council, 2007e), is designed to satisfy the legislative requirements given the SEA Statement's appearance prior to the final decision, on 26th September 2007, on taking forward the Plan.

The post-adoption statement is the key document in ensuring the transparency and accountability of SEA-supported decision making: it describes how consultation contributions

from all respondents, including statutory consultees, other constituted bodies and the public, have been taken into consideration in the decisions made (Scottish Executive, 2006: para.7.1.1) (see section 2.2). The PAS in this case is in the name of the Responsible Authority's Development Plans Manager and was published in September 2008, a year after the meeting of September 2007 which took forward the Plan and approved the SEA Statement which was presented at that time (The Highland Council, 2008).

Beginning with a one-page outline of the steps taken in the SEA process (*ibid.*: vi), the 93-page PAS continues with a section on 'How Environmental considerations have been integrated into the A9 [*sic*] Growth Corridor Development Framework' (*ibid.*: 1-10). Grouped around SEA topic areas, a ten-page table lists the main environmental issues identified in the course of the SEA; states whether or not they have been integrated into the PPS; and, in a final column, states 'How integrated/taken into account or reason for not being taken into account' (*ibid.*).

The subsequent section, a 52-page table based on the SEA Statement presented to elected members at the 26th September 2007 meeting (The Highland Council, 2007e), again details responses received during the formal public consultation period (*ibid.*: 12-63). It presents the submitted comments and, across two columns, details 'How the comment has been taken into account in making the decision to adopt the A96 Corridor Growth Development Framework' (*ibid.*). The final column states whether or not change was made to the PPS as a result of the consultation response. Respondents are named, their comments are reproduced and references are provided indicating to which parts of the Environmental Report the comments refer (*ibid.*). The PAS was made public available in accordance with the legislation and is available on the Responsible Authority's website alongside previous SEA and Plan documentation (The Highland Council, 2011a).

5.2.6 Monitoring

The discretionary nature of monitoring in Scottish SEA is described in section 2.8.2. Monitoring the effects of PPSs is, however, vital if the effectiveness of mitigation measures and unexpected impacts are to be detected (Scottish Executive, 2006: para.2.2.14). The Scoping Report in this case outlines the consultants' recommendations regarding monitoring. It anticipates 'that the indicators used for describing the baseline environment will form the basis for the long term monitoring of the A96 development framework sustainability impacts, by measuring progress towards the SEA objectives' (Halcrow Group Limited, 2006a:

para.6.1.3). The monitoring measures described within the Scoping Report should, the report asserts, be applied to ‘the A96 itself, east Inverness, south Nairn and new settlements at Whiteness and Tornagrain’ (*ibid.*: para.2.2.1). The Report recommends a ‘single monitoring system for the various components of the Plan’ which, as well as monitoring environmental impacts, would be used to improve SEA practice by considering SEA legislation and guidance and ‘inadequacies in the existing SEA process’ (*ibid.*: para.6.3.2). It suggests monitoring results can then be reported in an Annual Monitoring Report (*ibid.*).

The final Plan document states (Halcrow Group Limited, 2007d: 3): ‘An SEA monitoring framework has been prepared to assist with the constant progression towards coupling environmental sustainability with sustainably developing the A96 Corridor’¹. The SEA monitoring framework is part of the Environmental Report (Halcrow Group Limited, 2007a: section 8.3). It describes the responsibility of monitoring in terms conveying the seriousness of the activity: ‘monitoring should be considered a necessary, long term and on-going commitment to sustainable development, as continued International, European and domestic legislation is expected to increase the burden of environmental reporting over time’ (*ibid.*: para. 8.3.2).

Doubt regarding the seriousness of Responsible Authority intentions arises where a participant account differs from the statement of intent in the Environmental Report across various aspects including (Council Officer, Interview): resources (‘who’s going to have the time to go back and monitor it?’); enforcement (‘we’ve never actually monitored, I know we’ve got monitoring *in* the SEA, but we’ve never gone back to monitor ... I don’t know who polices whether you do monitor’); levels of interest (‘... unless someone comes to us in two years time and says, ‘go and check this against the baseline’); and importantly, when focusing on the outcomes of the SEA in either environmental or governance context, ‘unless you’re monitoring I don’t think you can actually say whether or not it’s been a successful process’.

Regardless, the Environmental Report indicates responsibility for all aspects of monitoring lying with the Council. Introducing a table of ‘potential indicators’ and ‘potential data sources’ (Halcrow Group Limited, 2007a: 129-131 [Table 8.1]), it states

It is up to [the Highland Council] planning groups to identify which indicators are most suitable, how often monitoring and reviews should take place and from there, which measures should be implemented on identification of either problems that should be addressed, or potential benefits that could be enhanced. (*ibid.*: para. 8.1.3).

¹ Separating environmental sustainability from their own preferred broader sustainability approach

The non-technical summary of the Environmental Report details monitoring arrangements and responsibilities of the Council as Responsible Authority (Halcrow Group Limited, 2007a: non-technical summary, section 11 [30]):

The Highland Council will conduct monitoring, in their capacity as the Responsible Authority for this SEA. It is proposed that a Monitoring Register be maintained by the Highland Council, detailing the relevant information to meet the requirements outlined within the proposed monitoring framework

Monitoring will continue to afford the process transparency as 'The Monitoring Register will be available to the public and a short annual Monitoring Report will be produced by the Council, summarising the findings of the monitoring conducted during the previous year' (*ibid.*). Furthermore, 'The Monitoring reports will be forwarded to the SEA Gateway and published on the Council website' (*ibid.*). Assurances are therefore given that the SEA will continue to benefit both the environment and the transparency credentials of an iterative Plan/SEA process. Indeed, the Environmental Report assures the reader that (*ibid.*: para. 8.3.2), 'Taking the steps now to initiate effective monitoring systems and review periods will help the Highland Council demonstrate effective action, vision and understanding of the requirements for transparency'.

There is, however, a clear gap between the Council Officer's account and the rhetoric. The gap between the rhetoric and the reality will be examined further in the next section which considers in more detail how each element of the SEA/good governance nexus was enacted during the SEA process described above.

5.3 Overview of good governance themes and the satisfaction of the SEA/GG nexus in the SEA process

Section 5.2 provided a chronological account of the SEA process for the *The A96 Corridor Growth Development Framework*. This section discusses in more detail the operation of each of the six elements of the SEA/good governance nexus during that SEA process. As detailed in Chapter 2, these are: transparency; accountability; partnership working; joined-up government; consultation and public participation.

5.3.1 Transparency

As section 5.1 discusses, the SEA documentation in this case makes the SEA/transparency link

clear from the outset. So keen is the Scoping Report to enact principles of transparency and openness that it recommends that 'a dedicated group should be convened to scrutinise the assessment processes and methodologies utilised, as well as any environmental impacts identified and conclusions reached' (*ibid.*: para. 5.8.1). The group is to be populated with 'representatives from other appropriate Council Departments and interested external environmental bodies' (*ibid.*: para. 5.8.2), an approach which 'would also bring impartiality to the process, making the results of the assessment credible, transparent and robust' (*ibid.*). There is, however, no further reference to such a group in either the SEA documentation or that of the Plan. Repeated requests to the Responsible Authority asking whether the group had been convened remained unanswered (as of 1st February 2011).

The transparency role of the SEA is further mentioned, if not fully appreciated within the context of good governance, in the Environmental Report where it states, 'SEA will aid transparency in terms of highlighting the environmental impacts of population increases and the benefits of the Masterplan' (Halcrow Group Limited, 2007a: para. 2.2.3). However, rather than enhancing environmental transparency by impartially assessing and reporting on the potential significant impacts of the Plan and its reasonable alternatives, it favours the Plan as it stands. Further concern about bias undermining transparency is raised when one interviewee voiced concern in the presentation of the information to elected members: 'if you're selling something to somebody you put all of the plus points and you cover ... you give less importance to the minus points' (Participant B, Interview, August 2008). Again, the documentary account differs from a participant account: '...the transparency. That is one positive thing about it, I find, is that it does make us put all our processes out in the public domain' (Interview, Sustainability Officer, March 2009).

The SEA consultants' recommendations seek to ensure an objective, transparent process, proposing the scrutiny group described above. Furthermore, they suggest 'that the whole scrutiny process will be directed and overseen by specialist consultants in the field of Strategic Environmental Assessment who have been appointed by, but are independent of, the Council' (Halcrow Group Limited, 2006a: para.5.8.2). While the suggested composition of the proposed scrutiny group does not include community groups, speaking at a public meeting, the Chair of one community council said that it is the public's role to scrutinise decision processes: it is, for him, 'Important that groups like APT exist to keep their eye on the planning system ... needs to be looked at and scrutinised very carefully ...' (NPO, public meeting, May 2008).

Transparency of information: Availability

Efforts to enhance transparency can only be effective if the reports in the public domain are accessible to all interested parties. While documentation was made available in accordance with the legislation, it was not perceived so: amongst those seeking to engage with the SEA during the four-week consultation period on the Environmental Report was one participant who was unhappy that ‘... to get a hold of the actual SEA document so that you could at least have a remote chance of meaningfully contributing to that ... ehm... was actually quite difficult’ (Participant B, Interview, August 2008).

The Sustainability Officer recognised the difficulty of large reports where they state, ‘it’s out there but when you’ve got documents running to 60-pages, who’s going to open it?’ (Interview, March 2009), continuing, ‘less is more in many cases’ (*ibid.*). In addition to the 178-page Environmental Report (including the non-technical summary) providing: information on the background; assessment and consultation processes; and assessment results, there are a further 103 pages of appendices described in section 5.2.3. For some participants, the problem became not a lack of information, but a surfeit. Heald’s (2006) event transparency does not guarantee process transparency. Amongst points raised in a letter of complaint to the Scottish Public Services Ombudsman was the difficulty of digesting the large amount of technical information made available (Participant A, March 2008): ‘...the development of the master plan by a whole range of consultants here in Highland has resulted in the production of large numbers of highly technical documents which merit comment and scrutiny’. The letter then quotes SNH who had ‘reviewed all 61 reports on The Highland Council website’ (orig. SNH, 2007a).

Participant A highlighted the physical difficulty of examining the Environmental Report where it was made available at the local post office (Interview, August, 2008):

You’d be standing there, in a crowded shop, at the counter which was the only bit of space, or maybe you could go across to the back of the shop to the ice-cream freezer and open this book, and put it down and you’d be standing there, “oh, sorry, sorry, am I in your way? Oh, nice to see you, by the way”, “oh, can you pass me so-and-so”. Now, is that any way to sit and evaluate a piece of information?

Participant B described the difficulty of contributing as, ‘the time allowed between getting the information and properly digesting it and putting your representation in is unbelievably short’ (Interview, August 2008). The disciplining role of SEA as panopticon, where the belief that one *could* be under surveillance encourages self-policing in subjects, was discussed in

section.2.1 and the concept will be applied to the Highland case in section 7.1.5.

Transparency of information: Clarity of content

Where interested people *are* able to access the documents and have time to read them, if SEA is to enhance the transparency of PPS processes which are put out into the public domain then practitioners must ensure transparency within SEA itself. The SEA methodology must reflect this aspiration. In the Highland case, the authors of the Scoping Report 'consider it important to present the results of the environmental assessment in a clear and easily understood format' (Halcrow Group Limited, 2006a: para.5.6.4). Methods employed in the presentation of the assessment are selected to maximise the clarity of information aspired to in the Scoping Report. For example,

The use of matrices provides a systematic and transparent method of demonstrating which features and details have been considered and the use of colour coding allows readers to easily identify and compare effects across assessments, to ensure consistency of approach. (Halcrow Group Limited, 2007a: Non-technical summary)

Historic Scotland are less impressed with the matrices in enhancing the transparency of the environmental effects of the PPS: their response to the Environmental Report consultation complains that concern about the 'effects on the historic environment', this statutory consultee's *raison d'être*, recognised elsewhere in the Report (for example, paras.2.3.8-2.3.9, Table 3.1, paras. 4.15.1-4.15.3, 4.15.23-4.15.24), 'does not appear to have been taken forward into the assessment matrices in any detail' (Historic Scotland, April 2007: Annex B, part 4, para.16).

While much technical information has been supplied in reports outwith the auspices of SEA, lack of detail obscures decision processes described in the post-adoption statement. For example, one concern of SEPA's, that the stated intention of applying precautionary principles had not, in fact, been undertaken drew the response, 'The principles of the Precautionary Approach have been applied where considered necessary' (The Highland Council, 2008: 18). And again, 'It was not considered necessary to evaluate further against SEA objectives specifically' (*ibid.*: 23). These, and one further use of the passive 'considered necessary' (*ibid.*: 54), alongside the similarly vague assertion that 'The mitigation hierarchy was implemented whenever deemed appropriate' (*ibid.* 18), are supplemented with the action, 'No change'. It is not possible to discern who did the

considering or what criteria were adopted in determination of what was 'necessary' or 'appropriate'.

While the details of responsibility - and so governance - and assessment are often obscured, the SEA documentation does little to clarify strategic development decisions prior to the period covered by the SEA. Indeed, the account of processes during Phase 1 presented within the Environmental Report is not detailed enough to enhance the transparency of that part of the process. The concerns around the transparency of options development in Phase 2 are in some way allayed by Appendix B of the Environmental Report: *Urban Frameworks – Options/ Alternatives Assessment* (Halcrow Group Limited, 2007a). The inconsistency in decision criteria, however, remains.

The supply of information to decision makers was also inconsistent. As discussed in section 5.2.4, the decision to agree the Plan was put before committee twice, once before and once after the local government elections of May 2007. The committees were offered different information, the first having been asked to consider the Plan when insufficient environmental information had been made available, the second being circulated an SEA Statement describing the Consultation responses and resulting actions of the Responsible Authority (The Highland Council, 2007e), actions which were significantly altered later for the formal, published post-adoption statement (The Highland Council, 2008).

The limitation of consideration within the SEA to only two development areas of the Masterplan undermines the contribution of the SEA to the legitimacy to be gained from process transparency of the planning process for the Corridor (see section 2.3). It also renders invisible, at the strategic planning stage, the possible significant environmental effects of those developments including: the town for up to 10,000 people at Tornagrain; Whiteness; village expansion and the dualling of a major road.

5.3.2 *Accountability*

Section 2.4 introduced the types of accountability that could be invoked through SEA. This section will examine where, in the SEA process in this case, the accountability function of SEA was evident.

Professional accountability is often invoked by the use of the phrase 'best practice'. The SEA consultants in this case acknowledge best practice guidance for environmental assessment where, for example, the Scoping Report informs the reader that 'the Scottish

Executive, in August 2003, produced Interim Planning Advice on the Environmental Assessment of Development Plans [which] provided advice on good practice' (Halcrow Group Limited, 2006a: para.1.2.7). In accordance with this guidance, and with Philips' (2009) integrity-based accountability, the Responsible Authority is to ensure the assessment of 'all the strategies, aims, policies, proposals and sites identified for development contained within the masterplan document for completeness and for best practice' (*ibid.*: para.1.2.3). However, in its response to the consultation on the Environmental Report, one statutory consultee questioned the 'best practice' credentials in this case (SNH, March 2007):

We are disappointed that none of the Planning Advice Notes have been analysed to establish how they affect or are affected by the Masterplan. The PANs represent current best practice and a more comprehensive analysis of them would clarify how the Masterplan reflects this good practice

The drawback to a focus on best practice as professional accountability is where it may inhibit innovative approaches to SEA. For example, the SEA consultant in this case warns that Responsible Authorities looking to the experience of others may limit the effectiveness of SEA: '... "has [*sic*] other authorities done it that we can do that?", rather than properly bespoke it for their own requirements' (Interview, May 2009).

However, the Responsible Authority's Sustainable Development Officer demonstrates the positive role of SEA as a tool of professional accountability where, 'ultimately it gives you the opportunity to justify it, if someone asks ... which is a good thing' (Interview, March 2009). That council officer's enthusiasm is countered where, in the letter of complaint to the Ombudsman, Participant A thought 'the way that Highland has behaved with regard to the A96 corridor does reflect badly on the profession' (March 2008). Whether SEA facilitates accountability becomes something of a moot point where overall planning processes are not perceived to be legitimate.

For elected members charged with making decisions on plans and assessments, political legitimacy is ultimately to be found at the ballot box. As discussed in section 5.2.4 and 5.3.1, the SEA process in this case spanned two administrations. The initial administration was 'minded' to move forward with the Plan pending responses from the statutory consultees (The Highland Council, 2007b). The second agreed the Plan and the content of the SEA Statement (The Highland Council, 2007c). That content was later changed with different actions appearing in the post-adoption statement (The Highland Council, 2008). Elected members are then responsible for decisions made while not in possession of relevant facts,

and report content that they did not agree. The splitting of the decision to progress the Plan obscures and inhibits electoral accountability. Regardless, the perceived lack of satisfactory engagement on the Tornagrain issue, either through SEA or other mechanisms, led one community councillor to write to the local MSP to inform him that he had 'now lost at least one vote' (Participant C, Interview, March 2009).

Awareness of SEA as a mechanism of accountability is, however, limited even amongst the most enthusiastic participants. For example, one interviewee was not aware of the requirement to justify decisions in the post-adoption statement:

...if they tick the boxes but there's no box to tick to say you're therefore, having done your community engagement and whatever, you know, you must then take the results of that and you must factor it in, and you must justify your answer having factored in those results. That's not what it says and that's not what happens apparently (Participant B, Interview, August 2008)

Although there is a dearth of understanding of SEA as a mechanism for political accountability, this role is intrinsic to perceptions of the effectiveness of public, and other, participation in decision processes. It will therefore be implicit in the discussion of effectiveness of participation in section 5.3.6.

5.3.3 *Partnership working*

The Environmental Report refers to the basis of Scottish SEA, *A Partnership for a Better Scotland* (McConnell and Wallace, 2003), the partnership agreement that sought to '[put] environmental concerns at the heart of public policy' (*ibid.*: 48). This section will consider whether the high-level commitment to work in partnership towards environmental ends was mirrored in the SEA of the A96 Corridor Masterplan.

At the beginning of the Plan document, before the foreword, a page is devoted to telling the reader that the Plan is 'committed to making places work through a collaborative approach' (Halcrow Group Limited, 2007d). Immediately *following* the foreword is a summary which describes 'The Vision' enacted in the Plan and includes the assertion: 'Collaboratively, all stakeholders will endeavour to deliver the masterplan through pioneering governance and commercial astuteness' (*ibid.*). Neither page stipulates who is to be involved in the collaboration. The Chair of the Planning, Development, Europe and Transport Committee states in the foreword that he '[looks] forward to the continued

development of this strategy in partnership with the communities within the Corridor, the development industry and our partner public agencies' (Halcrow Group Limited, 2007d). Participant groups are listed later in the document where it discusses 'stakeholder engagement' (*ibid.*: 8). Stakeholders listed are: Governmental and regulatory stakeholders; Business/developer/landowner stakeholders; Community interests; and Political stakeholders (*ibid.*). Their respective roles are not described. Outlining their preferred technique, the consultants state '*Collaboration for Success* develops a culture of collaboration with stakeholders that goes beyond the limitations of partnership' (*ibid.*). That the CfS exercises are mentioned in the SEA documentation as consultation for the SEA but did not consider SEA or SEA objectives means that SEA cannot be said to have facilitated partnership (or beyond) in that context.

The SEA consultants assert that amongst 'SEA Activities to date, 'Liaison with Consulting Authorities on existing issues and opportunities through Masterplanning processes helped inform SEA' (Halcrow Group Limited, 2007a: Table 2.1). The post-adoption statement anticipates an ongoing role for the statutory consultees: '[the] Monitoring Framework [is] to be established and implemented in close collaboration with the Consultation Authorities' (The Highland Council, 2008: 28).

While the Environmental Report does not claim that the Responsible Authority has worked in partnership with the Consultation Authorities, partnerships are mentioned in various other contexts including: consultation with Inverness City Partnership (Halcrow Group Limited, 2007a: para.2.4.1); Highland Community Plan Wellbeing Alliance partners whose ends the Plan seeks to achieve (*ibid.*: para.3.2.14); and public/private partnerships as a possible delivery mechanism within a 'stakeholder process' (*ibid.*: para.5.2.1). When asked whether SEA involves the Responsible Authority working more closely with agencies outwith the Council, the Sustainable Development Officer replied, 'other than the statutory consultees I would say it doesn't' (Interview, March 2009).

The World Bank's definition of partnership, where the state should not attempt to be the sole provider of public services (Chhotray and Stoker, 2010: 115), has fared rather better. The Responsible Authority employed many private sector technical consultants advising on and consulting on the Plan at its early stages. Phase 2 of the planning process, that subject to SEA, employed planning and SEA services from the same private sector company.

Landowners were also involved from the beginning. Indeed, there was belief

amongst the action group that landowners had instigated the process. The report produced on consultation in Phase 1 reveals 'written submissions were received from Moray Estates, Inverness Estates and the Cawdor Estate promoting various options for accommodating all or some of the Corridor's projected growth' (FG Burnet *et al*, 2005: 4.2). Later, at the March 14th 2007 meeting, the relationship between the developers and the Responsible Authority was questioned by one local Councillor who 'expressed concern that the illustrations used in the Council's exhibitions were provided by developers, which, he suggested, could be interpreted by the public as collusion between officers and the developers' (The Highland Council, 2007b). The Head of Development and Strategy is noted as having 'advised [...] that the use of illustrations prepared by developers for large scale proposals was common practice; potential developers of other sites within the Masterplan had also supplied illustrative material' (*ibid.*). Furthermore, 'He gave an assurance that there had been no collusion between the Council and the developers' (*ibid.*). However, partnership working between the Responsible Authority and the developers continued to raise questions amongst the public. For example, the Chair of one community council asked, 'Why should the Highland Council be involved in ... with developers if the Highland Council is going to vote on it?' (NPO, public meeting, March 2008).

5.3.4 *Joined-up government*

By including partnerships in their discussion of "'joined up" governing', Hudson *et al* characterise a shift from a focus on joined-up government to one of joined-up governance within the wider shift from government to governance (2007: 57). However, having discussed inter-sectoral partnerships in the previous section, this section will focus primarily on joined-up government, that is, that which occurs within the public sector.

While partnerships are increasingly prevalent in public governance, there are still hundreds of thousands of public sector employees involved in the design and delivery of public services in the UK. Indeed, Highland Council, covering a total population of 220,490 (General Register Office for Scotland, 2010) employs over 12,500 people (at February 2011, cited in *Press and Journal*, 3rd March 2011). Looking again at the Independent Commission's definition of what constitutes good governance as 'performing effectively in clearly defined functions and roles' (Independent Commission for Good Governance in Public Services, 2004: 5), the relevance of examining joined-up government is apparent. However, given the role of private sector consultants in this case, rather than inter-departmental cooperation within the

Responsible Authority, following a brief examination of the roles of Council departments, this section will focus more on: regard paid to other, relevant PPSs at various tiers of government; tiering within SEA; integration between the Plan and the SEA; and integration of Plan and SEA consultation processes. It will conclude with a brief discussion of the arguments surrounding SEA and sustainability appraisal in the context of this case.

Although the SEA in this case was undertaken by a private sector consultant, there was a range of Council function areas involved in the consideration and publication of the Plan and SEA. The Planning, Development, Europe and Transport Committee, for example, was charged with deciding the course of the Plan and SEA processes prior to the May 2007 local government elections with council officers including the Head of Development and Strategy addressing the March 14th 2007 meeting on the Plan (The Highland Council, 2007b). Post-election responsibility for the progress of the Plan and SEA lay with the newly formed Planning, Environment and Development Committee which was addressed on the Plan by the Development Plans Manager at the 26th September meeting (The Highland Council, 2007c). The documentation regarding both the Plan and SEA is publicised within the economic development part of the business information section of the Responsible Authority's website (The Highland Council, 2011a).

Joining up the Plan with other, relevant PPSs

One participant raised questions around the transparency and coherence of the Plan and its policy context: '[the Plan] doesn't tie in with any of our existing Development Plan beyond the very broad prescription and that's what they've used' (Interview, Participant A, March 2009). Furthermore,

There's no mention of it, no mention of a Masterplan. It's [a] completely stand-alone piece of work which doesn't bear any link other than the fact that the Structure Plan says that the A96 Corridor is area in waiting or it provides an option for siting housing next to industrial development, something like that. (*ibid.*)

By contrast, in keeping with the SEA/good governance nexus, the Scoping Report devotes a section to outlining the 'policy context' covering the following PPSs (Halcrow Group Limited, 2006a: 3.2 - 3.9): 'International and European Legislation' including international environmental protocols (*ibid.*: para.3.2.1); the first National Planning Framework which asserts 'the A96 Corridor and the Airport offer opportunities for future expansion' (Scottish Executive, 2004: para.163; and cited Halcrow Group Limited, 2006a:

para.3.3.1); 'National Planning Advice and Guidance' has informed the objectives of both Plan ('environmental and socio-economic') and SEA (environmental) (*ibid.*: para.3.4.1); the Highland Structure Plan which, the Scoping Report emphasises, 'supports proposals for the establishment of comprehensively planned new settlements in meeting future housing demand in the Inner Moray Firth area' (*ibid.*: para.3.5.1); The Inverness and Nairnshire Local Plans; Inverness City Vision; Council's Community Plan; and 'Other Council's [*sic*] Plans and Programmes' including 'the Local Housing Strategy, the Waste Plan, the Local Transport Strategy and the Contaminated Land Strategy' (*ibid.*: para.3.9.1). When interviewed, the SEA consultant was emphatic about the recognition of the policy context around the Plan: '... this long-term vision framework for that Corridor is clearly built in within the Highland Council's policies and emerging policies' (Interview, May 2009).

Further, more detailed attention is paid to the policy context in the Environmental Report. The Scottish SEA legislation requires that the Environmental Report includes 'An outline of the contents and main objectives of the plan or programme, and of its relationship (if any) with other qualifying plans and programmes' (Environmental Assessment (Scotland) Act 2005 – Schedule 3 (2)). Accordingly, in this case, the Environmental Report includes an appendix consisting a 39-page table of relevant 'Plan/ Programme/Objective[s]' across all tiers of governance: international, UK, Scottish, regional and local. The table lists the PPSs alongside their 'main requirements' and a final column describes 'How it affects, or is affected by the A96 Corridor Masterplan in terms of SEA issues at Schedule 2, para 6(a) of the Regulations' (Halcrow Group Limited, 2007a: Appendix A).

Tiering

Besides acknowledging PPSs at various levels of governance, effective tiering ensures that the appropriate environmental assessment is undertaken at the appropriate level (see discussion in section 2.6.2). Such an approach can ensure the efficiency sought within joined-up government and also that environmental considerations are embedded within decision making from strategic level down. While SEA seeks to ensure the consideration of strategic alternatives, the discussion above shows that alternatives to the Plan were not subject to SEA. Rather, despite SEPA's approval at the scoping stage that 'a range of alternative sites capable of development will be assessed' (SEPA, 2006), single options for three elements of the Plan were subject to assessment against SEA objectives, with significant elements of the proposed development plan being excluded from assessment.

Despite its exclusion from the SEA of the Corridor Masterplan, the new town is included in the second National Planning Framework for Scotland (Scottish Government, 2009a: para. 214). Describing the Plan, the national framework states:

Highland Council's *A96 Corridor Development Framework* includes proposals designed to accommodate an additional 30,000 people in the area over 35 years. These include significant expansion to the East of Inverness and at Nairn, the creation of a new settlement at Tornagrain, and a residential and marina development at Whiteness. (*ibid.*)

These proposals are not, however, assessed within the SEA of the NPF2 as it focuses on nine 'National Developments' (Scottish Government, 2008a: para. 1.13). Tornagrain is also included in the Scottish Sustainable Communities Initiative (Scottish Government, 2009c). Submitted to the Initiative by Highland Council despite never having been subject to SEA, the new town proposals 'represent an opportunity to showcase a comprehensive approach to sustainable placemaking with an emphasis on engagement with the local community and stakeholders' (*ibid.*: 17). The SSCI projects were subject to 'a broad level assessment of the possible significant environmental effects' (*ibid.*: 3), although no formal SEA process was undertaken. And although the inclusion in the SSCI programme was used to legitimize a new town, it was not subject to SEA as the Initiative 'represented an invitation and not a requirement' (Scottish Government, 2009c: 79). The centralisation of environmental legitimacy, despite lack of SEA, evident here is discussed further in section 7.1.1.

Looking to lower tiers in the planning hierarchy, despite its exclusion from the A96 Corridor Masterplan SEA, the planning statement in support of the planning application for the new town states explicitly that the Tornagrain site can be developed

...as a sustainable location by virtue of The Highland Council's identification of the site for a new settlement through its SPG's Smart Growth Approach, Strategy Framework, Green Framework [...], Collaboration for Success process, community consultation, and *Strategic Environmental Assessment* [emphasis added] (Moray Estates Development Company Limited, n.d. a: 34).

Later the document asserts that '[t]he site has also been identified as an appropriate site for a new settlement through THC's strategic environmental assessment and subsequent allocation within The A96 Growth Corridor Development Framework 2007 SPG' (*ibid.* :51). Although the developers' proposals are subject to EIA, these allusions to a properly tiered environmental assessment programme for the town are misleading as Tornagrain was not

assessed under the auspices of SEA, whether at local development plan or where it was included amongst national-level plans and designation initiatives.

Integration of the planning and SEA processes

The exclusion of Tornagrain from formal SEA at any level obscures the effectiveness of tiering. An appendix to the Community Engagement Statement supporting the planning application continues the obfuscation (Moray Estates Development Company Limited, 2009: Appendix 1):

The A96 Growth Development Framework together with its finalised Strategic Environmental Assessment was approved by The Highland Council in September 2007. The guidance specifically identifies a new settlement at Tornagrain which will deliver 4500 units in the period 2011 to 2041.

This section of the appendix gives an account of joined-up planning and SEA processes: there is nothing to suggest that Tornagrain was in fact excluded from assessment in the SEA.

The SEA consultant highlights the difficulty of fully integrating SEA with PPS processes in real time, even where there is no disparity between the PPS and SEA scope (Interview, May 2009):

And sometimes that can take a bit of time to resolve how best to do this SEA, which has a knock-on effect in terms of the programming of this policy, plan or programme and, on occasions, there may be a need to play catch-up or, not so much retro-fit, but review the SEA programme to ensure that the programme that is being assessed will meet its time programme and its timescale.

The scoping report lists SEA as component two of four (Halcrow Group Limited, 2006a: para.2.5.1). The accompanying Gantt chart describes the 'Strategic Environmental Appraisal' as being Phase 3 of five phases (*ibid.*: para. 2.5.2). While the actual assessment of the options may constitute a 'phase', the SEA process should, for a truly iterative process, be integrated from start to finish and beyond. In this case the 'appraisal' encompasses tasks from Task L, 'scoping and baseline' to Task P, 'monitoring' (*ibid.*). The temporal location of 'monitoring' on the chart is prior to 'Option development and refinement' and 'Option assessment', tasks E and F, which had been undertaken in Phase 1. *Collaboration for Success 1*, the public engagement exercise mentioned in the Environmental Report (although it did not contain any reference to SEA), is cited as Task D (*ibid.*). It is difficult, therefore, to justify the following statement made later in the Report:

The SEA objectives in this instance form the basis for the appraisal and testing of various development options as these emerge. They provide the starting point for ensuring that the *SEA issues are at the heart of and are fully integrated into the A96 Corridor Masterplan*. [emphasis added] (*ibid.*: para.5.4.6)

The Responsible Authority also alludes to a fully integrative approach to consideration of environmental impacts. An appendix to the Director of Planning and Development's Report to the PDET Committee of 26th September 2007, for consideration in deciding if the Plan should be adopted as supplementary planning guidance, states

The aim of the SEA and Environmental Report is to identify ways forward in minimising adverse and maximising positive environmental effects, *not just at the end of the process but throughout it*. Therefore the Masterplan has been developed with *constant review with regard to possible impacts*, the outcome being a Framework where the likely impacts have been minimised as far as is possible, not one where there are no adverse impacts. (emphases added (The Highland Council, 2007e: Appendix 1)

Joined-up consultation

Given its relatively late appearance in the Plan process, the SEA cannot be said to have been fully integrated. Similarly, public consultation facilitated by SEA, in accordance with the SEA/good governance nexus, has not been fully integrated into the decision process. Again, the core issue that emerged was the absence of Tornagrain from consideration in the SEA, an absence which drew comment from both statutory consultees and the public. Regardless, again the Community Engagement Statement in support of the planning application for Tornagrain presents an impression of a fully integrated community consultation process:

[t]he Framework has [...] undergone a comprehensive process of public engagement which identified the principle of a new settlement at Tornagrain throughout. As such the principle of Tornagrain complies with the outcomes and conclusions of this extensive process of public engagement. (Moray Estates Development Company Limited, 2009: Appendix 1)

The final page of the appendix provides a diagram entitled 'A96 Growth Corridor Development Framework Production & Public Consultation Process' (*ibid.*). It highlights the February/March 2007 consultation but again there is no indication that Tornagrain was not part of the SEA and so no consultation on it through SEA was possible. Public participation through the SEA will be discussed further in section 5.3.6.

Sustainability appraisal vs. SEA – a fuller integration?

C.S. Holling seeks to replace environmental assessment processes with ‘adaptive environmental management and policy design’, which ‘integrates environmental with economic and social understanding at the very beginning of the design process’ (1978: 1). While there is awareness of the requirements for integration of PPSs and SEA, the SEA consultant in this case is clear about the difference between contemporary Sustainability Appraisal, which, echoing Holling, integrates social and economic factors alongside environmental, and Scottish SEA which focuses solely on environmental considerations. The Scoping Report in this case re-iterates the view of the Scottish Executive (as reiterated in Scottish Government, 2010a): ‘Whilst social and economic factors have obviously played a major role in decision-making, it is felt that a pure SEA will be more transparent in terms of highlighting the environmental consequences of the masterplan’ (Halcrow Group Limited, 2006a: para.1.2.5).

By contrast, the SMART growth criteria employed by the planning consultants in the development of the Masterplan are a mix of ‘accessibility, economy, community and environment’ (*ibid.*: para.6.2.5). In addition, consultation responses were critical that the Environmental Report did not use pure SEA criteria in consideration of the options, instead applying SEA only to the finally selected options. Regardless, the SEA consultant is emphatic that all aspects of sustainability are properly considered, whether or not they are formally encompassed within one assessment process: ‘there is a recognition in Scotland as to the economic impacts and economic values *outwith* the regulations so there is a kind of separate process that captures the sustainability appraisal issues that are undertaken down South’ (Interview, May 2009).

Holling’s aspiration to joined-up, integrated assessment processes has not been met in this case. The SEA covers only part of the Plan. Accordingly, public consultation through SEA does not encompass all aspects of the Plan. In this respect, the case echoes Flyvbjerg’s Aalborg study (1998: 81): ‘An integrated plan becomes a fragmented reality’. Regardless, claims are later made that a coherent tiered approach to the development of the Plan and consultation has prevailed. Such claims add to doubts around the contribution to transparency afforded by the representation of the development of the Plan in subsequent stages. Central to the contention that has arisen around the Plan are the objections to the perceived inadequacy of consultation processes. The next section will examine the contribution of the statutory consultees to the SEA/good governance nexus in this case.

5.3.5 Consultation with the statutory consultees

As discussed in section 2.8, the SEA Directive, in keeping with the SEA/good governance nexus, aspires to 'early and effective' public input into decision processes (EC, 2001, Art. 6.2). That aspiration is reflected in the Scottish guidance: 'The public and the Consultation Authorities must be consulted on the draft PPS and the Environmental Report, and must be given an early and effective opportunity within appropriate time frames to express their opinions' (Scottish Executive, 2006: para. 13.2.3). In considering the contribution to the consultation element of the SEA/good governance nexus, this section therefore firstly considers whether consultation was early in the SEA process. It then looks at how effective the contributions from the statutory consultees were by considering the treatment of those responses by the Responsible Authority. This discussion, and that in section 5.3.6 will therefore provide the context for the discussion of the power-knowledge axis introduced in section 4.2.3 and applied to the cases in section 7.3.

Early?

In this case, the statutory consultation authorities became involved in the SEA during the scoping stage of the Plan's second phase. Both the Scoping Report and the Environmental Report refer to consultation that took place earlier in the PPS process. However, dissonance emerges when accounts are compared. The Scoping Report suggests the statutory consultees attended the first round of Collaboration for Success: 'Spread over two sessions the first has been completed, *at which the Consultation Authorities were invited and participated within [sic]*' [emphasis added] (Halcrow Group Limited, 2006a: para.6.2.3). However, the public record of the attendees at the workshops show that while a representative from SEPA attended one workshop, SNH and Historic Scotland are not recorded as having attended either CfS1 workshop² (The Highland Council, 2006a).

Effectiveness of scoping responses

The Consultation Authorities submitted detailed responses to the Scoping Report, their first engagement with the SEA. SNH's 'main comments' listed in their covering letter raise

² There are two instances of attendees not recording their organisational affiliation. Both of these are attended the meeting of 'East Inverness Collaboration for Success: Government and Commercial Shareholders' on 'Tuesday [sic] 27th June 2006'. SEPA is recorded as having attended the 'Nairn South Collaboration for Success: [sic] Government and Commercial Shareholders' workshop on Tuesday 4th July 2006.

concerns about definition and transparency in the baseline and 'potential impacts' as well as lack of methodological transparency and the associated complaint of indicators being 'vague' or 'absent altogether' (SNH, 2006). SEPA's main concerns at the scoping stage were the grouping together of 'policies, aims and objectives' which could hinder effective assessment, and the exclusion of Phase 1 strategic decisions from the SEA (SEPA, 2006) while Historic Scotland points to the risk of procrastination in undertaking strategic assessment: 'it negates the purpose of SEA to always "park" assessment of impacts until the project stage' (Historic Scotland, 2006).

The subsequent Environmental Report states that the strategic-level assessment 'relies on expert analysis and judgement to predict potential effects and ascertain how these effects can be accommodated for' (Halcrow Group Limited, 2007a: para.6.1.1). It also asserts (*ibid.*: para.2.2.1), 'A series of assessments were undertaken that considered the scoping responses from the Consultation Authorities (CAs)'. The SEA statement and subsequent post-adoption statement note Historic Scotland's satisfaction where 'SEA objective for the historic environment has been amended in line with suggestions made in our scoping response' (The Highland Council, 2007e: Appendix 1; The Highland Council, 2008: 37). Some of SEPA's concerns and recommendations about flooding were also taken on board (The Highland Council, 2008: 14, 16, 21). However, there were criticisms of the treatment of the scoping responses from all three statutory consultees.

The Scoping Report cites the SEA legislation and reminds the reader 'that the views expressed by the Consultation Authorities on the scoping report must be taken into account when producing the Environmental Report to which it relates' (Halcrow Group Limited, 2006a: para.1.3.4). However, in its response to the Environmental Report, SNH make clear that they 'are disappointed to note that many of our comments at the scoping stage [...] have not been incorporated into the Environmental Report' (SNH, 2007d). SNH then reiterate all their main concerns raised at the scoping stage (*ibid.*). Historic Scotland were also 'disappointed to note that only some of the comments [...] provided on the Scoping Report have been taken into account during the preparation of the Environmental Report' (2007c). Historic Scotland also believed its comments supplied at the scoping stage to have been 'somewhat mis-represented in the Environmental Report' (*ibid.*). In a letter to the Responsible Authority, SEPA raised concerns about the effectiveness of their input into the process at the scoping stage: 'not all of SEPA's previously-expressed concerns have been satisfactorily addressed and hence SEPA maintains its objection until these matters

are resolved' (2007c).

Another element of concern amongst statutory consultees regarding the Scoping Report, and of direct relevance to the SEA/good governance nexus, is the formal consultation period for the Environmental Report. The Scoping Report reports that it 'details the length of the consultation period that will be set aside to enable interested parties to make representation on the Environmental Report itself' (Halcrow Group Limited, 2006a: para.1.3.5). Accordingly, the first sentence of the 'Consultation and Monitoring' chapter states 'This section outlines the consultation periods proposed for the Consultation Authorities and the public' (*ibid.*: para. 6.1.1). The section outlines the CfS events (which contained no reference to SEA) but fails to mention the proposed consultation on the Environmental Report. SNH's covering letter states that the Consultation Authority is 'unclear about the period of time for consultation on the Environmental Report' (2006). Historic Scotland (2006) shares this concern and reminds the Responsible Authority that 'we would normally require a consultation period of 8 weeks for a plan of this type'. In its response SEPA (2006) notes that, 'The proposals for an eleven week consultation period for the ER is acceptable to SEPA (it is noted that the actual timescales have slipped somewhat)'. Ultimately, as discussed above, the consultation period was four weeks, from 6th February to 5th March 2007.

Effectiveness of Environmental Report responses

Consultation contributions on the Environmental Report raised an array of issues, from minor points such as approving an appendix devoted to 'detailed comments explaining the assessment results' (The Highland Council, 2008: 18), to calls for complete reappraisal: 'SEPA recommends that the assessments be reappraised in light of the above general and specific comments and all significant effects accounted for in mitigation' (*ibid.*: 27). SEPA's concerns in particular were further discussed at the 26th September 2007 meeting when attendees were assured 'it was expected that a resolution would be found through dialogue' (The Highland Council, 2007c). A working group was to be formed with the three statutory consultees as members to ensure that concerns raised during the Plan SEA stage would be resolved during the subsequent formal development planning process (*ibid.*).

Some of the Consultation Authorities' concerns were accepted immediately. For example SNH's statement that it 'disagree[d] that the runway expansion at the airport is classified as a green development' (SNH, 2007d) was taken on board inasmuch as both the

SEA Statement circulated for the 26th September 2007 meeting and the post-adoption statement respond that 'The Masterplan framework has been amended to identify this area as a green protection area' (The Highland Council, 2007e: Appendix 1; The Highland Council, 2008: 57).

The post-adoption statement asserts that as well as consultation contributions resulting 'in some changes to the finalised Framework' (The Highland Council, 2008: 11),

The majority of comments will also either inform the Strategic Environmental Assessment which must be prepared for the Highland Local Development Plan or inform the detailed master planning exercises which are or will be carried out in relation to the expansion areas identified in the Plan. (*ibid.*)

Although consultation contributions prompted a variety of responses from the Responsible Authority, Figure 5.3 shows the majority of consultation contributions represented in the 26th September 2007 SEA Statement drew a 'No change' response (The Highland Council, 2007e). Where responses were met with the retort that future SEAs would incorporate Consultation Authority contributions, these account for only 20, 13 and five percent of responses respectively for SEPA, Historic Scotland and SNH.

While 13 per cent of both SEPA's and Historic Scotland's contributions were to result in an amended Environmental Report, 41 per cent of SNH's comments drew that response. It is not clear what this response means: there was no subsequent amended Environmental Report published. The post-adoption statement reveals that most of the references to an amended Environmental Report have been removed from the Responsible Authority's responses (The Highland Council, 2008) (see Figure 5.4). The proportion of SNH's comments drawing a 'No change' response increases from 54 per cent to 73 per cent between the SEA Statement (The Highland Council, 2007e) and the post-adoption statement (The Highland Council, 2008), while the proportion of that Consultation Authority's comments which were met with a 'No change – Action later' response increased from 5 per cent in the SEA Statement to 25 per cent in the published post-adoption statement.

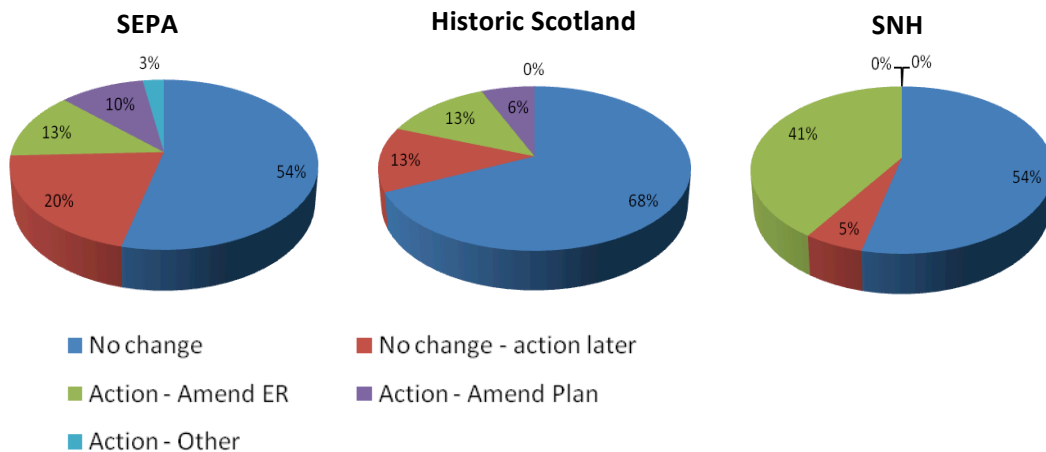


Figure 5.3 Responsible Authority responses to Consultation Authority comments. Data drawn from SEA Statement, attached as an appendix to the Director of Planning & Development's report presented to Planning, Development, Europe & Tourism Committee on 26th September 2007 (The Highland Council, 2007e).

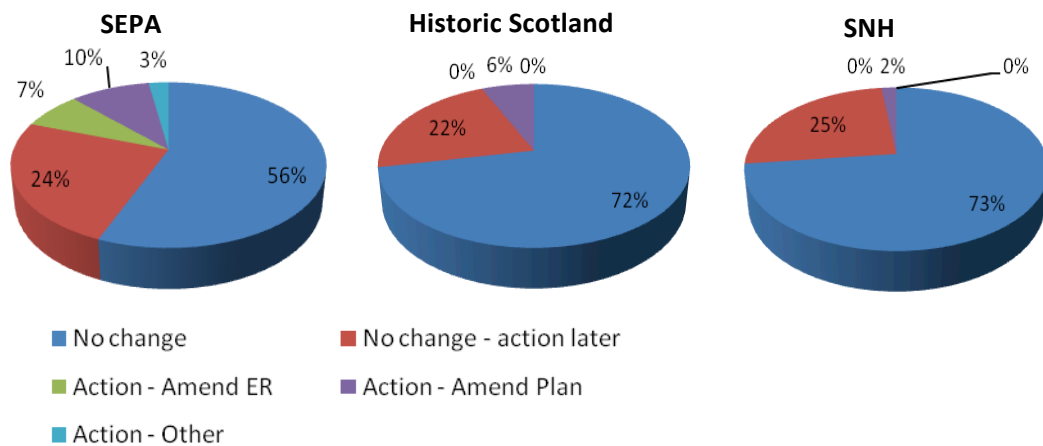


Figure 5.4 Responsible Authority responses to Consultation Authority comments in the published post-adoption statement. Data drawn from post-adoption statement (The Highland Council, 2008).

Those attending the Council meeting at which the SEA Statement was circulated were asked to decide on the Plan partly on the basis of the consultation contributions and subsequent responses from the Responsible Authority presented in that Statement (ibid.). That these responses have been changed in the final post-adoption statement suggests that the good governance credentials within SEA in this case have been undermined. However, it should also be noted that where the Responsible Authority has responded with changes to the Plan itself, these changes have been maintained.

5.3.6 Public participation

The involvement of the public in decision processes is a central democratic element of the SEA/good governance nexus. Effective transparency and accountability require the involvement of the public even if only in the consumption of information. Partnership working and joined-up government have implications for public participation where democracy is seen to be compromised - private- or third-sector partners may not be subject to the same democratic requirements as public sector - and where intra-government efficiency may be prioritised over public consultation. The SEA consultant in the Highland case understands the interwoven nature of the SEA/good governance elements and their significance to the acceptance of the Plan: 'in terms of a legitimacy there is clarity in terms of how the SEA has impacted on the development Masterplan and I think that will be evident during the public consultation process during the summer where that clear, transparent link can be identified' (Interview, May 2009). Sections 4.2.2 and 7.2.7 discuss the intensification of the effects of power facilitated by public participation in SEA, generally and in the cases respectively. This section will therefore outline the public participation that took place during the planning and SEA processes for the Highland PPS. Mirroring the approach taken in section 5.3.5, it will consider whether public participation took place early in the processes and then examine whether the participation that took place was effective. Consideration will be confined to the public consultation processes directly concerned with the Masterplan and its associated SEA, with attention being paid to events from 2004 as these consultations are directly referred to in subsequent published PPS/SEA documentation.

Early?

As discussed above, the Plan's intended status as interim development planning guidance means it automatically qualifies for SEA and so was not required to undergo formal screening. While operating within the legislation, the formal notifications required during formal screening were not required in this case.

Section 5.2.2 describes the Scoping Report's misrepresentation of the degree of public consultation that took place during Phase 1 of the planning process: in the Report's 'Background' section it suggests that the public had been consulted on eight, rather than four options (Halcrow Group Limited, 2006a: para.1.1.2). The Scoping Report then refers to the CfS events that took place, though they did not mention SEA. The Report invites comment on

'information contained in the assessment of the baseline situation and the key issues identified – in particular is there any more information available on the local situation' (*ibid.*: para.7.3.1). However, as stated in section 5.2.2, the Scoping Report was not published on the Responsible Authority website and so, despite the claim that their 'approach to consultation engages beyond the statutory Consultation Authorities [...] and promotes early involvement' (*ibid.*: para.6.2.1), there was no public involvement in the SEA process prior to the publication of the Environmental Report.

The first public consultation that was facilitated by SEA was the formal consultation which ran from 6th February to 5th March 2007, authorised by the PDET Committee on the 31st January 2007. The Report produced by the Director of Planning and Development shows that the January meeting had also been briefed on 'technical work on infrastructure, the development timetable and developer financial contributions', suggesting that this first SEA-enabled public consultation was occurring, not early in the planning process, but at a stage when the technical details of implementation were being considered (The Highland Council, 2007a: Appendix1, para.2.3).

An action group was formed by local residents who believed public consultation to have been inadequate. In August 2007 the group sent a report to newly elected councillors. The covering letter includes 18 signatories including local business people and community councillors. They assert that 'Community engagement was not meaningful enough at the earliest stage to effectively influence the shape of the master plan proposal'. (APT, 2007a). Specifically, the group regrets the exclusion of community councils: 'No community councils as statutory bodies were involved at an early stage in the preparation of the plan' (APT, 2007b). This concern is reiterated in Participant A's (2008) letter of complaint to the Scottish Ombudsman: 'Why didn't Highland seek to involve the community councils as bodies as soon as possible, why were they expected to participate "later in the process"?. Indeed, the consultant's report of a consultative conference that took place during Phase 1 of the planning process stated, 'Although the conference was intended for members of local community organisations it was made clear to those attending that they had been invited as 'informed' local people rather than to represent the official views of their organisation – there being opportunities later in the planning process for this' (Craigforth, 2004: para. 1.13; FG Burnett *et al*, 2005: para. 3.2.6).

The action group's report describes members' concern that Highland Councillors were not presented with a true account of the role of community councils in the decision

process: 'We [...] continue to feel deeply troubled by the fact that elected members read the words "Consult with Community Councils", not just in the reports presented to them but in the consultant's report [FG Burnett, 2005] itself' (APT, 2007b). The group refers specifically to the proposals for the new town, excluded from environmental assessment in the SEA: 'Many members of the public likely to be affected by the proposals were not given an opportunity to make their views known prior to the announcement being made that a 'new town should be built' (APT, 2007b). One community councillor who attended the Phase 1 consultative events recalled that 'people laughed like drains when they heard about the new town, Tornagrain ... you know, joking, "who would want to think about that!"' (Interview, March 2009). Another points to discrepancies in accounts:

[Participant C] and I were at [the] Community Council consultation focus groups. It was reported the next day that what was wanted was a new town. [...] and I left the meeting ... our thoughts were the meeting had agreed Inverness and Nairn were what was needed. Tornagrain wasn't mentioned but if you read the consultants [FG Burnett, 2005] report you'd think that a new town was what was needed (NPO, Participant D, Community Councillor, public meeting, March, 2009)

According to community councillors who took part, transparency of decision making was not enhanced by public participation: 'No minutes were taken of these focus groups, none at all' (*ibid.*). Consequently, there had been, for that participant, 'misrepresentation of what was discussed' (*ibid.*; cf. APT, 2008a). These concerns led Participant A to contact the local MSP to alert him that 'Since therefore, the 12 community councillors were not representing their community view and in fact they spent less than 4 hours at the 'consultative conference (including lunch and tea), then this interaction should have not been represented to councillors as consultation with community councils' (Participant A, October 2007).

Even so, the consultant's report from the focus groups and consultative conference concludes 'there was some support for a new central settlement [...] although *support was generally stronger for the creation of a series of smaller settlements...*' (emphasis added) (Craigforth, 2004: 25). The Report continues: 'There was little, if any, support for proposals for growth at Croy and Newlands [...] – the lack of support was widespread and not restricted to those who lived in or near these communities' (*ibid.*). The final Plan has a map showing a large central settlement, the perimeter of which appears c.600m away from the perimeter of Croy which is earmarked, according to the map, for 'settlement expansion' (Halcrow Group Limited, 2007d: 1).

Table 5.1: Key publication and consultation events for Phase 2 of PPS development in Highland case

| Plan | Plan consultation | Date | SEA consultation | SEA |
|------------------------|-----------------------------|-----------|---|-------------------------|
| 2006 | | | | |
| | Collaboration for Success 1 | June/July | | |
| | | August | Consultation with CAs | Scoping Report |
| | Collaboration for Success 2 | September | | |
| 2007 | | | | |
| | | January | | Environmental Report |
| Draft Plan | Formal consultation | February | Formal consultation | |
| Decision 1 | | March | | |
| Final Plan; Decision 2 | | September | Circulation of SEA Statement to elected members | SEA Statement |
| 2008 | | | | |
| | | October | Publication of post-adoption statement | Post-adoption statement |

Phase 2 of the planning process, which was subject to SEA, began in May 2006 (The Highland Council, 2007a: para.2.3). According to the Director's Report,

A major public consultation including a number of local manned [*sic*] Exhibitions was carried out by the Planning & Development Service in September/October 2006. This related to detailed planning frameworks for East Inverness, Nairn and the wider Corridor countryside (Green) area' (*ibid.*).

As discussed in section 5.2.2, the Scoping Report of August 2006 describes the scope of the Plan and SEA as being considerably broader although it was not made publicly available for comment. While there was no public involvement in the earliest stages of SEA, screening and scoping, there was a four-week consultation on the Environmental Report, the earliest stage at which public consultation is legally required (see Table 5.1).

Effectiveness of public participation

SEA seeks to ensure the early and effective engagement of the public in decision processes.

However, departing from the sole focus being on the effectiveness of participation within the SEA, this section will first consider the effectiveness of SEA to facilitate public participation in this case.

Where it describes public consultation that helped with the SEA process to up to its publication, the Environmental Report invokes CfS: 'During the Masterplanning and SEA process, framework options for Inverness East and Nairn were produced through a stakeholder consultation process, Collaboration for Success (CfS)' (Halcrow Group Limited, 2007a: Non-technical summary; and see also main report, para.2.4.2). As section 5.2.3 argues, CfS did not include discussion of SEA or assess options against SEA objectives.

The effectiveness of SEA as a conduit of public participation in the planning process is further limited where the scope of the SEA, and so subsequent public consultation, does not reflect the breadth of the Plan. The limited scope of the CfS exercises was mentioned in the SEA Scoping Report, compiled between CfS 1 and 2, which states '*Collaboration for Success* has been focussed around the two Development Framework Plans' (Halcrow Group Limited, 2006a: para.6.2.3). The options appraisal chapter of the subsequent Environmental Report also refers exclusively to CfS despite the lack of appraisal under the auspices of SEA during those exercises (Halcrow Group Limited, 2007a: Chapter 7).

Given its significance as the only public consultation cited in the Environmental Report, it is worth looking briefly at the CfS exercises. The Inverness East CfS1 was attended predominantly by 'government and commercial shareholders' (see Table 5.2). A subsequent workshop for 'Community and Political Shareholders' (1st July 2006) included five community councillors and two Highland Councillors. The Nairn South CfS was also separated into those groupings with 82 per cent of total attendees attending 'Government and Commercial Shareholders' workshop and the remaining six 'Community and Political Stakeholders [*sic*]' attending the following day (The Highland Council, n.d.). Those attending the second day of the Nairn CfS1 event included one community councillor, two from the voluntary sector, a council officer, a Highland Councillor and a cycle campaign representative (*ibid.*).

The interim report on 'Options for Development and Green Frameworks' describes CfS1 as an 'options development' session for the development areas at Nairn and Inverness (Halcrow Group Limited, 2006b). The report's chapter on the Green Framework, however, presents the proposed Green framework with no options and mentions only the Green Framework Planning Group as participants in its development.

At the second round of Collaboration for Success, CfS2, which took place in

September of 2006, shortly after the compilation of the Scoping Report, participants were invited back to assess options for Inverness and Nairn using the consultants' 'Smart Growth Sustainability Appraisal Matrix' encompassing accessibility, economy, community and environment. CfS2 'allowed over 40 stakeholders in seven workshops to identify a consensual approach to accommodate growth in Nairn' (Halcrow Group Limited, 2006c: 11), and, in the case of the East Inverness element of the Masterplan, 'over 30 stakeholders in five workshops' undertook the same exercise (*ibid.*: 25).

Table 5.2: Attendees at Collaboration for Success 1 workshops, cited as public consultation in SEA documents.

| Attendees at Cfs1 workshops by sector | No. of attendees |
|---|-------------------------|
| <i>Inverness East</i> | |
| Government and Commercial Shareholders | 23 (incl. 4 from RA) |
| Community and Political Shareholders | 8 (incl. 2 from RA) |
| <i>Nairn South</i> | |
| Government and Commercial Shareholders | 27 (2 from RA) |
| Community and Political Stakeholders [<i>sic</i>] | 6 (incl. 2 from RA) |

Source: The Highland Council, n.d.

It is clear that CFS - the only public consultation mentioned in the Environmental Report - dealt specifically with the Inverness East and Nairn South, with no mention being made of the Green Framework. An assertion is made in the Environmental Report that 'An outline of a suggested Green Framework was assessed throughout the public consultations, highlighting features and concerns that were taken into consideration in the refinement of the finalised Green Framework option' (Halcrow Group Limited, 2007a: Non-technical summary). It is not clear, however, to which public consultations this refers as there is no formal record, apart from this one brief reference, of public consultation in the development of the Green Framework. A report, *A96 Corridor Masterplan: Stage 2 Interim Report -Phase 4, The Green Framework* (Halcrow Group Limited, 2007b), refers to collaborative working in the development of the Green Framework, though not to involvement of the public: a section entitled 'Collaboration' states that 'Through close working with the Green Framework Planning Group critical assessment and positive contributions were made to allow the development of the Green Framework' (*ibid.*: para. 2.1), a statement repeated in the final Plan document (Halcrow Group Limited, 2007d: 12). A footnote reveals the Group '[i]ncluded SNH, SEPA, Forestry Commission, Green Inverness,

THC, Moray Estates, Cawdor Estates and other [undefined] interests' (*ibid.*).

That the Environmental Report presents only one option for each of the two development areas and the Green Framework, demonstrates a lack of active public involvement in the planning processes through the conduit of SEA. It also runs contrary to the stated aspiration of Scottish Government more generally: the minute of the Council meeting of the 14th March 2007 shows that one point raised during the discussion was, 'PAN 81 [The Scottish Executive, 2007b] stated that "nothing should be done for the community without the community" – community involvement was crucial' (The Highland Council, 2007b). However, before consigning the participation processes in this case to the bottom rung, or below, of Arnstein's ladder, it is necessary to examine the effectiveness of the formal public participation that did take place under the auspices of SEA.

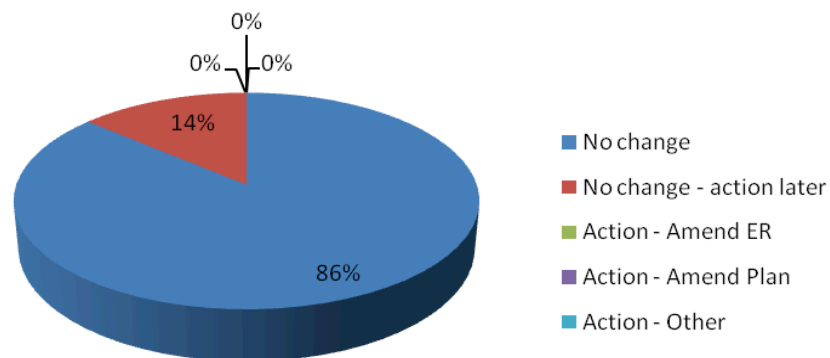


Figure 5.5 Responsible Authority responses to non-statutory contributions (n = 22). Data drawn from published post-adoption statement (The Highland Council: 2008)

The formal SEA/Plan consultation period in Feb/March 2007 drew responses from non-statutory consultees including RSPB and Scottish Badgers. Contributions referring to the Environmental Report were also forthcoming from a community council and individual local residents. The Responsible Authority responses to these contributions were consistent between the 26th September 2007 SEA Statement and the published post-adoption statement (The Highland Council, 2008). Figure 5.5 therefore considers only the account in the published post-adoption statement.

Three of the contributions were concerned that elected members were asked to decide on the progress of the Plan whilst not in possession of the relevant environmental information, that is, the delayed statutory consultee responses to the formal SEA consultation. While Responsible Authority responses to these concerns are recorded in the post-adoption statement as 'No change', the final decision on moving forward the Plan had

been postponed pending receipt of this information and so change had occurred in the process, if not the SEA or Plan documents. The 'action later' cited in the three 'No change – action later' responses from the RA was the intention of the RA to continue working in partnership with the statutory consultees and the RSPB as the Plan is progressed.

Although it can be argued that public consultation had been undertaken at various stages of the development of the Plan, effective public participation under the auspices of SEA - where effectiveness is gauged by impact on the Plan - was minimal. The democratic legitimacy of the SEA/good governance is undermined where the evidence suggests Participant A was correct in a letter to the Ombudsman which conveyed the belief 'that Highland had been 'economical' with their responses and had made no concessions at all' in its consultations with the public (Participant A, 2008).

5.4 Conclusion

The SEA/good governance nexus seeks to confer environmental and democratic legitimacy on decision processes where, unmitigated, outcomes are expected to result in significant environmental effects. In this case, questions remain regarding the efficacy of SEA to confer either form of legitimacy.

The SEA consultant is positive about the role of SEA in enhancing both environmental and democratic credentials of decision making: 'SEA helps in the transparency of how environmental and sustainability issues have been considered by plan, programme or policy so I think SEA does add value in terms of legitimacy in that context' (Interview, May 2009). The application of sustainability appraisal without using SEA objectives, however, led to criticism from the statutory consultation authorities: while SEA objectives were applied in the assessment of the final option for each of the three elements of the Plan which were subject to SEA, these were not used to assess options prior to that stage rendering, according to the Consultation Authorities, useful comparison impossible. There were also outstanding concerns on the part of the statutory consultees after the final decision had been made to progress the Plan, although the Responsible Authority promised to work in partnership with various environmentally-concerned bodies to ensure the environmental credentials of the Plan during its implementation. This research, however, is more focused on democratic legitimacy that can be gained through satisfaction of good governance criteria within the SEA/good governance nexus.

Transparency, accountability, statutory consultation and public participation all

directly confer democratic legitimacy. Partnership working is said to strengthen public governance by bringing the necessary knowledge to bear on decision making and implementation while joined-up government is said to improve outcomes as well as instilling efficiency in the public sector, a common electoral refrain across the political spectrum.

For the SEA consultant, the transparency role of SEA is central. This is reflected in the suggestion made in the Scoping Report that a scrutiny group be assembled to ensure transparency and 'bring impartiality' (Halcrow Group Limited, 2006a: para.5.8.2). There is no further reference to such a scrutiny group and requests for information on it, made to the Responsible Authority, remained unanswered. The aspiration to objective assessment to facilitate informed decision making is further compromised in this case: rather than enhancing good governance by considering all the options and alternatives to the proposed PPS, SEA, in this case, is also to aid transparency of 'the benefits of the Masterplan' (Halcrow Group Limited, January 2007a: para.2.2.3). Here the role of SEA has become a sales exercise rather than 'highlighting the importance of sustainability and environmental issues' (SEA consultant, Interview, May 2009, cited section 5.1).

Concerns were subsequently raised about the availability and clarity of information provided. While the amount of technical information pertaining to the Plan was appreciated, there was a lack of clarity within the post-adoption statement regarding specific responsibilities, both for decisions made in the SEA and for future implementation of monitoring duties. Perhaps more importantly, that the scope of the SEA was significantly narrower than described in the Scoping Report severely inhibited the transparency role of SEA regarding the processes and potential impacts of the Plan.

Where transparency is undermined, so are claims to the accountability role of SEA. Both professional and electoral accountability issues emerged in this case. Consultation Authorities questioned the Responsible Authority's application of Scottish best practice guidance mentioned the SEA documentation. Similarly, doubts about political accountability were raised when elected members were asked on the 14th March 2007 if they were 'minded' to progress the Plan despite lacking SEA consultation responses from the statutory consultees. It was, however, a new committee that was to make the final decision on adopting the Plan as interim planning guidance, post-election, in September 2007. It was not only elected members at the local council tier that were held responsible and accountable: one community councillor made it clear that the MSP had lost a vote despite having no formal role in either the Plan or the SEA.

Collaborative working is central to the Plan. It is cited from the outset in the final Plan document. That document had had to be changed, however, in response to the action group's complaint that it overstated the compliance of communities within the Plan area. Certainly, the communities cannot be said to have been partners in the SEA process. Statutory consultees are cited as partners in the plans for monitoring the environmental impacts of the Plan. However, that role comes into question in light of the comments made by the Sustainable Development Officer regarding the degree of monitoring that is actually undertaken. Within the SEA exercise, partnership is limited to the World Bank's definition – the use of private sector in public sector functions. Such partnership in the planning process led to unease amongst some participants: despite reassurances to the contrary (The Highland Council, 2007b), there were suspicions of 'collusion' between the Responsible Authority and developers.

Joined-up government, partnership within the Responsible Authority, can manifest in various ways in SEA. The council committees charged with decisions on the progress of the Plan and SEA cover an array of responsibilities. It is possible, therefore, that those councillors will apply their strategic awareness across the range of their responsibilities. That awareness may have been enhanced by the attention paid within the SEA documentation to the policy context of the Plan. The embeddedness of the Plan within the Responsible Authority's planning context was, however, challenged by the action group who claimed that it constituted a standalone piece of work with little bearing to existing statutory plans.

Such embeddedness is critical in the context of effective tiering, a core facet of joined-up government in SEA. Phase 1 of the planning process was not subject to SEA while the strategic environmental assessment of Phase 2 was partial, a decision partly justified by reference to subsequent project-level assessment that would occur. The documentation relating to that lowest-tier assessment of the proposed new town, however, implied that strategic-level environmental assessment had taken place. Similarly, individual documents mislead the reader by presenting a considerably more joined-up account of integration between the Plan and SEA processes than actually occurred. Joined-up government under the auspices of SEA is further compromised by the lack of joined-up consultation. Smith's (2009) aspiration for efficient consultation is not satisfied as the only common Plan and SEA consultation undertaken was the formal consultation period of February 2007, despite the Scoping Report being available prior to CfS2 (see Table 5.1).

The Scoping Report was forwarded to statutory consultees for comment. Those

bodies were, therefore, involved in the SEA at an early stage. While some of their concerns were taken on board at that stage by the Responsible Authority, the Consultation Authorities voiced dissatisfaction that some serious issues they had raised had not been properly addressed. The majority of points raised by statutory consultees in response to the formal consultation on the Environmental Report were met with a 'No change' retort from the Responsible Authority, leading to the conclusion that their involvement had had limited effectiveness. That the Responsible Authority responses to these contributions were changed between the SEA Statement of the 26th September (The Highland Council, 2007e) and the formal post-adoption statement (The Highland Council, 2008), published the following year, undermines both the democratic and partnership credentials of the SEA as elected members had agreed the content of the SEA Statement, not that of the post-adoption statement.

While the statutory consultees were involved, to some extent, at the scoping stage, the public's first opportunity to engage with the SEA process was during the formal consultation on the Environmental Report. Wiklund acknowledges the potentially restricted impact of participation in environmental assessment (2005: 289): 'the product of public participation in EA is normally reflected in the impact statement but only to a limited extent, and in most cases the impact on the final decisions is limited'. The 22 'individual responses' received by the Responsible Authority in this case were all met with a 'No change' from the Responsible Authority (The Highland Council, 2008). Three of the RA reaction statements promised ongoing work with environmental bodies; none showed any intention of ongoing consultation with the public. Figure 5.6 displays the degree and direction of communication between the Responsible Authority and those consulted during the SEA process. It compares the aspiration for engagement within the Scottish SEA guidance, and that which actually took place in the Highland case.

Schwarze believes that '[i]n a democratic society, public agencies garner legitimacy to the extent that their actions can be persuasively explained as expressing the will of the people' (2004: 137). In this case, a perceived lack of democratic legitimacy led to the formation of a formally constituted action group. The concerns of the group's members ranged from unhappiness that community councils were not seated side by side with other interests during CfS events, to alarm at elected members being asked to agree the Plan without access to Consultation Authority SEA responses. They were also concerned about elected members being presented with inaccurate accounts of public consultation that had

taken place. The evidence suggests that the concerns of the group are justified. When asked about the effectiveness of public participation in SEA one council officer replied, 'it's a tick-box exercise really, the consultation process, it doesn't make it any more legitimate than prior to the consultation' (Interview, March 2009)

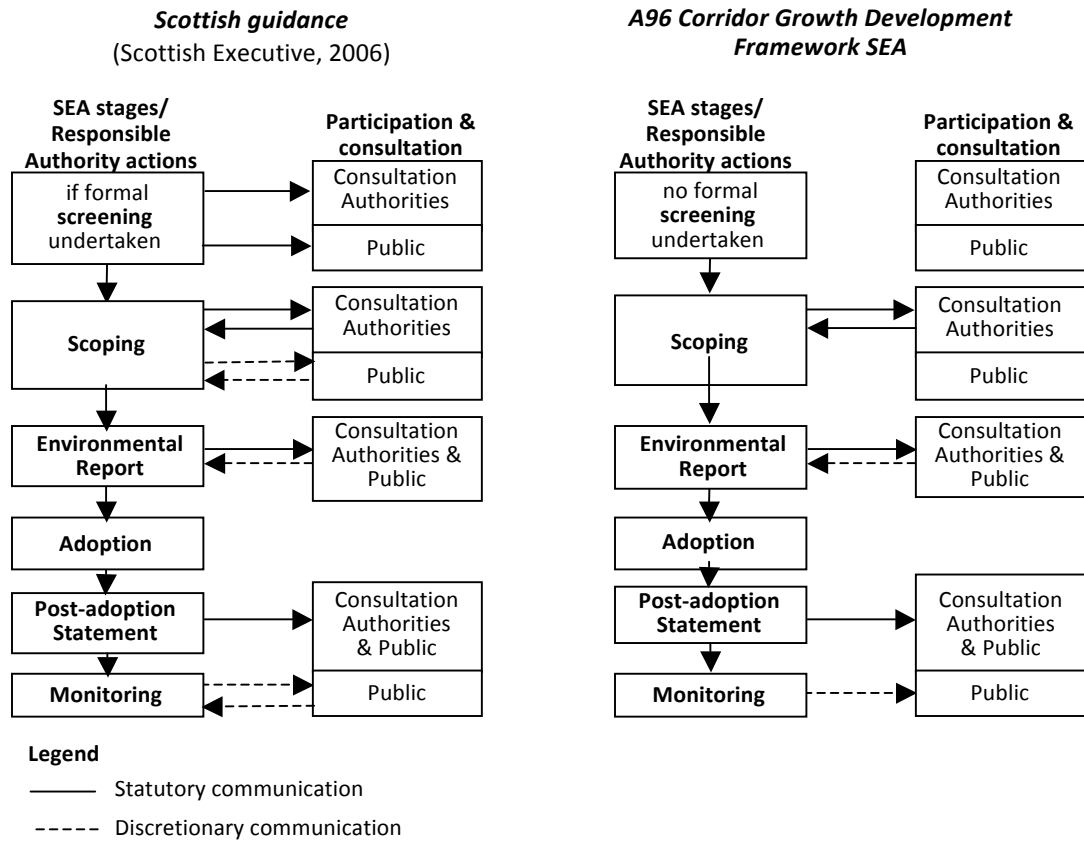


Figure 5.6. Engagement in SEA: A comparison between the Scottish Guidance and the Highland case.

Clearly, the integrity of the SEA/good governance nexus in this case has been undermined. Significant failings occurred in each of the six good governance elements being considered in the research. The next chapter looks at the Clackmannanshire Environment Framework SEA process. While the potential environmental impacts of the Highland PPS were expected to be largely negative, those for the Clackmannanshire PPS were expected to be largely positive (see Table 3.1). Chapter 6 therefore presents the results of examination of the SEA/good governance nexus in a prototypical case. Chapter 7 will then examine the results presented in Chapters 5 and 6 in the light of a governmentality approach which will clarify why the planning and assessment processes in this case did not ensure that decision makers and the affected public were likely to be 'thinking SEA'.

Chapter 6

Case 2: Greening Clackmannanshire SEA

Greening Clackmannanshire (Clackmannanshire Alliance, 2010), the Environment and Sustainability Framework of Clackmannanshire Community Plan (hereafter 'the Framework'), was, at its inception, one of four documents which together form Clackmannanshire's Community Plan. Taking its place alongside Economic Development, Community Safety and Health, it was developed between June 2007 and December 2009 under the auspices of the Clackmannanshire Alliance – the inter-agency partnership that oversees Community Planning in Clackmannanshire. The final Framework is the culmination of a series of meetings of the Environment Partnership Team (EPT) and aims to guide the prioritisation and implementation of environmentally-beneficial projects in the county of Clackmannanshire in central Scotland.

This chapter explores the successes and failures of the elements of the nexus in this apparently optimum setting. Echoing the structure of the previous chapter, it begins, in section 6.1, with a brief discussion of the aspirations to the SEA/good governance in Clackmannanshire. Section 6.2 then provides a chronological examination of the *Greening Clackmannanshire* SEA process, stage by SEA stage, focusing on the operation of the SEA/good governance nexus. In section 6.3, there is a discussion of elements of the nexus and how each was achieved and/or avoided in the context of the SEA and PPS processes and the chapter ends with the conclusions drawn from the case.

6.1 Aspirations to the SEA/good governance nexus in Clackmannanshire

As described in section 3.2.2, the Framework is in many ways a prototypical case for realisation of the SEA/good governance nexus: in terms of Scottish local authorities, it covers a small geographical area and a small population (see Figure 6.1); the local authority has a good record on environmental issues and public engagement; and the nature of the PPS lends itself to realisation of the SEA/good governance nexus, that is, a Community Planning exercise with its implications of inclusive, responsive PPS development.

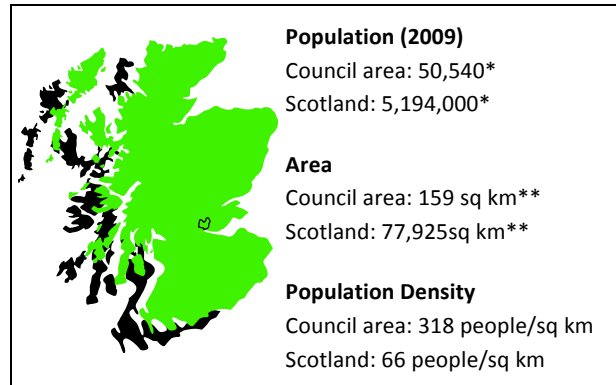


Figure 6.1 Clackmannanshire geographic and demographic characteristics

Sources: *General Register Office for Scotland (2010a); **General Register Office for Scotland (2009)

The SEA/good governance nexus can be seen where the decision-making and implementation principles of Community Planning (Clackmannanshire Alliance, 2010) overlap with both the good governance criteria described in Chapter 2, and the stated aims of SEA as denoted in the environmental report supporting the Framework (Mabbett and Associates Ltd., 2008) (see Table 6.1).

Table 6.1 Principles enacted in Clackmannanshire PPS/SEA process

| Good governance | Clacks Community Planning decision criteria ¹ | Community Planning principles of implementation ² | Clacks Environmental Report 'SEA aims to' ³ |
|-------------------------------|--|--|--|
| Participation & consultation | 'Participation (requiring multi-party involvement)' | Inclusive | Increase public participation |
| Partnership | | Collaborative | |
| Transparency & accountability | | | Facilitate openness and transparency |
| | Unique | | |
| | Strategic | | |
| Joined-up government | | Sustainable | 'integrate environmental factors into the Framework preparation and decision-making' 'improve the Framework and enhance environmental protection' |
| | Delivery capability | | |
| | | Challenging | |

Sources: ¹Clackmannanshire Council, 2007c; ²Clackmannanshire Alliance, 2010; ³Mabbett and Associates Ltd., April 2008.

The Framework SEA scoping report includes a detailed description of the two-stage decision process for the selection of priority projects to be included in the Framework (Clackmannanshire Council, 2007c). It can be said to exemplify the SEA/good governance nexus: having satisfied environmental criteria in the first stage (largely SEA objectives), to ensure inclusion in the Framework prospective projects must also be 'Promoting Good Governance and Engagement with Communities and Partners' (*ibid.*). The environmental report subsequently describes the role of the Framework in terms echoing the contemporary governance language of steering, not rowing (Hudson *et al*, 2007: 56): 'The Framework's intended purpose is to guide and co-ordinate key community and agency initiatives to promote sustainability in Clackmannanshire' (Mabbett and Associates Ltd., 2008: 1).

In addition to adhering to the general terms of contemporary governance discourse, the data collected reveal aspirations amongst those involved to satisfy, through SEA, the six specific elements of good governance introduced in Chapter 2. In its matrix approach to the assessment, the SEA consultant has devoted a column of the assessment matrix to adding 'transparency and clarity' to the SEA (*ibid.*: 26). Indeed the environmental report sees transparency, alongside impartiality, as 'fundamental to the SEA' (*ibid.*: 23). While the SEA documentation is less explicit about the accountability role of SEA, there was awareness amongst those involved that accountability was facilitated by transparency: as one Council officer stated, 'if the decisions are made and are made for a good reason then you should be able to back them up and they should be open to question' (Biodiversity Officer, Interview, February 2009).

Attention to transparency and accountability is crucial to alleviate fears, described in Chapter 2, of features of contemporary governance, including partnership approaches, adversely affecting the democratic credentials of decision processes. Partnership working is the *raison d'être* of Community Planning. Community Planning itself was part of the reaction by the Blair administration to the fragmentation and disciplinary divides during the first phase of the shift to governance (see section 2.1 on Bevir, 2011), which were barriers to joined-up government: '...the Labour government and local government community sought ways of increasing trust in local councils, addressing 'wicked', cross-cutting problems and tackling the proliferation of institutions involved in service delivery' (Cowell, 2004: 499).

In Clackmannanshire the emphasis on partnership working was such that, during

the research period a review of Community Planning in the county saw the *Theme Teams* undergo name changes to become *Partnership Teams*. The group that became the Environment Partnership Team, charged with developing the Framework, is ‘a local partnership of public, business and voluntary sectors’ (Clackmannanshire Alliance, 2010: 2). The concept of partnership is central to the legitimacy sought for the Framework by participants and consultants alike. In the note of the ideas-generating workshop which started the PPS process, the PPS consultant lists three statements produced by sub-groups during the workshop (Clark, 2007a):

- ‘Community Planning is bringing together different partners to make communities better’;
- ‘Community Planning is.....partnership working, collaborative gain, communication through partnership, a process for the benefit of local people’; and
- ‘Community Planning is a way for a group of agencies to work with the community in a co-ordinated fashion in order to add value and make the results greater than the sum of the parts’.

Although none of Clark’s statements offer any clue as to the sectoral allegiance of the partners (public, private or third), they all demonstrate an eagerness to engage with partnership working. The final statement conveys not only the importance of different bodies working constructively under the auspices of Community Planning, but also, repeating the steering requirement normally attributed to government within contemporary governance discourse: the need for effective coordination to achieve the desired results.

As well as bringing together various sectors within the Environment Partnership Team, the Responsible Authority sought to ensure that a joined-up approach across the Community Planning Teams: ‘we’ll be linking to the other Theme Teams ... food production links with health etc. ... working together rather than repeat or leave gaps’ (NPO, Strategy and Support Manager, Framework Action Meeting, May 2008). The PPS process further exemplifies a joined-up approach to environmentally-aware decision making where SEA objectives are integrated, alongside Community Planning concerns, as core decision criteria.

The SEA/good governance nexus requires joined-up government across the Responsible Authority itself. The Sustainability Team within Clackmannanshire Council brings together environmental functions including environmental policy, biodiversity and planning and can be seen as an instance of joining up government for sustainability. Other

sections of the Council were brought in as necessary to ensure knowledge-sharing to enhance the SEA. SEA also requires that the expertise of the statutory consultees is admitted to the PPS process. The Consultation Authorities were consulted from the outset of the SEA process and helped shape the PPS and SEA throughout.

In addition to the inclusion of statutory consultees, the democracy-enhancing features of the SEA/good governance nexus demand the 'early and effective' participation of the public in PPS making. The involvement of Community Councils and a relevant local unpaid volunteer to the SEA process in this case helps ensure the democratic legitimacy sought by both Community Planning and SEA. The treatment of additional knowledges is further discussed, in the context of the power/knowledge axis of a governmentality framework, in sections 4.2.3 and 7.3. In the context of contemporary governance discourse, however, the PPS/SEA processes for *Greening Clackmannanshire* would seem in many ways to exemplify the operation of the SEA/good governance nexus envisaged by the World Bank, OECD and Scottish Government.

6.2 The SEA process: *Greening Clackmannanshire*

This section presents a chronological account of the stages of the SEA process in the Clackmannanshire case and discusses the operation of the SEA/good governance nexus during those stages.

6.2.1 *Screening*

'A key element' of the effectiveness of SEA, according to one Council officer in this case, is consideration of 'where did your options come from in the first place?' (Sustainability Team Leader, Interview, April 2009). The substantive development of the Framework began with a workshop in June 2007 attended by Community Planning partners including: eight council officers (Principal Transportation Planner; Strategy and Support Manager; Biodiversity Officer; Environmental Policy Officer; Sustainability Team leader; Head of Environmental Services; Property Team leader; Community Planning coordinator); representatives from two of the three SEA statutory consultees (SNH and Historic Scotland), health and police services, one representative from business, one from the voluntary sector (the umbrella body for voluntary organisations, CVS) and one community councillor (Clark, 2007b: Annex A). There was additional representation, specific to the

environmental theme of the proposed Framework, from a multi-sectoral (countryside) Access Forum and the local Heritage Trust (for discussion of selection see section 6.3.3).

The workshop, facilitated by the private-sector consultant who had previously guided the development of the Economic Development Framework, generated a 'long list' of 47 proposals for projects which could be developed within the Environment Framework (Clark, 2007b: 6). Participants were informed that the Sustainability Team Leader and Environmental Policy Officer would 'do what is necessary by way of a Strategic Environmental Assessment' (*ibid.*: 2). No further explanation of SEA was proffered, with the focus of the PPS consultant's report being on Community Planning principles and summarising the output of the workshop (Clark, 2007b).

Following the success of the workshop in generating such a large number of potentially environmentally-beneficial projects, Clackmannanshire Council, as Responsible Authority, was required to initiate formal SEA screening for the Framework. The Council considered the proposed PPS against the criteria 'for determining the likely significance of effects on the environment' which form part of the Scottish Government template (Scottish Executive, 2006). The Council's Screening Report posited that the PPS would have significant impacts on the environment based on the following (Clackmannanshire Council, 2007a):

- The Framework 'sets the framework for projects that are intended to have an environmental or sustainability benefit for the Clackmannanshire community'.
- It is expected to influence other PPSs including the other daughter documents of the Community Plan and the Sustainability Strategy.
- the intention of the Framework to 'integrate environmental considerations into the actions of the Community Planning Partnership'
- The Framework's intention 'to identify and address the key environmental issues affecting Clackmannanshire'
- it 'is intended to have long-term, beneficial impacts on the environment [sic]'.
- it will have cumulative impacts inasmuch as it 'will encourage further positive environmental action from the community and the Partnership'.
- The impacts are expected to affect 'the whole of Clackmannanshire'.

The screening report was submitted to the Scottish government's SEA Gateway for distribution amongst the statutory consultation authorities.

Highlighting its coordination role, the Gateway's response of 14th August 2007

merely summarises the decisions of the Consultation Authorities and refers the Responsible Authority to the SEA Act for guidance on how to proceed should it decide to conduct an SEA (Scottish Executive Environment Group, 2007). All three statutory consultees agreed the proposed Framework was likely to incur significant environmental effects and so should be subject to SEA. The Consultation Authorities were unanimous in recognising the potential positive impacts of the PPS, though each sought to remind the Responsible Authority to pay attention to its area of interest. Historic Scotland (2007a) agrees that the impacts of the Framework are likely to be positive but reminds the Responsible Authority to explore 'the potential for negative effects on the historic environment' during the assessment. Similarly, although conceding that the Framework is to be designed to improve the environment through the projects under its auspices, SEPA (2007a) is also 'uncertain of the extent of the environmental effects in respect of its main areas of interest'. SNH, in its response (2007b), while agreeing that positive effects are likely to accrue, points to areas of uncertainty around issues including: the risks to the environment; the cumulative effects; and the magnitude of impacts.

Having considered the Sustainability Team Leader's original Screening Report and the Consultation Authorities' responses, the Responsible Authority's Environmental Policy Officer determined that 'Framework is likely to have significant environmental effects and should therefore be subject to SEA' (Clackmannanshire Council, 2007b). The screening determination was publicised in accordance with Section 10(2) of the SEA Act.

6.2.2 *Scoping*

The Scottish SEA legislation demands that in determining the scope, level of detail of the assessment and the consultation period for the PPS and environmental report, the Responsible Authority must consult with the SEPA, SNH and Historic Scotland. There is no prescribed way the scoping information should be supplied to those Consultation Authorities, however the SEA *Toolkit* recommends the 'common and well established practice' of preparing a scoping report (Scottish Executive, 2006: para.5.2.5).

Accordingly, a scoping report was submitted to the SEA Gateway in November 2007 in the name of the Council's Sustainability Team leader (Clackmannanshire Council, 2007c). Contributing to both event and process transparency of the PPS process (Heald, 2006), the report outlines: the content of the Framework; its context; the scope and level

of detail proposed for the assessment; and the proposed period of consultation for the Framework and accompanying environmental report. It also includes, as appendices: a list of PPSs, from international to local level, relevant to the Framework; a draft *State of the Environment* report; a list of 12 'suggested projects' which are to be assessed; and the proposed options assessment methodology.

With regard to public participation at this stage, whereas the screening stage need involve only the communication of information from the Responsible Authority to the public, the scoping stage offers greater potential for the use of inclusive, effective participatory techniques involving policy-making and implementation partners and the interested public. As discussed in section 2.8.2, project-level environmental assessment has attracted criticism around the lack of consideration of genuine alternatives. The Scottish SEA guidance suggests, '[s]takeholders may usefully be involved in the generation and assessment of both strategic and more detailed alternatives through consultation' (Scottish Executive, 2006: para. 9.4.5).

Having helped generate alternatives at the initial workshop, a focus group, self-selected from participants in that workshop, met to refine the substance of the Framework. The meeting was facilitated by the private-sector PPS consultant and was attended by: three Council officers; two third sector representatives; and a community councillor (NPO, 17th September 2007). Discussion of the projects brought forward from the initial workshop allowed the list to be distilled from the 47 original suggestions into 12 distinct 'project areas' to be assessed against the proposed criteria and subject to a formal, distinct SEA. The decision framework itself was also agreed by those attending.

For Fiorino (1996: 204), development of the framework for decision making 'is probably the most difficult stage ... for achieving democratic participation'. Contrary to a genuinely deliberative consideration of the framework for decision making which may ensure 'citizens have a greater opportunity to influence substantive policy outcomes' (*ibid.*), in this case there was no participation from Community Planning partners, including community councils, in the development of the decision criteria for the prioritisation of options. Rather, the project selection criteria were developed by the Responsible Authority primarily to comply with the Scottish/UK Sustainable Development principles (Scottish Executive, 2005: 8): the suggested combination of SEA topic areas (ODPM, 2005: 66-67) and Community Planning criteria (cf. Clackmannanshire Council, 2007c) cover most of these. The voluntary sector representative was present at the focus

group and gives an account which demonstrates dominance by the Responsible Authority in the proceedings:

I remember they worked out a system whereby they rated everything against ... and I take it that's part of the SEA [...]. I remember, I think we maybe got together and agreed that's what we were doing. [Environmental Policy Officer] went away and did that piece of work and then came back with "this is what it's worked out to be" ... and I think that was about the size of it really. (Interview, June 2008)

The criteria were presented to the focus group by the Sustainability Team Leader using a flipchart (NPO, 17th September 2007). The Officer explained the UK sustainable development principles and how the proposed criteria relate to them (see Table 6.2).

Table 6.2: Framework options assessment criteria defined at Clackmannanshire Alliance focus group 17th September 2007 (Environment and Sustainability Theme Team, 2007)

| <i>UK SD principles</i> | framework options assessment criteria as explained to focus group | framework options assessment criteria – in-house assessment |
|---|---|---|
| <i>Living within Environmental Limits</i> | biodiversity/flora/fauna; water & soil resources; climatic factors - material assets - air; cultural heritage & landscape | SEA issue areas |
| <i>Ensuring a strong, healthy and just society'</i> | population & human health | |
| <i>Achieving a Sustainable Economy'</i> | contribution to a sustainable economy i.e. make sure the project doesn't detract from the economy | sustainable economy |
| <i>Promoting Good Governance and Engagement with Communities and Partners</i> | Unique; Strategic; Impact; Participation; Delivery Capability | Community Planning criteria |
| <i>Using Sound Science Responsibly</i> | scientific evidence that project is feasible and provides net contribution to environmental sustainability | - |

The final UK/Scottish Executive principle, 'Using Sound Science Responsibly', while listed on the flipchart at the focus group, and agreed along with the others, was subsequently dropped from the decision criteria.

The decision framework was to be implemented in a two-step process: the first, to assess proposed projects against environmental criteria, including their contribution to a

sustainable economy; the second, consideration against Community Planning criteria¹. During the meeting, the Sustainability Team leader fully explained the origins of both sets of criteria to the non-RA participants. However, despite the clarity of information offered to the group and their agreement to move forward using the suggested criteria and approach, Young's (2001: 685) caveat regarding agreement reached within contexts of 'unjust power relations', discussed in Chapter 2, should be noted: 'considered judgement' by participants (Smith, 2009) did take place but within parameters pre-set by the Responsible Authority.

Regardless, the integration of both SEA 'environmental' criteria and those from Community Planning in this case exemplifies decision-making in compliance with the SEA/good governance nexus. If, however, scoping is indeed the stage at which 'the scope for public influence [in EA] is greatest' (Petts, 1999: 158), the minimal use made of the focus group in relation to SEA demonstrates failure in terms of efficiency (Smith, 2009: 26): the focus group was informed that the Screening Report had been done and that consultants would undertake the SEA. Appropriately, while the scoping report in this case mentions the role of the initial workshop and the focus group in terms of defining the scope of the PPS, it attributes SEA scoping decisions solely to the Responsible Authority. For example, it states that the Council 'has decided that there are likely to be significant impacts on all of the SEA issues ... therefore these issue will all be scoped in to the SEA' (Clackmannanshire Council, 2007c: 8).

The scoping report was submitted to the SEA Gateway for circulation to the statutory consultees. It was published on the Council website and circulated to Community Planning partners. No responses to the scoping report were received from Community Planning partners. There was a suggestion by a Council officer, made at a later meeting, that the scoping report be circulated for a second time to afford a further opportunity for input from the other Team members but this did not take place (NPO, January 2008). The statutory consultees sent their obligatory responses to the scoping report, each providing feedback on their specialist area of concern. These were subsequently included as an appendix in the published environmental report (Mabbett and Associates Ltd., 2008: Appendix H).

¹ 'unique (not being addressed at all/partially or adequately); strategic (important to the people of Clacks); impact (action will deliver significant benefits); participation (requires multi-partner involvement); and delivery capability (we can actually take this on)'.

Historic Scotland was happy with the proposed six-week formal consultation period and the proposed scope of the assessment. They suggested additional sources of information and supplied actual data relating to its remit. Though pointing to further baseline information which the Responsible Authority should provide, advice was largely focused on methodology. Advice was offered regarding the clarity of reporting impact assessment on the historic environment. Historic Scotland also felt that greater clarity was required regarding its role. However, the Consultation Authority approved of the proposed presentation methods which it believed 'will assist in making the assessment transparent and the results accessible to the general reader' (Historic Scotland, 2007b: Annex, para.13). Historic Scotland was also happy with the range of options presented in the scoping report.

By contrast, in its response, SNH asked for 'further information identifying the type and range of reasonable alternative options' (SNH, 2007c: [5]). Advice was offered by this Consultation Authority across the range of SEA objectives and suggestions were made for further baseline information which the Responsible Authority should provide in the environmental report. SNH were also content with the six-week consultation period and the scope. While the Responsible Authority sought to integrate environment, Community Planning and economic sustainability into the decision-making process, SNH reminded the Authority that, in terms of Scottish SEA, 'It is important to ensure that the SEA process and environmental report is separate from other considerations such as the economic and community planning elements outlined in the scoping report' (*ibid.*: covering letter).

SEPA, too, points to further baseline information which the Responsible Authority should provide and suggests additional national-level PPSs which may pertain to the Framework and so should be included in the existing appendix. And like Historic Scotland, SEPA requests that, in the interests of clarity and effective assessment, the SEA topics pertaining to its own remit be addressed individually. Having made recommendations for the development of SEA objectives and sub-objectives, SEPA highlights the centrality of mitigation and monitoring to SEA and prompts the Responsible Authority to pay careful attention to these in the environmental report (see sections 4.2.1-4.2.1 and 7.1.5 on the concept of the panopticon in SEA).

The responsiveness of the Responsible Authority to the contributions made by the statutory consultees at the scoping stage is discussed in section 6.3.5. The next section examines the environmental report.

6.2.3 Environmental report

The *Toolkit* does not specify who should undertake the assessment itself stating only that alternatives should be assessed using ‘professional judgement’ (Scottish Executive, 2006: para. 9.3.10). The formal assessment and preparation of the environmental report were again undertaken by a private-sector SEA consultant, with input from the Council and the PPS consultant.

There were three meetings between the Responsible Authority and SEA consultants during March 2008: the first was to establish data requirements for the SEA and was attended by the SEA consultant charged with preparing the environmental report, the Council’s Environmental Policy Officer and a Research and Information Officer (NPO, 10th March 2008). Discussion was focused on who was to glean what data from whom to ensure that SEA issue areas were supported by sufficient information. Contrary to the joined-up government aspirations of the SEA/good governance nexus, there was no reference to previous SEAs undertaken by the Responsible Authority, or their baseline data, although the approach taken by another local authority was discussed.

The following day, the ‘kick-off’ meeting for the SEA was attended by three representatives from the SEA consultancy and the three members of the Sustainability Team who were directly involved i.e. those who had prepared the screening and scoping documents and the SEA lead². The discussion revealed the tension between political, technical and democratic implications of SEA (NPO, 11th March 2008). One Council officer pointed to existing Responsible Authority aspirations that may be represented in the choice of projects to appear in the Framework while a member of the SEA consultancy team, having stated that ‘it’s all political’ (*ibid.*), reassured the meeting that the lack of public participation in the process to date could be compensated by emphasis on the environmental criteria to be used in the decision process. One Council officer was keen to reassure the meeting that the preliminary, in-house assessment *had* used SEA criteria so ‘shoe-horning’ was to be minimal (*ibid.*). The meeting also settled: contractual matters; exactly what was to be assessed; who were the points of contact in the consultancy and the Responsible Authority; and the role of the PPS consultant. It was suggested that the

² Although the Sustainability Team leader was named as SEA contact on the Environmental Report, a Council planner became SEA lead after the scoping stage. It is this planner who is henceforth referred to as SEA lead.

private-sector SEA and PPS consultants meet the following week to ensure integration between the PPS and SEA.

Accordingly, the SEA and PPS consultants met, along with the RA's SEA lead (NPO, 18th March 2008). The PPS consultant described, for the benefit of the SEA consultant, the process that had led to the draft PPS document. Discussion then focused on ensuring the transparency of the decision process was communicated. For example, the SEA consultant sought to emphasise the environmental report's contribution to process transparency: it 'gives SEA bodies a clear picture of our thinking' (*ibid.*). Similarly supporting process transparency, the PPS consultant pointed to the legitimizing role of the SEA as an exercise that 'removes any suggestion that these were chosen because they're the ones certain people wanted' (*ibid.*). A shift of responsibility from individuals working within a political setting towards the universal SEA criteria was, however, undermined by the SEA consultant's reminder to the meeting that 'SEA is not to make the decision ... [but] to support the decision' (*ibid.*).

In keeping with the SEA/good governance nexus, both environmental and governance functions of the PPS are reflected in the environmental report prepared by the SEA consultant. The aim of the Framework is described as 'promot[ing] the environment and sustainability' (Mabbett and Associates Ltd, 2008: 29). However, it is also described in accountability terms as being: 'to integrate the delivery of [statutory duties] to provide added benefit and, consequently, demonstrate best value for the people ...' (*ibid.*: 19). As cited in Table 6.1, the environmental report is explicit about the democracy-enhancing elements of the SEA/good governance nexus: the first page of the non-technical summary describes the purpose of the SEA as not only to integrate environmental concerns into decision making and improve the Framework but also to 'increase public participation [...] and facilitate openness and transparency of decision-making' (*ibid.*: 1). Similarly, when listing the purposes of the environmental report specifically, the document cites the provision of information, the environmental assessment of the PPS and alternatives and, echoing the legislation, provision of 'an early and effective opportunity for the Consultation Authorities and the public to offer views on any aspect of this Environmental Report' (*ibid.*: 2).

Unlike the Highland case, where there were significant differences between the scope of the SEA as stated in the scoping report and what was actually assessed and presented in the environmental report, the scope of the assessment undertaken in this case

matches that described in the scoping report. Again, no alternative *to* the PPS was offered. Rather, alternative options *within* the Framework were to be assessed; an approach satisfactory to the Consultation Authorities.

The alternatives to be considered under SEA had already undergone a preliminary in-house assessment by the Responsible Authority's Sustainability Team (Clackmannanshire Council, 2007d). During the focus group meeting a Council officer reported that a private sector SEA consultant was to undertake the formal SEA, but prior to the formal assessment the Council's Sustainability Team would 'assess each of these 12 project areas using the agreed criteria and establish which eight projects should be highest priority' (Environment and Sustainability Theme Team, 2007). Following subsequent in-house consideration against the environmental criteria (including sustainable economy), the eight most environmentally beneficial were tested against the Community Planning criteria. A further two project areas fell when considered against 'uniqueness' and the requirement for partnership working (referred to as 'participation' in the environmental report (Mabbett and Associates Ltd., 2008: 29). The preliminary in-house assessment was not to be considered conclusive: 'the initial proposed priorities will be an interim suggestion only, pending the completion of the SEA process' (Sustainability Team leader, pers. comm., September 2007). Such reticence proved unnecessary when, upon completion of the environmental report, the in-house and formal assessments each specified the same project areas to be taken forward.

Although the initial in-house assessment was not made publicly available, the formal environmental report submitted by the SEA consultant can be said to contribute to the transparency of the SEA and PPS processes where it reports: the duration of, and point of contact for, the forthcoming public consultation on the environmental report; the steps of the SEA process that had been undertaken up to the publication of the draft PPS and environmental report; the two-step options assessment process for the PPS; the results of the assessment of the projects against specifically environmentally-focused criteria, and explanation, relating to those criteria, for each result; the Consultation Authority scoping responses; and the Monitoring Framework (Mabbett and Associates Ltd., 2008).

The 100-page Report does not entirely succeed in opening the black box of decision making. The summary of assessment provided in one table on a single page shows the same results as the in-house assessment (*ibid.*: Appendix E). However, it is not clear from this summary why at least one of the rejected options has been discounted. The in-house assessment reveals that two of the options had passed in terms of the

environmental criteria but fell after consideration against Community Planning criteria. The environmental report summary does not include the Community Planning criteria. So, according to the summary, 'project 3' has been rejected on environmental grounds despite having the (joint) highest number of ticks on the matrix (*ibid.*). While accurately representing the outcome of the two-stage option assessment process which included sustainable economy and Community Planning criteria, the transposition of those results onto a matrix which lists only the SEA issue areas does not enhance the transparency of the project selection process.

Nor is transparency enhanced by the lack of references for data sources: the environmental report states only that they come from 'within and outwith the Council' (Mabbett and Associates Ltd., 2008: 17). The 'facts' presented are at times contradictory, and transparency of information through the presentation of data is not helped by, for example, the discussion of PM₁₀ limits in the environmental report (*ibid.*: 12 [Table 4.1]):

There was a positive decreasing trend in PM10 annual mean levels from 2001-2005 however based on 2007 levels, PM10's are of concern and are subject to on going monitoring, the result of which will determine if additional actions are required.

Regardless, the PPS and environmental report were circulated for comment to the Community Planning partners and were made available to the public on-line and at the Council's offices, though not at the central library. The commitment to e-transparency is articulated by one Council officer (Sustainability Team Leader, Interview, April 2009):

our SEA always goes on the web, and it should be on the web of course. [...] then the public can see the process it's gone through: they can see the Environmental Report; the options that were considered; the criteria that were used; why the conclusions and recommendations are the way that they are.

The feedback received in response to the six-week consultation, and reported to the Community Planning team by the SEA lead, included comments from Council services, a government agency and the PPS consultant. Supportive comments were received from one Community Council concerning the PPS document but, despite written submissions from all three statutory consultees, *reported* feedback on the environmental report was confined to comments from one Consultation Authority. Treatment of consultation responses will be discussed in more detail in sections 6.3.5 and 6.3.6. The next section focuses on the adoption of the PPS.

6.2.4 Key decision times – adoption of Greening Clackmannanshire

Contrary to the Highland case, and Hogwood and Gunn's 'moment of choice' (1984: 19), there was no clear point at which 'the decision', based on the information available, was made (see Table 3.3). The PPS was ostensibly ratified by the Clackmannanshire Alliance Community Planning Partnership when the Strategy and Support Manager 'presented a revised copy of the framework which addressed the comments raised at the last meeting of the Alliance'. The Framework was then 'approved for circulation' (Clackmannanshire Alliance, 2009d).

The post-adoption SEA Statement (PAS), however, states the Framework was 'adopted 9 March 2010' (Clackmannanshire Council, 2010: [3]), referring to the Environment Partnership Team meeting of that date. Again, rather than it being approved with a flourish, the published minute of the meeting contains a brief mention of the Framework, a 'Greening Clackmannanshire Update' (Environment Partnership Team, 2010a):

[SEA lead] reported that the text had been revised and an illustrated draft was circulated to the meeting

A limited number of hard copies would be printed, main access would be through Alliance pages on clacksweb [the Responsible Authority website].

[SEA lead] stated that a post adaptation [*sic*] statement would also have to be compiled to meet SEA regulations

There is no further reference to decisions being made regarding the Framework or its SEA in subsequent EPT meetings (Environment Partnership Team, 12th May 2010 [2010b]; 24th August 2010 [2010c]; 17th November 2010 [2010d]). Nor is there any mention of the PPS in the minutes of the meetings of Clackmannanshire Council around the time of adoption stated in the post-adoption Statement (e.g. 11th February 2010 (attended by the Director of Development and Environmental Services), 11th March 2010 (again, attended by the Director of Development and Environmental Services), 22nd April 2010).

6.2.5 Post-adoption statement

The final formal event of the SEA occurred in October 2010 with the publication of the post adoption SEA Statement (PAS) (Clackmannanshire Council, 2010), the report which the Responsible Authority must publish describing how formal consultation responses were taken into account during decision making. It is, therefore, the principal means of

ensuring transparency and the SEA-based democratic legitimacy of the final PPS. The Report, like the environmental report, was available to view on the Council's website.

At 11 pages, the post-adoption statement in this case is a scant document structured using the Scottish Executive's template. It is published in the name of the Responsible Authority's SEA lead from the environmental report stage, and, in accordance with section 18 of the SEA Act, provides information on: availability of PPS and SEA documents (environmental report and post-adoption statement); key information regarding the PPS, including date of adoption and point of Responsible Authority contact; SEA process undertaken; the integration of environmental considerations into the PPS during its development, that is, a description of the options-generation and assessment processes (although it is less clear on how the environmental report itself has been taken into account); how the comments submitted during the formal consultation period have been taken into account; the 'reasons for choosing the Greening Clackmannanshire [sic] as adopted, in the light of other reasonable alternatives' (Clackmannanshire Council, 2010: [10]); and future monitoring activities.

The PAS overstates the involvement of the wider Environment Partnership Team in the assessment process, stating that the ideas generated at the initial workshop 'were subject to analysis by the Team' (*ibid.*: [6]). Although there had been discussion of the feasibility of some project ideas, initial environmental analysis was conducted by the Responsible Authority alone with subsequent analysis undertaken by the private-sector SEA consultant.

Transparency is again compromised where the PAS claims assessment took place against 'the 8 environmental criteria' (*ibid.*). These are not listed in the PAS, nor is there evidence in the SEA documentation of assessment having been conducted using eight environmental criteria. Rather, the environmental report asserts the use of nine 'SEA topics'; 17 'SEA objectives'; and 27 'SEA criteria' (Mabbett and Associates, 2008: Appendix C).

However, perhaps the most profound failure to ensure transparency within SEA and PPS making through SEA is the section which 'lists consultation responses and sets out how they have been taken into account' (Clackmannanshire Council, 2010: [8]). Although acknowledging formal consultation responses to the Framework, the section does not take into account responses to the environmental report (see sections 6.3.5 and 6.3.6).

6.2.6 Monitoring

The benefits of feeding information gleaned from ongoing monitoring back into the planning process is a crucial part of breaking what Holling (1995) calls the 'pathology' of stalled and contentious command-and-control PPS making: an approach which has, according to Holling, '[n]o realization that all policies are experimental' (*ibid.*: 9). The Framework document in this case is explicit about the Community Planning process being iterative (Clackmannanshire Alliance, 2010: 8): 'The Framework should be something that we can continually review, as we debate what the next step should be'. Accordingly the scoping report and environmental report state the Framework will be updated every three years (Clackmannanshire Council, 2007c: 4; Mabbett and Associates, 2008: 7).

Monitoring in SEA provides a means for such iterative, responsive PPS making to extend beyond the initial formulation stage. The environmental report sets out the aspiration for an iterative initial PPS/SEA process where it states, 'Any significant change to the Framework in response to consultation may require further consideration in terms of the environmental implications' (Mabbett and Associates Ltd., 2008: 3). While the multi-sectoral Clackmannanshire Alliance is responsible for monitoring the implementation of the Framework (Clackmannanshire Council, 2007c: [5]), the post-adoption statement acknowledges that, according to Section 19 of the Act, Clackmannanshire Council, as Responsible Authority, is charged with monitoring the effects of the PPS. However, in seeking to be a 'steering' Council in a contemporary governance, Community Planning context, the PAS then presents a more inclusive, if vague, partnership approach to future monitoring: 'Monitoring of the effects of implementing Greening Clackmannanshire will be undertaken by regimes currently in place by the Council and other public agencies concerned with the state of the environment in Clackmannanshire' (Clackmannanshire Council, 2010: [11]). The Monitoring Framework, part of the environmental report (Mabbett and Associates Ltd., 2008: Appendix I), is more specific where it includes the local authority, voluntary and community groups and a local citizens' panel as future contributors to environmental monitoring activities.

However, the potential for raising public awareness of monitoring activities through the SEA in this case is limited: while the environmental report asserts '[t]he requirements for monitoring under the Act will be integrated with the monitoring framework developed for the Framework itself' (*ibid.*: 31), there is no reference to the SEA

process within the final Framework document (Clackmannanshire Council, 2010). Nor do the Framework document and environmental report documents appear to 'see' each other: the PPS document proposes that 'The EPT will set a group of core measures which are transparent, understandable and significant to Clackmannanshire', which will 'measure progress [...] in a way that relates to the indicators in the National Performance Framework' (Clackmannanshire Alliance, 2010: 9), while, by contrast, the environmental report's approach (made available for consultation concurrently) will employ 'the environmental baseline and the SEA objective indicators [as] the basis of future monitoring' (Mabbett and Associates Ltd., April 2008: 3). Transparency, accountability and joined-up government are thus compromised by the inconsistency between statements of monitoring intentions. The next section will consider these, and the other elements of good governance, individually in light of the SEA process described.

6.3 Overview of good governance themes in *Greening Clackmannanshire SEA*

Section 6.2 gave a chronological account of the SEA process for Clackmannanshire Alliance's *Greening Clackmannanshire*. This section, as with the corresponding section in Chapter 5, discusses in more detail the operation of each of the six elements of the SEA/good governance nexus, presented in sections 2.2-2.7: transparency; accountability; partnership working; joined-up government; consultation and public participation.

6.3.1 Transparency

The discussion in section 6.2 demonstrates that in this case, through the publication of required documents at the various stages, the Responsible Authority ostensibly satisfied all the statutory requirements aimed at ensuring transparency in the SEA and PPS processes.

However, the democracy-enhancing elements of the SEA/good governance nexus are at times posed against institutional goals of efficiency. For example, the Head of Strategic Policy revealed this conflict during a meeting to update the senior Council officers on the progress of the Framework, illustrating the balance considered necessary between openness and effectiveness of plan making: '...clarity of processes but not so bureaucratic we can't do it' (NPO, July 2008). The Community Planning Officer, charged with liaising between Community Planning partners, both within and outwith the Responsible Authority, leans more towards the principle of transparency: 'there is a perception these are secret

meetings! and that everything's behind closed doors! ... we need people to see it's all straightforward and clear' (NPO, Community Planning Officer, Environment Partnership Team meeting, April 2009). For this participant, all relevant documentation, including the minutes of the Partnership Team meetings, should be available for on the Responsible Authority's website (*ibid.*).

According to the environmental report, transparency is a key aim of SEA in this case (Mabbett and Associates Ltd., 2008: 1). The requirement for, and aspiration to, transparency in the SEA was made explicit at the 'kick-off' meeting between the Responsible Authority and the private-sector SEA consultants contracted to prepare the environmental report: the senior consultant, an environmental scientist, spoke of the necessity of a 'transparent, repeatable process' (NPO, 11th March 2008). Indeed, the junior consultant writing the environmental report was instructed to 'make sure the methodology is identified, justified and transparent' (*ibid.*). As discussed in section 6.2, the Responsible Authority's accounts of the PPS and SEA processes, the alternatives considered, the assessments made, and reasons for those decisions, the decision criteria and monitoring framework were all made publicly available in accordance with the legislation.

There were, however, mixed feelings about the success of SEA in enhancing transparency: the Environmental Policy Officer believes, '...it does. I mean, it enhances it. I wouldn't say it makes it fully transparent but I think it does' (Interview, October 2008). Another Council Officer involved in the process was less convinced of the transparency role of SEA:

I am not so sure. I guess it comes down to the same issue again ... there are those who are doing it and those whose names are on it aren't always the ones who have the final say in the decisions and so I don't think it does increase transparency that way. (Biodiversity Officer, Interview, February 2009)

That participant concludes, 'I'm not sure that it's achieving much in terms of transparency at the moment' (*ibid.*). Another, more senior, officer believed SEA is 'too cumbersome to be achieving [transparency]' (Strategy and Support Manager, Interview, February 2009).

Nor was the post-ER SEA lead convinced of the ability of SEA to open the black box of decision making: 'Apart from a lack of clarity on why decisions were made, the paper trail's fairly intact I think, but that crucial missing bit on why decisions were made [...] it comes back with changes and things [...] it gets a bit confusing as to why' (Interview,

February 2009). For this participant, the actual decision making lacks Heald's (2006) process transparency. Regardless, that officer perceives legitimacy to be assured by the intactness of the paper trail which denotes the satisfactory completion of SEA stages; Heald's event transparency (*ibid.*). While the paper trail is indeed intact with all the required documents published in accordance with the legislation, given the lack of clear explanation in parts of the environmental report, the opacity of the post-adoption statement, and the lack of clarity around the degree of 'shoe-horning' of options, the SEA lead's assessment of the process accurately reflects the transparency within, and afforded by, the SEA.

6.3.2 *Accountability*

Both the events (i.e., screening in or out; definition of scope; publication of documents and so on) and processes of SEA (explaining assessment findings and decisions) are intended to ensure accountability in PPS making (Heald, 2006). The discussion in section 2.4 reveals that accountability is a broad concept that can be applied in a variety of ways according to context. The modes of accountability potentially most relevant to SEA where the Responsible Authority is a Scottish local authority include: managerial accountability afforded through, for example, appeal to the *Best Value* regime; professional accountability whereby practitioners must account for their methodology and results; political accountability whereby Responsible Authority officers are accountable to elected members on behalf of the public and elected members are accountable through regular democratic popular elections; and temporal accountability, whereby those named as responsible for environmentally significant decisions today will be associated with them, and so held accountable for them, into the future.

Clackmannanshire Council's best value audit report has a page on 'sustainable development', one of the areas of audit under the best value regime (Audit Scotland, 2007: 29). According to Audit Scotland, actions to ensure 'sustainability' in Community Planning in Clackmannanshire include 'a sustainability strategy and sustainable procurement policy, integrate sustainability indicators in service plans, and audit the environmental management system' (*ibid.*). There is no mention of the potential contribution of SEA to sustainable development

During the PPS-making process, Council officers showed awareness of the efficiency and economy requirements of best value (Local Government (Scotland) Act 2003 sections

1(4a) and 1(4c) respectively) in the context of the SEA. For example, the SEA lead, pointed out the value of the baseline information gathered for the SEA where, 'that report can be used as a basis for a lot more strategies ... the basic info' (NPO, in-house meeting, December 2008). The Strategy and Support Manager was less optimistic about the value of SEA, believing, given the amount of 'work and expense' required for SEA, 'I don't think it's sustainable' (Interview, February 2009).

This opinion contrasts with the idea posited by the tiering principle that SEA can ultimately save resources as decision processes are smoothed by assessment and consultation, easing contention in the early stages. Rather than SEA being integral to decision making, maximising its role and underpinning development across the County, the Sustainability Team leader perceives its place amongst 'the authorities' as being 'only one consideration', with economic priorities over-riding environmental concerns (pers. comm., February 2008). In such circumstances, it is not surprising that SEA struggles to account for itself in terms of financial outlay: it may be seen as an additional expense rather than a means to add value to PPSs.

The Economic Development Framework of the Community Plan was not subject to SEA. Indeed, while the strategic nature of Community Planning can be said to justify screening for SEA, despite the potential for a tiered approach to enhance the value of SEA in the context of the efficiency and economy requirements of best value, there was no SEA undertaken for the overall Community Plan encompassing (at the outset of the PPS process in this case) economic development, community safety and community health. Rather, only the assuredly environmentally-beneficial Environmental Framework was assessed. While 'market accountability' (Stewart and Collett, 1998), in terms of the best value requirements, may be compromised by the limited application of SEA in this case, the multi-partner approach undertaken in the development of the Framework may obscure lines of political accountability for the decisions made.

Though partnership arrangements mean accountability may not be as clear as in the public sector, there has been considerable attention paid in this case to clarifying accountability of Clackmannanshire Alliance partners. A report by the Head of Strategic Policy to Clackmannanshire Alliance states, 'Partners have shared accountabilities to support the achievement of the priority outcomes contained in the Community Plan and the Clackmannanshire Outcome Agreement' (Maclean, 2009: Appendix, para.5.1). This is followed by the caveat, 'partner bodies remain autonomous organisations and

membership of the Partnership does not alter individual accountabilities or functional responsibilities of each member organisation' (*ibid.*). However, clarity of the form or degree of partner accountability is compromised where ultimately, 'national and local government in Scotland ... between them have the *political* accountability for the performance and good value of all of our public services' (original emphasis) (*ibid.*: Appendix, para. 2).

While two elected members (the Council Leader and the Leader of the Opposition) were members of the Clackmannanshire Alliance and were generally in attendance at the full meetings of the Alliance, there were no elected members in the Environment Partnership Team or in attendance at Partnership Team meetings during the course of the development of the Framework. Therefore, while accountability appears to be shared amongst Community Planning partners, the role of the local authority as Responsible Authority becomes paramount: '... only Councils and their public partners can be ultimately accountable for public spending and public performance' (Maclean, 2009: Appendix para. 6). The publicly available SEA documentation names, as points of contact, the Council Officers responsible for specific SEA stages. Therefore, regardless of multi-party, cross-sectoral involvement in the development of the PPS, 'ownership' of the SEA stays with the Responsible Authority. In addition, the private-sector SEA consultant charged with preparing the environmental report makes it clear that, 'Council has ownership of [the] document ... [the SEA consultants are] not responsible for edits' (Interview, May 2008). Thus, where the temporal accountability that conforms with Brundtland's inter-generational equity (WCED, 1987) is facilitated by the explicit allocation of responsibility represented on formal documents, it lies with those Council officers in perpetuity, regardless of the belief which exists that, 'there's an awful lot of work going on by those that know about potential impacts being over-ruled by those that don't know much about the impacts' (Biodiversity Officer, Interview, February 2009).

Although the Council is accountable through the documentation and decisions made, the theme of community 'ownership' of PPS content was repeated in discussions throughout the development of the PPS. For example, at the focus group the Community Planning officer warned the 'community has to have ownership otherwise it'll just get wrecked' (NPO, September 2007), a sentiment re-iterated by a Clackmannanshire Council planner during a Framework action meeting: '[a] sense of ownership by the community is fundamental' (NPO, May 2008). Where a shift of ownership for decisions occurs, so does

accountability, one interviewee raised the important (in terms of partnership working) point regarding re-allocation of responsibility through SEA, despite the local authority being designated the Responsible Authority:

From what I understand, the whole point of getting the community involved was to iron out problems in the first place, at an early stage before projects went ahead, or strategies went ahead. And therefore, I guess an element of that is placing accountability onto the community so they can't come back later on and say, 'look, we didn't agree to this', and we say 'yes you did'. (Interview, Biodiversity Officer, February 2009)

For this officer, the engagement-accountability dimension is crucial to the SEA/good governance nexus, avoiding SEA being a purely technical-managerial task:

a lot of SEA is seen as a burden and not done with a great deal of community involvement, and so that accountability doesn't pass onto the community, and so ... then it just becomes a more procedural thing that public bodies feel they have to do (*ibid.*).

The admittance of non-state actors, and the blurring of responsibility and accountability that arises echoes Richards and Smith's 'postmodern state', where 'responsibility no longer gravitates upwards and is no longer clearly visible' (2002: 33).

Regardless of the degree of community or partner involvement in PPS making and the SEA consultant's disclaimer regarding the Responsible Authority's last word on the environmental report, professional accountability is evident where discussion and use of *best practice* has come into play. In following best practice, practitioners defer to standards defined by other practitioners. A degree of accountability can thus shift to the anonymous authors of documents referred to as best practice, whether previously-conducted SEAs or official guidance. Such conduct does not, according to the Environment Policy Officer, guarantee practice that is necessarily the best:

the way the templates guide you to write it and the way that it's, you know, you've got a few examples at the beginning and everyone just latches on to them as the way to do it. So you've maybe got this perpetuation of a really unreadable report (Interview, October 2008).

In putting together the environmental baseline information for the SEA, that officer consulted appropriate examples from another Scottish local authority (NPO, 10th March 2008).

The environmental report refers to unnamed sources in devising the SEA methodology: 'The methodology to be used in the assessment of the Framework has been developed from best practise [sic] advice...' (Mabbett and Associates Ltd., 2008: 23). The quest for best practice extends outwith local authority practice: 'The Council will also engage with SEPA, SNH and Historic Scotland to seek their advice on finalising this report in accordance with current best practice' (*ibid.*: 3). Reference to the experts here reinforces the notion of professional accountability. While those experts are deferred to in discussion of best practice, they are invoked as partners in SEA.

6.3.3 *Partnership working*

Partnership working is central to the shift towards multi-sector governance sought through Community Planning. The emphasis on partnership is clear in an early draft of the Framework document, prepared by the PPS consultant who facilitated the early meetings, which states the Environment Partnership Team will 'Develop our partnership. [...] maintain a focus on how well the Team are developing our own partnership, and how well we are partnering with others' (Clackmannanshire Alliance, 2009a: 8). Unsurprisingly, for that consultant, partnership working is 'the only way to get things done ... in this day and age' (Interview, February 2009). The final Framework is less explicit about the role of the Team in the furtherance and appraisal of specifically governance-focused aims, preferring to highlight the environmental aims of the PPS (Clackmannanshire Alliance, 2010).

At a meeting with the PPS consultant regarding the direction of the Framework, the Environment Policy Officer re-iterates the centrality of partnership working, both as a criterion for options assessment and as a perceived benefit: the projects to be included in the Framework 'all need to be addressed by partnership', adding, 'They would all benefit from partnership' (NPO, January 2008). While the potential benefits of multi-sector implementation are outwith the scope of this study, the centrality of partnership as an option-selection criterion is clear: on the 'Summary of results' table of the in-house options assessment document (Clackmannanshire Council, 2007d: [2]), the final 'PROCEED?' line mirrors the 'Participation (requires multi-partner involvement)' line. For the Environment Policy Officer this is 'a direct result' of the focus being on projects that require a 'multi-agency approach' (pers. comm., November 2007). Within the Environment

Partnership Team, one Responsible Authority officer sees SEA as something that can be taken on board by existing partnership working:

it's something that we do anyway. [...] the [biodiversity] Partnership is made up of a whole host of people outside the Council and we work on everything together really so it's something that happens regularly and the SEA is just another thing that comes up in that general working relationship. (Interview, Biodiversity Officer, February 2009)

Mathur *et al* (2003: 16-17) point to the power of leading organisations which can pre-set the conditions for 'partnerships' within which participants are ostensibly equals: 'the official discourse [...] lays out [...] rules through which 'inclusion' is carried out. This pertains to the membership of the partnership and the specification of those who are selected for membership'. In the case of the Framework, the local authority is the leading 'partner' in the development of both the SEA and the PPS. Assuming the role of gatekeeper, Clackmannanshire Council, as the Responsible Authority, was able to define the inclusiveness of the process at the outset. In keeping with section 15(3) of the Local Government (Scotland) Act (2003), which states that involvement in the PPS process should extend to 'such community bodies as the local authority thinks fit to participate appropriately in community planning', participants were selected by the Council: 'loads wanted to be involved ...needed to be those relevant for implementation' (NPO, Senior council officer, update meeting for senior officers, 21st July 2008). The Head of Strategic Policy was supportive of the approach: 'It's good you have [voluntary sector umbrella organization] rather than individual groups'. Such a situation would have been, according to the senior Council officer 'totally unimaginable' (*ibid.*).

The private-sector PPS consultant reminded attendees at an in-house meeting of the Council officers involved in the development of the Framework that 'it's about *all* the partners ... not just local government' (NPO, action meeting, May 2008). At the same meeting, the Council's Strategy and Support Manager was, however, keen to promote the role of the public sector within joint-working initiatives: 'Alva town centre needed more than just the private sector ... needed a partnership approach' (*ibid.*).

The voluntary sector representative was the only partner who attended each of the key points in the PPS process: initial workshop; focus group; and all relevant Environment Partnership Team meetings. Indeed, in the absence of the Strategy and Support Manager, that participant chaired the final meeting of the EPT at which *Greening Clackmannanshire* was discussed (Environment Partnership Team, 2010a).

That representative believed that while individuals and organisations may be included in Community Planning as partners, ‘the amount of impact you’re going to have in influencing things is limited ... certain levels and certain people but if they’re not at a decision-making level ... then ... the results are absolutely pitiful’ (Interview, June 2008), again pointing to the Responsible Authority’s emphasis on partnership working for *implementation*, rather than strategic decision *making*. Like the Community Planning section of the options assessment criteria, the environmental report focuses on the imperative of partnership working in the *delivery* of the PPS rather than the importance of multi-partner PPS development and assessment: ‘As a partnership document, the emphasis for the Environment and Sustainability Framework is to identify those projects and actions which are best implemented through a multi-agency approach’ (Mabbett and Associates Ltd., 2008: 7). The Report, however, rather overstates the partnership element and understates the presence of the Council in the PPS-development and SEA processes (*ibid.*: 6-7):

Although Clackmannanshire Council is the responsible authority for SEA of the Clackmannanshire Environment and Sustainability Framework, the Framework will be a joint output of the Environment and Sustainability Theme Team, which is made up of representatives from the following organisations:

- _ Scottish Enterprise Forth Valley (representing the Economic Development Theme Team).
- _ NHS Forth Valley (representing the Health Improvement Theme Team).
- _ Central Scotland Police (representing the Community Safety Theme Team).
- _ Scottish Environment Protection Agency.
- _ Scottish Natural Heritage.
- _ Historic Scotland.
- _ Community Councils.
- _ Youth Council
- _ Council for Voluntary Services.
- _ Clackmannanshire Biodiversity Forum.
- _ Clackmannanshire Access Forum.
- _ Clackmannanshire Heritage Trust.
- _ Clackmannanshire Business.

While representatives from the list did attend meetings of the Partnership Team during the course of the PPS development, the information does not accurately represent the input of partners during the stages relevant to the SEA such as the initial workshop, which generated the projects, and the focus group which served as a scoping exercise. Figure 6.2

shows the proportions of Community Planning partners from the various sectors in at the initial workshop. At the focus group, there was representation from the Responsible Authority and third sector, equally split amongst the six attendees.

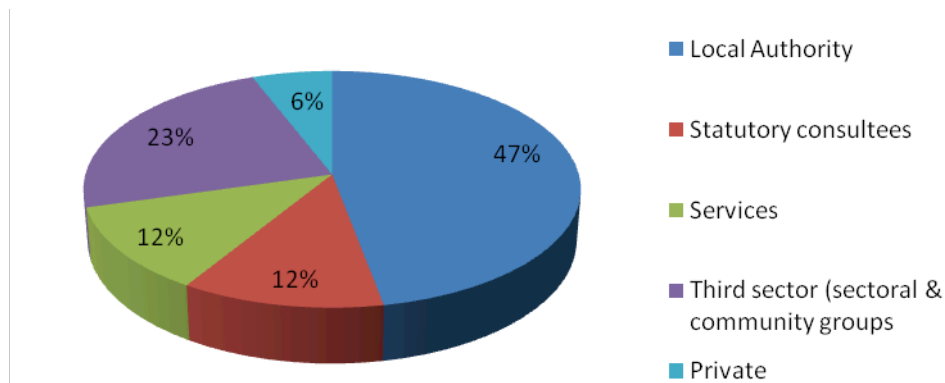


Figure 6.2 Clackmannanshire PPS Initial workshop attendees by sector (n = 17)

The Responsible Authority therefore represented 47 per cent and 50 per cent of attendees respectively at the initial workshop and the focus group. Given the dominant role of the Council, in examining the operation of the SEA/good governance nexus it is necessary to look at not only how that authority worked in partnership with other bodies, but how effectively its various parts worked together in the context of SEA.

6.3.4 *Joined-up government*

This section considers the integration between the PPS and SEA as well as the vertical and horizontal joined-up government manifest in the SEA process.

Integration of PPS and SEA process

The PPS and SEA were fully integrated as SEA objectives defined the first stage options assessment criteria. Each of the 12 project-area proposals was assessed in-house using the agreed two-stage decision process. The subsequent formal assessment undertaken by the SEA consultant involved a more considered assessment of the same 12 project ideas against a full range of environmental criteria (Mabbett and Associates Ltd., 2008: Appendix C). The final published PPS document, while not referring to SEA by name, devotes half a page to detailing the option selection process for the ‘Priorities’ presented therein and lists all the SEA issue areas alongside ‘sustainable economy’, as “environmental’ criteria’

(Clackmannanshire Alliance, 2010: 10).

Discussion of SEA was first brought into the PPS process when the initial workshop was informed of the need for SEA screening. At the subsequent focus group there was agreement of the scope of the forthcoming options assessment and unanimous acceptance of the decision criteria defined by the Responsible Authority, including SEA objectives. The PPS and SEA were therefore integrated in the early stages of SEA development. Thereafter, the Framework document and the environmental report were prepared, published and subject to formal consultation simultaneously. The documents for each were available at the same webpage and the same Responsible Authority premises at the same time and the documents shared the same consultation feedback form, with boxes to tick according to which document the consultation contribution referred. Again, procedurally, the PPS and SEA processes were integrated during these activities.

As discussed in section 6.2.6, there was a lack of joined-up thinking in the monitoring intentions cited in the PPS and SEA documents which, if not addressed would de-couple the PPS and SEA and undermine transparency and efficiencies in monitoring if leading to uncoordinated efforts post-implementation. However, that PPS and SEA activities were largely coordinated throughout the processes enhances the 'horizontal' joined-up government credentials in this case.

Horizontal joined-up government

Sustainability is commonly understood, as it is by the Responsible Authority in this case, as necessarily encompassing environmental, social and economic considerations. However, to ensure that environmental considerations are not eclipsed by what may be seen by political actors as more pressing social and economic factors, in Scotland SEA is designed specifically to keep environmental matters apart from other issues that may influence decision making in order to ensure they receive undivided attention. In the case of the Framework, both 'sustainable economy' and Community Planning criteria form part of the decision process alongside SEA criteria. These efforts towards joined-up decision making prompted SNH to emphasise, in response to the scoping report (2007c), 'It is important to ensure that the SEA process and environmental report is separate from other considerations such as the economic and Community Planning elements outlined in the scoping report'. Similarly, SEPA acknowledges the multi-faceted options assessment process used in the

development of the PPS and reminds the Responsible Authority that it should ensure 'the results of the *environmental* assessment are a discrete and easily identified component in the environmental report' (emphasis added) (2007b).

Within the SEA process, joined-up government efforts were concerned largely with data collection: 'we've had *some* contact with people from other departments but effectively what we're doing is largely using data rather than liaising with people from other departments' (Sustainability Team Leader, Interview, April 2009). At a meeting to coordinate the data gathering for the SEA it was agreed that all those involved in the SEA – Council officers and the SEA consultant - were to ensure data they contributed was to be accessible to all through a dedicated, accessible repository within the Responsible Authority's data storage system. However, the Responsible Authority officer charged with helping pull all the relevant data together voiced concern that, '[the Council's] a very unsharing place' (NPO, March 2008); a point later supported by the Sustainability Team leader: 'there's been an effort to deal with departmentalism but it's had limited success' (Interview, April 2009).

While resources may be saved by the shared use of baseline and monitoring data, the costs of joining-up government through SEAs of specific decision-making processes is, in the view of Sustainability Team Leader, prohibitive: 'Really the reason that's not happening is because of resources' (Interview, April 2009). Using the inter-departmental agreement of decision criteria as an example, the Officer explains (*ibid.*): 'a lot of energy needs to be put into tracking people down, getting them to agree to discuss, you know, what the criteria are; whether they think they're ... you know, the criteria could be improved'. In the case of the Framework, according to the Sustainability Team Leader (*ibid.*), SEA's influence on joined-up government was therefore limited: 'when we did the options work and considered the various approaches that could be taken forward... within the Council there was [...] limited discussion with other officers outside of the Sustainability Team'. Leaders of the other three Theme Teams (health, economy and community safety) were invited to the initial workshop but none attended the subsequent focus group/scoping exercise, nor did they offer any response to the formal SEA consultation.

Vertical joined-up government

As recognised in the requirement to list the relevant PPSs across the multiple tiers of governance, Responsible Authorities must consider the policy context within which a PPS is

defined and implemented (SEA Act Schedule 3(1)). The environmental report in this case provides such a list, the 'Hierarchy of Plans, Programmes and Strategies' within which the Framework sits (Mabbett and Associates Ltd., 2008: 8-9). The hierarchy, including those suggested by the Statutory consultees at the scoping stage, cites: 18 supra-national; 31 'national' (UK and Scottish); and 16 'local' PPSs (*ibid.*). It does not, however, include the Single Outcome Agreement (SOA), oft-mentioned during the PPS process.

The SOA 'reflects local needs, circumstances and priorities, but is related to the national outcomes agreed in the Concordat [between the local authority and the Scottish Government]' (Clackmannanshire Alliance, 2010: 5). It is central to Community Planning and the relationship between the Clackmannanshire Alliance, responsible for the Framework, and the Scottish Government. While the Framework document states: 'The priorities in Clackmannanshire's Community Plan provide the foundation for its Single Outcome Agreement [SOA]' (*ibid.*), the relationship was reversed in the PPS process when the SOA influenced the Framework: the PPS was to be 'tweak[ed]' to fit into the imperatives of the Single Outcome Agreement (NPO, Senior Council officer, July 2008).

There is further evidence of the vertical joining up of government where the Framework refers to the national tier: the environment is woven into Community Planning by the Scottish Government's purpose of focusing 'government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable growth' (*ibid.*: 2), although again the opportunity to weave SEA into the discourse of 'sustainable growth' is overlooked.

Although the PPS conveys confidence in its place in the PPS hierarchy, the SEA's position is more open to questioning. The tiering principle posits that if properly applied at the appropriate level, SEA can realise efficiency gains (Fischer, 2002: 29). It is reflected in section 14(3)(d) of the SEA Act which stipulates the environmental report should take account of, 'the extent to which any matters to which the report relates would be more appropriately assessed at different levels in that process in order to avoid duplication of the assessment' (for discussion of tiering and centralisation see sections 4.2.1 and 7.1.1). However Noble (2003: 136) has reservations about the achievement of a tiered approach to SEA in practice; reservations borne out in the Clackmannanshire case. Amongst Perri 6's facets of joined-up government is the demand of 'mutually consistent means' (2005: 49). The environmental report of the Framework states that Community Planning in Clackmannanshire 'is led by the Clackmannanshire Alliance, whose role is to provide the

strategic vision and direction for community planning’ (Mabbett and Associates Ltd.: 2008: 1). However, as discussed in section 6.3.2, despite the strategic viewpoint of the Alliance, there was no SEA undertaken of the overall Community Plan.

It is also unclear which tier is being properly assessed. The scoping report states, ‘It is intended to assess the environmental benefits or disadvantages of each project using the environmental receptors detailed in Schedule 3 of the Environmental Assessment (Scotland) Act , thus making SEA a fundamental part of the options appraisal process’ (*ibid.*: [8]). Accordingly, within the SEA of the Environment Framework, the suggested projects were assessed individually against SEA objectives (see Box 6.1). The environmental report, however, ‘anticipate[s] that the impacts will be assessed in more detail and with more accuracy at project planning level by planners and project managers’ (Mabbett and Associates Ltd., 2008: 26). Many of the projects were underway before the final adoption of *Greening Clackmannanshire*, without further assessment, potential mitigation actions or responsibility having been formally reported.

Box 6.1 Projects to be assessed within the Clackmannanshire SEA

1. Community involvement in the emerging Clackmannanshire Greenspace Strategy
2. Town centre regeneration
3. Sustainable design and construction
4. Alloa Docks Masterplan
5. Demonstration Eco-housing project
6. Public art
7. Enhancement of property
8. Sustainable transport improvements
9. Sustainable energy
10. Civic pride
11. Food production
12. Education and awareness raising

Temporally joined-up government

The degree of integration between the PPS and SEA throughout the PPS processes is discussed at the beginning of this section. The following focuses on continuity within the SEA process during the course of the SEA.

Staff turnover and absence, and changing Partnership Team composition, meant that only the voluntary sector representative was present during the key points in the PPS

process. There was, however, according to the SEA documentation (Clackmannanshire Council, 2007a, 2007b, 2007c, 2010; Mabbett and Associates Ltd., April 2008), a higher degree of continuity in the SEA process with the Sustainability Team Leader being responsible for most of the SEA stages (see Table 6.4). Although in reality the new SEA lead took over during the environmental report stage, the documents suggest there was a change of SEA lead only for the final formal stage, when a Planner from the Council's Sustainability Team was charged with preparation of the post-adoption SEA Statement.

Table 6.3 Responsible Authority contact cited in Clackmannanshire SEA documents

| <i>SEA Document</i> | <i>Responsible Authority Contact</i> |
|--------------------------------|--------------------------------------|
| <i>Screening</i> | |
| a) Report | Sustainability Team Leader |
| b) Determination | Environmental Policy Officer |
| <i>Scoping Report</i> | Sustainability Team Leader |
| <i>Environmental Report</i> | Sustainability Team Leader |
| <i>Post-adoption Statement</i> | Planner, Sustainability Team |

Similarly, the framework for decision making underwent one change: as mentioned in section 6.1.3, one of the UK sustainable development principles which underpinned the decision framework was dropped from the decision criteria immediately after the focus group. The remaining principles, objectives and criteria were consistently applied throughout the course of the PPS process. Within the environmental assessment exercises undertaken in support of decision making for the PPS, both the in-house informal initial assessment and the formal SEA, the standard SEA issue areas were consistently applied (Office of the Deputy Prime Minister, 2005).

Although there was little evidence of SEA in this case enhancing joined-up government across the Council, and there were significant gaps in vertical coordination, the SEA was integrated into the PPS from an early stage. A further aspect of governmental efforts at joined-up working to address the wicked issues is the statutory involvement of the relevant expert bodies, in the case of Scottish SEA: SEPA, SNH and Historic Scotland. The contributions of those Consultation Authorities are considered in the next section.

6.3.5 Consultation

Consultation is herein construed as the statutory dialogue between Responsible Authorities and statutory consultees. The following discussion therefore refers to the communications received from the three statutory consultees in response to: the formal screening; the scoping report; and during the formal consultation period for the environmental report. As with the discussion of Highland in Chapter 5, it explores whether consultation with the statutory consultees was 'early and effective' in accordance with Article 6 of the SEA Directive (EC, 2001).

Early?

The Responsible Authority in this case opted for formal SEA screening at the start of the PPS process: positive significant impacts were expected as a result of the adoption and implementation of the PPS. The consultation authorities became involved during this earliest formal SEA stage as they are statutorily required to respond to the screening report submitted by the Responsible Authority (Act s.9(3)). As discussed in section 6.2.1, the Consultation Authorities agreed the Framework should undergo formal SEA. The subsequent scoping report was submitted to the SEA Gateway and circulated to the Community Planning partners. No responses were received outwith those from the statutory consultees. The statutory consultees each responded timeously to the scoping report.

Effectiveness of scoping responses - SEPA

SEPA's scoping response includes suggestions for additional national- and European-level PPSs to be considered in the preparation of the Framework (2007b: 2). These are heeded in the environmental report (Mabbett and Associates Ltd., 2008: 9). Additional concerns raised by SEPA deal with the following points:

Baseline data

In response to the 'state of the environment' section of the scoping report (Clackmannanshire Council, 2007c: Appendix 2), SEPA recommends that additional baseline data, on 'water environment, on air quality and climatic factors', be included in the

environmental report (2007b: 2). These deficiencies are addressed, to some extent, in the environmental report. Sections are presented on: air quality (Mabbett and Associates Ltd., 2008: 12), covering NO₂ and PM₁₀ limits alongside ‘sources of air pollution’; water quality (water sources, water classification, SUDS and groundwater) (*ibid.*: 13); and climatic factors (domestic energy consumption, renewable energy, CO₂ emissions, carbon and ecological footprints, transport infrastructure, flooding and areas of flood risk, and flood prevention infrastructure) (*ibid.*: 14-15).

SEA objectives

Amongst the Consultation Authorities’ scoping responses, SEPA alone noted that ‘The scoping report does not include any SEA objectives for material assets [one of the 12 SEA issue areas]’. SEPA ‘would welcome objectives in relation to the sustainable use of resources, protection of mineral assets and the effective use of existing infrastructure.’ (2007b: 4). The scoping report explains in a footnote that the ‘ODPM (2005:66-67) does not suggest SEA objectives related to material assets’ (Clackmannanshire Council, 2007c: [9]). However, it adds, ‘suitable objectives to consider include ‘minimize waste, then re-use or recover it through recycling, composting or energy recovery’ and ‘make best use of existing infrastructure’’ (*ibid.*).

The environmental report then includes a section on existing material assets in an environmental baseline data table (Mabbett and Associates Ltd., 2008: 15). The section is broken down into three topics: opencast coal mining (‘Subject to detailed assessment, there may be community benefit in exploiting the shallow coal resource’³ (*ibid.*: 15)); waste; and landfill sites. The environmental report also addresses SEPA’s concern and includes material assets amongst the SEA Objectives (*ibid.*: 20). Despite acknowledgement of mineral resources in the baseline data table, SEA objectives and criteria to be used in the assessment of the PPS cover waste minimisation and use of existing infrastructure, as flagged up in the scoping report, but do not include measures pertaining to mineral assets. Although the author of the environmental report has now mentioned a topic SEPA felt was necessary for effective assessment, it has not been incorporated beyond that mention.

³ While mentioning the possible benefit of open cast coal mining, the environmental assessment rejects renewable energy projects on the grounds of potential negative local environmental impacts (cf. Clackmannanshire Council, n.d. a).

Mitigation

Both Historic Scotland (2007b: para.14) and SNH (2007c: [5]) highlight the need for inclusion of information on mitigation and enhancement. SEPA's scoping response details the information SEPA hopes to see provided in the environmental report, 'It would be extremely helpful to set out all mitigation measures in a way that clearly identified: (1) the measures required, (2) when they would be required and (3) who will be required to implement them' (2007b: 4).

Four policy-level mitigation measures are identified in the environmental report (Mabbett and Associates Ltd., 2008: 31): focusing development on brownfield sites; focusing development on accessible sites; sustainable management of material resources; and awareness raising. The Report, however, does not provide the information recommended by SEPA. Rather, the non-technical summary states the vague intention that 'uncertainties are to be addressed through mitigation measures at project level by the appropriate planners and project managers' (*ibid.*: 3) and 'mitigation measures be addressed by the appropriate council planners and project managers at project level' (*ibid.*). These statements undermine the claim made later (*ibid.*: 5-6) that 'activities [which] have been undertaken to date on the Framework SEA' include 'highlighting mitigation measures'.

No mitigation measures or responsibilities are detailed in the assessment matrix section of the environmental report, references to mitigation and enhancement of impacts simply stating: '[mitigation measures] should follow planning policy and adhere to the Local Plan and should be addressed by planners at project stage' (*ibid.*: Appendix E [68]); 'mitigation may be required at project level but this should be addressed on a case-by-case basis by planners' (*ibid.*: Appendix E [69]); 'Relevant mitigation will have to be ensured on a project level by the planning process by relevant planners' (*ibid.*: Appendix E [70; 72; 73; 74; 75]); 'mitigation may be required at the project level' (*ibid.*: Appendix E [71]); 'Mitigation may be required [...] to manage resource use and waste generation in a sustainable manner. This should be addressed by the project managers' (*ibid.*: Appendix E [76]).

The very point of Community Planning, reflected in the focus on partnership working for implementation, is that works at the project level are often undertaken by non-RA organisations which, returning to the discussion on accountability of partners, may not be subject to the same formal accountability regimes as the Responsible Authority. Even the minimal transparency requirement of good governance is thwarted in the absence of

statutory publication of open access monitoring data which can feed back on effectiveness of the PPS and any mitigation or enhancement measures that have been implemented.

Effectiveness of scoping responses - Historic Scotland

The environmental report takes heed of Historic Scotland's advice (2007b: [3]) where it again includes further national-level guidance that should be considered in the SEA (for example: SHEP 1. Scotland's Historic Environment; SHEP 2. Scheduling: Protecting Scotland's Nationally Important Monuments) (Mabbett and Associates Ltd., 2008: Appendix A [49]). Similarly, information on Gardens and Designed Landscapes, suggested by Historic Scotland in their scoping response, has been incorporated into the environmental report (*ibid.*: 19). Further integrating feedback from the Consultation Authority, the environmental report also includes actual data on listed buildings supplied in Historic Scotland's scoping response (*ibid.*; Historic Scotland, 2007b: Annex, para.5). Like SEPA, this Consultation Authority also points the Responsible Authority towards the Council's own data pertaining to Historic Scotland's remit, revealing coordination shortcomings in the preparation of the scoping report. However, the subsequent data-gathering meeting for the preparation of the environmental report can be seen as an effort, post-scoping and pre-ER, to enhance joined-up government in the preparation of accurate baseline data.

Effectiveness of scoping responses - SNH

As with the other two statutory consultees, SNH, in its scoping response, refers the Responsible Authority to the Council's own data holdings pertaining to SEA objectives and the Responsible Authority's geographical area (2007c: [3]). The subsequent environmental report includes some, but not all, of the suggested references supplied by SNH: though SNH 'recommend reference to the Areas of Great Landscape Value (AGLV) in Clackmannanshire [directly relevant to a core SEA issue area], access and the developing Core Path Plan and Access Strategy' (*ibid.*: [4]), the Report refers only to the Core Path Plan (Mabbett and Associates Ltd., 2008: 15).

The partial integration of advice from the Consultation Authority is repeated where twice the SNH response emphasises the importance of potential impacts on the Firth of Forth SPA and requests that 'specific attention' be given to it and the Ramsar site in consideration of the PPS proposals (SNH, 2007c: Annex): the environmental report refers to

these areas in the baseline data section but not in the assessment matrices. As with SEPA's concerns about material assets, the issue has been mentioned in the environmental report without being integrated into the SEA process.

Regardless, the environmental report states, 'Responses received from the Consultation Authorities [...] have been taken into account regarding the methods, scope and level of detail in this Environmental Report' (Mabbett and Associates Ltd., 2007: 24). Indeed, SEPA's formal environmental report consultation response 'welcomes the inclusion of the responses from Consultation Authorities at scoping stage [...]' (2008: 3). The proponents of the SEA/good governance nexus (along with evaluators and researchers of SEA) would have to agree with SEPA that 'It would have been helpful to include a summary of how these comments have been taken into account in the assessment'. While there is no requirement for such a summary at the environmental report stage, the statutorily stipulated post-adoption statement is exactly that and will be discussed next.

Effectiveness of environmental report consultation responses

The post-adoption SEA Statement is central to the SEA/good governance nexus. It touches all the democracy-enhancing good governance elements directly: transparency, where it provides a published documentary statement of the responsiveness of the Responsible Authority to formal consultation feedback; accountability, for the same reason; consultation, inasmuch as it explains how contributions have been integrated into decision making; and public participation, where responsiveness should again be addressed if it is to be meaningful (Scottish Government, 2009: para.2.1). The post-adoption statement also impacts on the more institutionally-focused elements where perceptions of responsiveness and procedural legitimacy means further conflict may be averted.

In the Clackmannanshire case, the post-adoption statement was published in October 2010 (Clackmannanshire Council, 2010), more than 18 months after the formal consultation comments were submitted. The statement makes no mention of the comments received from statutory consultees in response to the published environmental report. Rather, it focuses solely on comments received in response to the PPS. The 'Summary of Comments' table in the post-adoption statement asserts that 'none' were received from either SEPA or Historic Scotland (*ibid.*: 8). In reality, consultation responses to the environmental report were received from SEPA (16th March 2009), Historic Scotland (12th March 2009) and SNH (13th March 2009). Regardless, the post-adoption statement includes

amongst SEA activities, 'Taking into account the Environmental Report and the results of consultation in making final decisions regarding Greening Clackmannanshire' (Clackmannanshire Council, 2010: [5]). The Scottish guidance is clear about properly-conducted SEA 'requiring a public statement as to how the environmental report and the consultation comments have been taken into account' (Scottish Executive, 2006: para.1.1.6). Indeed, section 17 of the Scottish SEA legislation requires Responsible Authorities to 'take account of' both the environmental report and 'every opinion expressed in response to the invitations referred to in section 16(1) and (2)(a)(iii)', that is, consultations for the PPS document *and* the environmental report.

In its formal consultation response to the environmental report, SEPA's comments were largely supportive of the environmental report, including praise for the clarity and substance of the assessment. Three minor points raised regarding the assessment would, if addressed, have no impact on the overall priorities of the PPS (SEPA, 2009b: 3-4, paras.9; 14; 15). In the final paragraph of its consultation response SEPA notes: 'As the monitoring framework is developed consideration will need to be given to focus the monitoring regime on indicators that are likely to be directly influenced by the actions in the Framework' (*ibid.*: 4). Counter to SEPA's advice the post-adoption statement notes in the final paragraph (Clackmannanshire Council, 2010: [11]):

It will not be possible to monitor every aspect of the framework in detail and the exact impact of specific projects as in a number of instances they will interact with other environmental strategies and programmes being promoted by the council and their community planning partners.

Historic Scotland is content with the approach to mitigation portrayed in the environmental report, a confidence betrayed by this apparent reluctance by the Council 'to monitor [...]the exact impact of specific projects' (Clackmannanshire Council, 2010: [11]) and not in keeping with Historic Scotland's suggestion that 'It would be useful if the SEA Post Adoption Statement could include a clear commitment to delivering any recommendations that fall from this process as the framework is implemented' (Historic Scotland, 2009: [1]). Indeed, the post-adoption statement fails to mention the Historic Scotland consultation response, mitigation or any of the other feedback received from Historic Scotland. Regardless, Historic Scotland's consultation response to the environmental report makes clear that, like SEPA, they too had been 'content that the comments we provided on the scoping report in December 2007 have been taken into account during the

preparation of the Environmental Report' (Historic Scotland, 2009: [1]).

The post-adoption statement includes two comments received from SNH in response to the formal consultation on the PPS (Clackmannanshire Council, 2010: [8]). The statement then indicates that SNH's comments resulted in changes to the text of the PPS document. There is no mention in the statement of the four pages of feedback received in response to the formal SEA consultation; feedback which emphasised, 'the comments provided at this stage are in connection with the adequacy of the Environmental Report and are without prejudice to comments that may be made by SNH on the Framework itself' (SNH, 2009: [4]). The SEA lead had, however, reported back to the Environmental Partnership Team on the SNH response to the environmental report: according to the Council officer, the feedback '[raises] a number of detailed issues which will require some revision of the Environmental Report...' (Clackmannanshire Council, 2009). It was not clear when the revised environmental report would be published. The issues were not 'considered to have any significant impact on the [Framework's] priorities' (*ibid.*). However, as well as being overlooked in the post-adoption statement, specific concerns raised in SNH's response concerning monitoring are not acknowledged either at the meeting, in the handout, or in the final Framework.

Further formal consultation responses reported at the April 2009 Environmental Partnership Team meeting included those from two Council services (Corporate Policy and Education and Community Services), the PPS consultant, Alloa Community Council and Forestry Commission Scotland (*ibid.*). Reported comments from these non-statutory consultees were in response to the PPS rather than the environmental report.

Contributions made *after* the formal consultation period included that of the Council's Chief Executive who, echoing the Sustainability Team leader's earlier assertion and counter to that in the Screening Report that the Framework was to influence the other daughter documents of the Community Plan, including economic development, emphasised, 'the need to ensure that there were no contradictions in relation to the Alliance's ambitions for economic growth' (Clackmannanshire Alliance, 2009b). The explicit prioritisation of economic considerations in the development of the Framework contradicts the stated principle of the Community Planning partnership, to manifest in the PPS, 'balancing economic, environmental and social concerns' (Clackmannanshire Alliance, 2010: 6). Indeed, one Council officer believes it is 'very difficult to reconcile what the community has come up with through workshops with what is coming down' (NPO, Environment

Partnership Team meeting, January 2009).

The final polish of the Framework was agreed at the 12th June 2009 meeting of Clackmannanshire Alliance. After circulation of a post-public consultation draft of the Framework (Clackmannanshire Alliance, 2009c), 'it was agreed that specific comments should be fed back to [Strategy and Support Manager] for incorporation into the final draft which would be reviewed by the Council's Chief Executive' (Clackmannanshire Alliance, 2009b).

6.3.6 Public participation

The Scottish Executive's Planning Advice Note on 'Planning with People' uses Clackmannanshire's efforts to engage with the public as an illustrative example in 'combining your approach' (2007b: 16) (see Box 6.2).

Box 6.2 Public participation for Clackmannanshire Development Plan

"A range of approaches were used to target a representative audience and to help people participate in the preparation of the *Clackmannanshire Development Plan* – traditional and new, formal and informal with a focus on interactive and two way communication. Planning for Real events were held. Owners and neighbours were notified of key development plan site proposals. Consultation packs were prepared setting out why, how and when the community could get involved, with information provided on the planning authority's website. Press coverage was actively sought and a general press advert was supplemented with specific adverts each week. Posters were placed in libraries and shops and thousands of leaflets were produced. Community Councils were specifically encouraged to meet with the planning authority, with feedback reports prepared." (Scottish Executive, 2007b: 16)

Following on from that success, the Council officers interviewed regarding the *Greening Clackmannanshire* SEA all believed that there was value in public participation in SEA, although most of them qualified that belief. For example, the Environmental Policy Officer felt that public participation is of value in SEA 'in theory', however the value lay in *broad* participation: 'If everyone had an equal opportunity and equally took up that opportunity ... but if it's just the same people who participate in every consultation...' (Interview, October 2008). When asked the main value of public participation, that officer replied, 'I suppose it's the legitimising of the process'; the legitimacy gleaned, according to Connelly, Richardson and Miles (2006: 268), 'by giving citizens and civil society organisations direct

access to previously remote decision making processes'. The role of broad participation in the intensification of the effects of power, within a governmentality framework, is discussed in sections 4.2.2 and 7.2. The Community Planning Officer, however, echoed the discourse of public participation legitimising contemporary governance processes (Interview, February 2010): 'there is a lot of value... if that happens that's extremely important ... we're ensuring that minority views, where it's relevant, are being reflected'. The SEA lead thought public participation was a necessary addition of local knowledge to a largely technical exercise:

there has to be public input and I think it can be valuable in terms of identifying local issues and providing local knowledge ... you know, both current and historic that can help clarify issues but it does have to have somebody there who knows what they're doing to solidify it all and do all the technical stuff (Interview, February 2009)

These accounts locate the Responsible Authority's attitude to public participation in SEA on the 'consultation' rung of Arnstein's and Petts' ladder, acknowledging as they do that SEA is a Council-led technical exercise that can benefit from a degree of input, when invited, from the public. Given such consensus across the Responsible Authority, and repeating the approach taken in the previous section on statutory consultation, this section will consider how early and effective, public participation in the PPS/SEA process in this case was.

Early?

Screening was undertaken by the Responsible Authority with the involvement of the statutory consultees. The public was informed of the screening determination by the publication of a statutory notice and of the screening determination itself on the Responsible Authority's website. For the SEA consultant, SEA enhances public participation in decision making, 'simply because it's involving the public in the decision-making process and informing them of the events that have taken place throughout the events of the SEA' (Interview, May 2008). While the one-way conveying of information may qualify as enhancing transparency, it has a limited role in increasing perceptions of inclusive democratic decision making. However, given that in this case the environmental effects were expected to be positive and that the Framework was screened *in*, thus enhancing opportunities for subsequent public participation, in terms of Smith's concern for efficiency in consultation (2009: 26), lack of wider involvement at this stage can be deemed efficient.

Public involvement was greater during the scoping stage: an unpaid local resident, representing the Heritage Trust, and a Community Councillor were present at the focus group during which the scope of the PPS and decision criteria, including SEA objectives, were agreed. However, besides discussion of environmental criteria, the only explicit mentions of SEA at the focus group were statements made that the Screening Report had been done and that consultants would do the environmental report (NPO, focus group, September, 2007).

There were no responses from non-group-affiliated members of the public to either PPS or environmental report during the formal consultation period, the stage which the SEA Directive and Scottish SEA Act deem to be early in the decision process. One Community Council (not that which had representation at the focus group) responded to the PPS document, though not to the environmental report.

Effectiveness of public participation

From their inception Community Councils were to have 'a special role, representing a broader yet still local view which can be set alongside the comments of those with a more individual interest' (The Scottish Office, 1996: para.7). Though the development of the Framework can be said to have been inclusive inasmuch as there was cross-sectoral representation, the Council's role as Responsible Authority and gatekeeper means Arnstein's and Petts' top rung of 'citizen control', through community councils or other means, was never going to be either aspired to or achieved. During the focus group scoping exercise in the Clackmannanshire case there was discussion about the new Scottish Government's manifesto commitment to giving budget power for community councils and giving community councils greater input to development control. The Community Planning Officer present at the meeting described this prospect as 'scary' and 'wouldn't like to entrust some Alloa communities with such power' (NPO, focus group, September 2007). The reticence regarding the role of community councils was echoed by the replacement Community Planning Officer who, when discussing the self-placement of community organizations within the Council's decision hierarchy, believed,

as long as they were choosing to go further down the structure it wasn't a problem, it was the ones that were further down that said they needed to be up ... you know, I've got a Community Council that

thinks they should be up at the top which is more difficult ... (Interview February 2010).

The Responsible Authority's fear of Community Councils may be allayed in part by the single Community Council consultation response in this case which sought to 'support and approve' the PPS document (Alloa Central Community Council, 2009).

Revealing the tension between participatory and representative democracy, again, while inclusionary discourse is invoked across Community Planning and SEA, the community is to be admitted to work being undertaken by the Responsible Authority and other Community Planning partners: governance in Clackmannanshire is something that is to be done *to* the community. Arnstein's research concluded that as long as 'final approval power and account-ability [*sic*] rest with the city council', citizen control could not be realised (Arnstein, 1969: section 3.8). This would certainly appear to be the case in Clackmannanshire. The Responsible Authority's dominance came from the role of Council Officers in the process rather than the Council as representative democracy, given that the final PPS and SEA in this case did not require Council approval.

The lack of general public response to the formal SEA consultation was not unusual according to the Environmental Policy Officer: 'in the SEAs that we've done in Clackmannanshire we haven't really had any public response at all so far' (Interview, October 2008). Similarly, while the Council officers charged with the Framework and the SEA were keen to emphasise their aspirations to widen public involvement in the plan and SEA process, the two third sector representatives who attended the focus group/scoping exercise felt that the Council officers should be left to get on with it: one stated, 'That's what they're there to do, shut the door and get on with it' (Interview, February, 2009). The other (who was present throughout) replied, when asked about their awareness of the environmental decision criteria being SEA criteria, 'wouldn't have given it a lot of thought to be honest, I rather, kinda, left it to the experts' (Interview, June 2008).

Regardless, the rhetoric of inclusion pervades discussion of SEA: the Sustainability Team leader stated that more should be done to encourage those within the Responsible Authority to engage the public in SEA, so much so that there had been discussion regarding

producing a guidance note [...] for those across the Council that are doing SEA and encouraging more community input to SEAs at an early stage so that the options weren't being entirely ... the options that are being assessed aren't simply, you know, being agreed by a couple of

people sitting at a table (Sustainability Team leader, Interview, April 2009)

The Responsible Authority is therefore ostensibly looking for positive contributions towards PPS content. However most references to public participation were concerned with its role in alleviating contention arising when the Responsible Authority presents its plans rather than in the potential for producing synergistic PPSs:

very often you get to quite a late stage in producing plans and strategies and you come up against ... you know, objections, representations, comments which ... I think the more of these that you get the more evident it is that views weren't fully taken on at an early stage in the whole process. Now, you can't please everybody all the time, clearly, so it's fair enough that you're always going to get comments at a late stage. You're going to end up with a public inquiry or whatever, on a specific issue, that's inevitable, no matter how much consultation you do but I think you should be able to minimise that through early consultation. (Sustainability Team leader, Interview, April 2009)

Another officer saw a useful contributory role for the public in terms of bringing additional knowledge to SEA, and again early consultation was seen as a way to smooth contention in planning processes:

there's an awful lot of local knowledge out there that isn't recorded anywhere. And it may be more relevant to specifics and EIAs but I think there is still a place for it in the SEA process to identify local issues that are otherwise unrecorded. And the sooner you get them on board and get them raising these things, the sooner you can deal with and ... so ... that's the most valuable input I think. (Biodiversity Officer, Interview, February 2009)

Regardless of whether the motivation is solely to minimise contention or to ensure constructive citizen engagement in deliberative, democratic PPS making and assessment, barriers to inclusive SEA arise:

it would be nice to think we could make SEA into a fully participative process but there's a resource constraint so it's difficult to even at the most formative stage of the whole process to find the resources, I think, to engage the public (Sustainability Team leader, Interview, April 2009)

Further barriers to full public participation in PPS/SEA processes became clear during discussion of public participation at the SEA kick-off meeting between the Responsible Authority and the private-sector consultants which took place after the scoping

exercise (NPO, 11th March 2008). Some of the discussion echoed that of the officer who saw open access to Community Planning as 'unimaginable':

Junior consultant: 'too many opinions ... too many involved ... need to put a cap on it'

Sustainability Team leader: 'that's what we felt' (ibid.)

No-one articulated why broader community inclusion was unimaginable. One officer, however, later voiced the following reason:

they [the public] don't realise the potential levels of input and the potential levels of influence and nobody's going out their way to tell them because it can make an awful lot of work for those trying to do the strategy. (Biodiversity Officer, Interview, February 2009)

Further discussion of public participation during the kick-off meeting deviated yet further from the inclusive discourse presented by Responsible Authority officers when interviewed. For example, a suggestion made by an unpaid local resident during the initial workshop was invoked and derided, inviting laughter round the table, as if to justify limiting access to the process (NPO, 11th March 2008). The Responsible Authority then revealed that there had been, 'to some extent intentional guiding of some of the projects to things we've already got aspirations for' (*ibid.*). As Schwarze states (2004: 139), '... the mere representation of multiple voices within agency decision making does not eliminate the barriers to meaningful public participation'.

A later account of the inclusivity of the process focused more on the initial participative workshop than the subsequent filtering of ideas by the Responsible Authority:

the SEA process [...] was clearly influenced by the original workshop and the ideas that were coming out so selecting the options that were going to be evaluated or assessed through SEA ... we didn't invent any new ones. These were all options that had been generated through that consultation process, or participation process, at the workshop (Sustainability Team Leader, Interview, April 2009)

The centrality of that workshop as the principal means of assuring legitimacy for the Framework is clear where the Head of Department stated at an in-house PPS/SEA update meeting, in response to the SEA lead's assurance that the Responsible Authority was 'working with so many different groups', that they 'need to be able to demonstrate that there's been that kind of input' (NPO, July 2008). The legitimacy sought through SEA rests

on *perceptions* of open and cooperative governance as well as actual conduct: as the Sustainability Team leader states, 'I think increasingly we're in an environment where we have to demonstrate that we're taking on board the real views of the community and that we're working with others in partnership' (Interview, April 2009). Or as the Environmental Policy Officer put it, '...it's more important about being seen to be doing something or as important to be seen to be doing something, as to actually do it...' (Interview, October 2008).

Though there was some involvement of Community Council and Heritage Trust representatives in the early stages and during the formal consultation, officers acknowledged that more could be done to engage the community. At a meeting of the Environment Partnership Team, the Sustainability Team Leader emphasised the 'challenge [of] genuine community engagement'. It is, according to that Officer, 'important to work through established groups but also important to reach out ... link up and use tools that exist ...' (NPO, EPT meeting, January 2009).

While some of the shortcomings of SEA in enhancing the democratic credentials of Community Planning in this case have been attributed to resource limitations, efficiency could, as the Sustainability Team leader points out, be enhanced by incorporating *existing* initiatives into the SEA process. For example, a *citizens' panel* of 1000 citizens, randomly selected from the electoral register, aims '[t]o be representative of local residents' and '[t]o allow these views to be fed into the decision-making processes of the community planning partners' (Hexagon Research and Consulting, 2009a: 48). It is, according to the private sector consultancy reporting on the success of the panel, 'effective and genuine community engagement' (Hexagon Research and Consulting, 2007: 3). Countering fears of possible co-option by the Responsible Authority, the Community Planning Policy Officer was keen to emphasise that the citizens' panel is independent of the local authority: 'It's a Community Planning citizens' panel' (Interview, February 2010). As mentioned in section 6.2.6, according to the environmental report, the panel is to be consulted during monitoring of the environmental impacts of the PPS.

Greater continuity in the content of the citizens' panel surveys would render it more useful for both supply of baseline information and monitoring data. Nine from ten topic areas contained in a 2008 Report on the panel's views on 'The Environment and Economic Development' dealt directly with environmental questions (Hexagon Research and Consulting, 2008). However, the two subsequent surveys omit consideration of

environmental issues, focusing instead on health and community safety (Hexagon Research and Consulting, 2009a), and the effects of the economic downturn (Hexagon Research and Consulting, 2009b). Data gleaned from the citizens' panel may be applicable in assessment of PPSs across the Responsible Authority's activities, while discussion groups drawn from the panel could directly contribute to specific SEAs.

Further public engagement with SEA processes in Clackmannanshire could be achieved through the green mapping initiative specifically suggested by the voluntary sector representative at an EPT meeting (NPO, EPT meeting, October 2009). Clackmannanshire has been at the forefront of the implementation of the green mapping tool in Scotland. Participants in green mapping add symbols to a map – either paper or virtual - denoting what they value in their local environment. Indeed, green mapping has the advantage of potentially including groups not represented through the citizens' panel, drawn as that is from the electoral register.

Given that most SEAs are related to land use, green mapping is a potentially valuable participative technique. It was mentioned at various points throughout the Community Planning PPS/SEA process. For example, at the project area selection focus group a Council officer stated that a 'Greenspace audit has just been completed [but it] didn't involve speaking to communities', a situation which could be addressed by employing the tool: the officer continued, 'green mapping might help to clarify [interaction of people and environment]'. While the officer is positive about green mapping, 'we've found to be very effective' (Interview, April, 2008), another was less enthusiastic (Interview, October 2008): 'It's only been done in a few geographical areas. I'm also a bit suspicious about who actually participates. I doubt it's fully representative of the community that they're mapping'. However, the senior officer aspires to

use some sort of clear approach to select different genders, different age groups etc. then you're starting to get a feel for what people really think is important [...] I think if we did that we'd probably have more confidence that what came out of the whole process more accurately represented what the community felt were the priorities. So that could then be fed into the SEA process.' (Interview, April, 2008)

It can be argued that the micro-level of green mapping discounts it from being useful for strategic-level decision making. However, the potential for using it for SEA in certain contexts is underlined by the Council's Biodiversity Officer who believes that, because of its small geographical area, this particular local authority is 'probably the one

place that you could do it at a strategic level just by taking selected groups from different regions and getting their opinions on their area' (Interview, February 2009).

Another potential conduit for accessing the views of the community regarding the environmental impacts of PPSs in Clackmannanshire is the existing Sustainable Dialogues initiative. Operating under the auspices of the voluntary sector, Sustainable Dialogues brings together community representatives to discuss a variety of environmental sustainability issues. The forum has been of use previously in Clackmannanshire: the voluntary sector representative who contributed to the PPS/SEA process described the Sustainable Dialogues as 'bringing community activists and Community Planning partners together' (NPO, Sustainable Dialogues, March 2008). There was, however, no evidence of this during the development of the PPS or SEA in this case.

6.4 Conclusion

The invocation, in the PPS and SEA processes, of a range of principles echoing those promoted by the SEA/good governance nexus suggest practices which exemplify that nexus. Indeed, according to one officer, the democratic legitimacy of the PPS was based on a combination of the initial ideas-generating workshop, attended by Community Planning partners, and the SEA: 'priority actions came out of the workshops and the related SEA supported those actions' (NPO, EPT Meeting, October 2009). However, despite ostensible efforts to enact democracy in Community Planning through SEA, each element of the SEA/good governance nexus has been significantly compromised during the process.

Transparency was assured from the earliest stages of the SEA by the publication of the screening determination and the scoping report. However, the black box of decision was not in this case fully opened. Besides discussion during meetings of 'shoe-horning' pre-existing plans into the Framework, the environmental report raises questions about the independence of the assessment where a table claiming to summarise the formal SEA results replicates a previous in-house Responsible Authority assessment which integrated additional, economic and governance-related criteria. Similarly, a lack of data sources and, at times, a lack of clarity in data leave the reader, like the Responsible Authority officers, unconvinced of the success of SEA to enhance transparency in the PPS process in this case. The post-adoption SEA Statement adds little to the transparency of the PPS or SEA processes.

However, the availability of these documents and the inclusion of named Council officers as points of contact may ensure a degree of accountability. There was no final full Council approval of either the PPS or the SEA, however, elected members are ultimately responsible for the funding decisions and performance of public services, whether under the auspices of multi-sector partnerships or the Council itself. In this case there was no reaction from the general public in response to any of the published SEA documents. Regardless, attention was paid by Responsible Authority officers to ensuring it was clear that the substance of the Framework emerged from an inclusive initial workshop. In locating the democratic legitimacy to Community Planning partners, including, initially, a Community Councillor, ownership, and thus a degree of accountability could be, in the view of some Responsible Authority officers, transferred to the citizens of Clackmannanshire: having had a presence in the process, they are partly responsible for its outputs. However, partial reporting of consultation responses represented an inaccurate account of the processes and contributions made therein.

Where SEA is central to the Scottish Government's stated aspirations to sustainable development, partnership working is central to Community Planning. During the PPS and SEA processes, partnerships were presented variously as a preferred mode of PPS delivery and as a desirable end in itself. During the processes, representatives from both the public and the private sector pushed their own sectors' involvement as a crucial facet of partnership working in Clackmannanshire. It becomes less clear in these instances whether the discussion is about partnership or power. Despite the fundamental role played by the initial substance-generating workshop, the Responsible Authority, acting as gatekeeper, repeatedly voiced the necessity to limit participation to those necessary for delivery of the PPS. Indeed, besides the decision framework, including SEA criteria, being approved by attendees at the focus group scoping exercise, involvement in the SEA process was limited to RA officers and the private-sector consulting firm.

The SEA in this case encouraged joined-up government where Responsible Authority officers came together to ascertain the necessary data and data sources for the formal SEA. Officers engaged with SEAs from another Council though not with the previous SEAs undertaken its own auspices. Similarly, the lack of regard to SEA in best value limits its potential for ensuring efficiencies gained by multiple hits where it could help demonstrates the Council's efforts towards both joined-up government and sustainable development.

There was, where possible, continuity of staff and decision criteria throughout the

SEA. However the SEA lead changed during the environmental report stage and one of the sustainable development principles was dropped prior to assessment. Regardless, the use of SEA decision criteria from the outset ensured the integration of SEA into PPS development. However, in reporting, efforts at joining up government can be said to have been undermined by the uniqueness of Scottish SEA: Consultation Authorities reminded the Responsible Authority that SEA should consider only the environmental criteria, stressing the importance of the environmental report as a document distinct from economic sustainability or Community Planning criteria integrated into the decision framework.

The SEA itself was isolated inasmuch as it was the only one of four Community Planning 'daughter documents' to undergo assessment. Similarly, neither the overall Community Plan nor the projects within the Framework were subject to assessment. Where resources are scarce, either of those alternative tiers may be considered more appropriate for thorough assessment. As in the Highland case, introducing the tiering principle, the environmental report promised appropriate assessment at the appropriate level, overlooking the reality that the substance of the Framework itself was largely project-level and that subsequent action would be largely undertaken by non-RA Community Planning partners who were not under any obligation to conduct detailed environmental assessment of actions likely to emerge from the implementation of the Framework.

Potentially compromising SEA's contribution to transparency, accountability and the effectiveness of consultation and participation, there were gaps in acknowledging the vertical joined-up government that did occur in the PPS process. These gaps help to obscure the prevalence of ongoing top-down Responsible Authority dominance of what is ostensibly an inclusive partnership arrangement and undermine the potential of SEA to redress, through its democratic aspirations, the balance between top-down and bottom-up input into the PPS process.

The meeting point between top-down and bottom-up approaches to sustainable development in this case is partially determined by the involvement of national-level statutory consultees. The statutory consultees responded positively and timeously to the Screening and scoping reports. Their feedback at the scoping stage was integrated, in part, into the subsequent assessment and environmental report. Suggestions for additional baseline data were taken on board but criticism regarding SEA objectives was less fruitful, being mentioned but not integrated into the subsequent SEA process.

The public was informed of the PPS and SEA during each stage. The screening determination, scoping report, environmental report and post-adoption SEA statement were all published, exceeding the statutory minimum for public engagement in SEA. However, the input from the statutory consultees had considerably more influence in the SEA process in this case than the formal consultation with non-statutory groups and the public at large, from whom there were no responses to the consultation for the environmental report.

In contrast to inclusion in Highland, which fell short of the recommendations of the Scottish Executive *Toolkit* (see Figure 5.6), the consultation and participation in SEA in the Clackmannanshire case ostensibly mirrored that suggested by the Scottish guidance. However, the Responsible Authority did little to reach out to the public. Existing initiatives which could have been admitted to the PPS and SEA processes were at times acknowledged, but as with some of the contributions from the Consultation Authorities, not integrated in any meaningful way. Amongst reasons proffered for the lack of engagement were resource scarcity and failings on the part of the community: 'The Community Planning Partnership [...] deliberately makes space for community representatives right throughout the structures and the community and voluntary sectors need to make better use of those spaces' (Community Planning Officer, Interview, February 2010). The Responsible Authority is mindful of being seen to be inclusive in the PPS process and to be enacting the SEA/good governance, however, reservations were expressed by the Responsible Authority, and the SEA consultants, as to the desirability of having those not necessary for implementation too involved in the decision processes.

The prevalence of pre-defined partners, criteria, and, to an extent, projects, undermines the democratic credentials of SEA in this case. The restricted role of Responsible Authority officers outwith the Sustainability Team and limited involvement of partners in the SEA, alongside the isolation of the assessment vis-à-vis the planning hierarchy within which it is ostensibly embedded, mean that the joined-up government and partnership aspirations of the SEA/good governance nexus are similarly underachieved.

The next chapter will examine the successes and failures of the SEA/good governance through a governmentality lens that will locate them within the analytical framework described in Chapter 4. The tensions that have arisen between top-down and bottom-up governance will be located within the discussion of the centralisation tendencies of government, and extant governmentality. The failures in communication and participation will be examined against the governmentality imperative of the 'intensification of the

effects of power', necessary for the installation of a given governmentality, while admittance of various contributions to the processes and its outputs will be discussed within the power-knowledge axis. The governmentality framework will therefore go some way to explaining the failure of the SEA/good governance nexus in this ostensibly prototypical case.

Chapter 7

Application of governmentality framework

The case study chapters examined the successes and failures of SEA in effecting and enhancing elements of good governance, specifically: transparency; accountability; joined-up government; partnership working; consultation and public participation. In examining these aspects of governance, contradictions were revealed, for example, those between: technocratic and democratic assessment processes; partnership working and democratic accountability; and, despite assertions of win-win sustainable development across ecological modernisation discourse, between economically- and environmentally-focused discourses, that is between extant neoliberal governmentality and attempts at environmentally-focused governmentality. As Dean (1999: 150) states, 'While neo-liberalism might be characterized as the dominant contemporary rationality of government, it is found within a field of contestation in which there are multiple rationalities of government and a plurality of varieties of neo-liberalism'.

This chapter applies a realist governmentality approach akin to that of McKee (2009), discussed in Chapter 4, to the two cases thus 'render[ing] visible the actual effects of governing practices' (*ibid.*: 467). The chapter considers the findings of the case chapters across the three axes of Darier's governmentality framework: centralisation; intensification of the effects of power; and power/knowledge. Within that framework, the chapter discusses the modes of resistance employed by actors, necessary to a governmentality conception of power, to SEA and the SEA/good governance nexus employed by the population of decision makers and the wider public.

For Rose and Miller (1992: 190) 'Government is a congenitally failing operation'. Better performance, in the governmentality view, entails data-gathering, classification and storage. Environmental assessment, based on the collection, generation and consumption of relevant environmental knowledge, is considered a way of mitigating negative effects of PPSs; the failures of government. SEA can also, however, enhance any positive impacts of

PPSs, as was the aim of the PPS in Chapter 6. The performance of the cases examined in Chapters 5 and 6 in satisfying the good governance criteria defined in Chapter 2 is summarised in Table 7.1.

Table 7.1 Adherence to principles of good governance in case study SEAs

| | <i>Highland SEA</i> | | <i>Clackmannanshire SEA</i> | |
|----------------------|---------------------|--|-----------------------------|--|
| Transparency | - | Aspects of accessibility of documentation criticised (comprehensibility, physical access, content) | + | All SEA documentation published |
| | - | Accuracy of account of process questionable | - | Content of PPS changed after Team input & approval |
| | | | - | ER responses not mentioned in post-adoption statement |
| | | | - | Consultant assessment mirrors in-house assessment though different criteria |
| Accountability | - | Lack of political accountability – decision split between Councils | + | Temporal – named officers; commitment to monitoring |
| | - | Lack of transparency and effective public participation diminish accountability | + | Professional – reference to best practice |
| | - | Centralised legitimacy | - | Little political accountability |
| | | | - | Responsibility for mitigation deflected to project levels |
| Joined-up government | - | Lack of continuity in scope | + | PPS integrated SEA topics as decision criteria |
| | - | Lack of joined-up consultation | + | Continuity of participants |
| | | | + | Continuity of criteria |
| | | | - | ER and PPS documents do not ‘see’ each other |
| Partnership working | - | Partners not physically together at any point | + | Cross-sectoral working |
| | - | RA more responsiveness to developers than to statutory or public consultees | - | Dominance of local authority |
| Consultation | - | Statutory consultees unhappy with treatment of input | + | Statutory consultees satisfied with treatment of input |
| Public participation | - | Public input to consultation all met with ‘no change’ response from RA | + | Community Council and other non-statutory community reps involved in PPS/SEA processes |
| | | | - | No public response to consultation |

Where all those implicated in the effects of the power of government are integrating environmental considerations into their decision making within the parameters provided by SEA, SEA can be said to have instituted a shift towards a more environmentally-focused governmentality. In locating SEA and the successes and failures of the SEA/good governance nexus in the cases within a governmentality framework, section 7.1 considers the role of centralisation: the tiering principle can be said to further embed existing hierarchies of

decision making and implementation, while centralisation of the definition of decision parameters, alongside the incidence and use of central data repositories and of the sustainability function within Responsible Authorities may further centralisation through SEA.

The subsequent section, 7.2, examines the simultaneous *omnes et singulatum*: SEA as a technique of governmentality must, while entailing centralisation, assist in the intensification of the effects of power through implicating the population, whether decision makers or the public, into PPS processes through active participation or passive consumption of SEA outputs. However, perceived loopholes exist which facilitate evasion of SEA and the SEA/good governance. The chapter will therefore discuss such resistance, focusing on the appeals which were made to location of PPSs, or parts thereof, within the private sector, and so perceived as evading liability for statutory SEA. Further discussion will focus on engagement of RAs with the public, central to the SEA/good governance nexus, and crucial if SEA is to assist the shift to a more environmentally-focused governmentality.

Section 7.3 focuses on the power/knowledge axis, where ‘the distinction between political and technical is a fine and dangerous one’ (Stewart and Collett, 1998: 56). Examining the roles of various actors’ knowledge contributions, the section will look at strategies for resistance to inclusion of knowledges and an example in one case where knowledge claims were publicly contested. Section 7.4 summarises the discussion within the chapter.

7.1. Centralisation

Central to Rhodes’ new governance thesis is the ‘hollowing out’ aspect: ‘[t]he loss of functions by British government to European Union institutions’ (1996: 661). In keeping with Rhodes’ thesis, originating in the European Directive, SEA in the UK is amongst functions devolved to sub-UK national ‘governments’. It is, however, still very much a function of the state. Indeed, section 2.1 described the SEA Gateway which, despite the view expressed during consultation that such a body should be independent, is part of the Scottish Government (Scottish Executive Environment Group, 2005b: 10; cf. McLauchlan and João, 2005). Jackson and Illsley note the centrality of the Gateway in Scottish SEA (2007: 617):

Scotland is the only UK jurisdiction to have created a central clearing house for the exchange of information on SEA screening, scoping, the period of consultation and publicity for the draft report, and the submission and circulation of the final report.

Furthermore, in keeping with Darier’s recognition of governmentality as involving ‘a

centralisation around the government' (1996: 587), the operation of governmentality is manifest when SEA is applied to PPSs involving the inclusion of non-state actors: these are brought under the gaze of government if involved in policy-making or implementation as partners.

Prior to the implementation of the SEA Directive in Scotland, in their study of Perth and Kinross Council Structure Plan's Sustainability Appraisal, Esson *et al* (2004: 159) point to the recognition in that Plan of the need for 'strong links [...] between a sustainable transport and communications network and a sustainable economy'. If SEA, too, is to be *strategic*, using the conception of strategic cited by Bina (2007: 589), whereby a 'whole planning process' should be under consideration, then it should bring the impacts potentially incurred by third and private sector actors in those processes under the gaze of the Responsible Authorities, the three statutory consultees and the SEA Gateway, all either directly or indirectly government bodies. In bringing PPSs developed in partnership between public, private and third sectors together under scrutiny through SEA thus, if properly integrated, prompting those partners to consider environmental impacts throughout the PPS-making process, the assessment can be said to be facilitating transparency, accountability and joined-up government in situations of relatively fragmented governance.

In utilising and creating centralised agencies (Consultation Authorities and SEA Gateway respectively), SEA in Scotland provides a link between joining up government of SEA/good governance discourse and the inherent centralisation noted by governmentality theory. The evidence from the cases suggests that although the third sector was well-represented in the development of the PPS in the Clackmannanshire case, and the private sector had a significant role in the Highland case, in terms of formal responses to the SEA documentation, the most effective partners in the SEA processes were the Responsible Authorities and the statutory consultees; those in local and national government.

Joseph (2004: 10) criticises Foucault where, '[t]he blurred boundary between the state and institutions of civil society means that Foucault is in danger of dissolving the political into the social'. However the shift towards governance has entailed precisely such a blurring as the institutions of civil society are admitted to political processes, at the same time as formerly political decisions are being de-politicised within the 'what matters is what works' discourse. What is likely to work is circumscribed by the political and policy context, that is, the existing governmentality, within which PPSs are developed and SEAs are conducted. Context is recognised in SEA by the requirement to examine and report the

policy context of PPSs (Scottish Executive, 2006: Figure 6.1). The prospects of truly transformational SEA may be curtailed, as Taylor notes (2007: 313), ‘... in a country where local government is not constitutionally independent and raises only a small proportion of its income, it is central government policy which creates the parameters and controls the resources which shape local relationships’.

Although the hierarchical tiering of PPS and SEA assists in governmentality as centralisation takes place, in both Highland and Clackmannanshire appeals were made to the policy context as a means of deflecting responsibility up the hierarchy. Such deflection undermines not only the transparency and accountability considered in the chase chapters, but also prompts questions around the ‘ethical and honest behaviour’ facet of Bovaird and Löffler’s (2003) version of good governance. For Highland, the centrally-located second National Planning Framework (NPF2) and the Scottish Sustainable Communities Initiative (SSCI) were used in supporting the assertion of the sustainability of one element of the PPS (thus boosting claims of legitimacy) despite its omission from the SEA, while in Clackmannanshire, the imperatives of the Single Outcome Agreement and the economic concerns of the Responsible Authority’s Chief Executive were prioritised over the content of the Environmental Report. Tiering may therefore support both efficiency of assessment *and* resistance to assessment.

7.1.1 Tiering: facilitating avoidance and procrastination

Highland

The tiering principle in SEA epitomizes joined-up government, and although it ostensibly contributes to the institutional centralisation expected within governmentality, it may also facilitate procrastination and resistance to responsibility at higher tiers of decision making as promises are made that issues will be addressed in the future at lower tiers of decision making or assessment. In the Highland case there is evidence of a Rhodes’-style hollowing out of environmental assessment where the omission from the assessment of a significant road development is discussed: assessment will be later, at a lower tier and a higher tier:

Proposals for dualling the A96 will be subject to various other assessments including a Scottish Transport Appraisal Guidance (STAG) assessment, Environmental Impact Assessment, and in the context of the Highland wide Local Development Plan, a Strategic Environmental Assessment. (The Highland Council, 2008: 22)

Similarly, the omission of Tornagrain is justified in the Environmental Report which explains that it is a private development which will undergo a detailed assessment later. The joined-up government promised by the tiering principle has thus been subverted. Legitimacy cannot be claimed through environmental assessment for elements of the PPS excluded from the SEA. Instead of being attained through the SEA/good governance nexus, there is evidence for that legitimacy being sought at higher and lower tiers.

Despite its omission from the SEA, the former Chair of the Highland Council Planning Committee confirmed that Tornagrain's inclusion in the second National Planning Framework 'would be [amongst] relevant material considerations that could be taken into account in the assessment of the planning application' (cited in APT, 2009b). Similarly, despite not having been subject to a statutory environmental assessment, the proposals were amongst those chosen as 'exemplar projects' under the national-level Scottish Sustainable Communities Initiative (SSCI). Again, the developer cites this status as proof of the proposed town's environmental sustainability credentials (Scottish Government, 2009d). In January 2010 Scotland's Chief Planner singled out the proposed new town as an exemplar of sustainable planning practices in a speech given to the Royal Philosophical Society in Glasgow. This discourse of exemplars, emanating from the Scottish Government and SSCI is reiterated on the local level: one elected member of the Highland Council replied to the action group, through a letter published in the local press, 'Tornagrain [...] is likely to become a much-visited exemplar of good planning practice' (Pedersen, 2008). The subsequent Main Issues Report of the Development Plan for the area includes reference to the SSCI status of the proposal (The Highland Council (2009) while the Scottish Government is to reward such centrally-legitimised exemplars by 'minimising the regulatory burden' (Scottish Government, 2009e).

While the Environmental Report invokes the SEA/good governance nexus - 'SEA will aid transparency in terms of highlighting the environmental impacts of population increases' (Halcrow Group Limited, 2007b, para. 2.2.3) - the exclusion of a significant development from the SEA process and appeal to national-level initiatives undermine such a claim. Although a centralisation of legitimacy has occurred in seeking to move the plans for the new town forward, SEA and the associated democratic and institutional aspirations of the SEA/good governance nexus have been marginalised.

The legitimising role of the partially assessed PPS itself, to lower, subsequent tiers of decision making, becomes clear from SEPA's statement of its concern that, 'the Framework

will be considered at least a material planning consideration and will act as a prompt to planning applications coming forward before the environmental impact of the Framework is adequately assessed' (SEPA, 2007c). The appeal for legitimacy based on the Framework, and referring precisely to an aspect of that Framework which did not undergo SEA, is also clear from the Tornagrain Planning Statement which states (Moray Estates Development Company Limited, n.d. a: 63), 'This Framework was approved by THC in September 2007 following an extensive public consultation process, and which allocates the application site for a new town of 9,500-10,000 population'.

Similarly, the Environmental Statement supporting the planning application appeals to legitimacy from the higher tier (Moray Estates Development Company Limited, n.d.). In its 'strategic context' section, the Environmental Statement implies that all aspects of the Development Framework have been subject to SEA and so draws further legitimacy from appeals to the democratic aspect of the strategic assessment despite the omission of the town from that SEA (*ibid.*: 6):

Following the receipt of consultee responses as part of the strategic environmental assessment (SEA) process, the A96Growth Corridor Development Framework was published in September 2007. [...] The Development Framework identifies three main components at Dalcross: expansion of the airport, development of a business park on adjoining land, and development of a new settlement at Tornagrain.

Clackmannanshire

Tiering of environmental assessment in the Clackmannanshire case is evidenced more in the designation of planners and project managers as being responsible for detailed assessment and mitigation at project level (although no attention is paid to the possibility that further such assessment will not be undertaken where not statutorily required). However, higher tiers of decision making, if not assessment, also have a bearing on the final PPS and the relative influence of SEA in decision making for the PPS.

Hudson *et al* point to the UK Government's enthusiasm for "joined-up" governing' in the form of 'formal partnerships' (2007: 57). Such partnership working is seen as subsidiarity to those closest to and so most responsive to local-level PPS development. However, Taylor (2002: 114) highlights the subjection of 'partners' within governmentality where they are 'disciplined in [...] 'the politics of meeting targets' with definitions of success and probity generated from central government'. In addition to the acceptance of centrally-defined

SEA and Community Planning decision criteria, it was accepted that Clackmannanshire should shape its objectives within the themes laid out by the Scottish Government.

While McKee (2009) believes that contradictory centralising and decentralising forces are particularly prevalent in the context of housing, section 6.3.4 discussed how the introduction of the Single Outcome Agreement mechanism into Community Planning provides an arena in which locally-defined environmental priorities were 'tweaked' to fit priorities set by central government. Indeed, a senior council officer in this case was concerned, after active participation of Community Planning partners had been concluded, that 'the SOA priority outcomes have to be more explicit' (NPO, in-house meeting, July 2008). Another believed that the PPS 'needs to be shifted to see how it can be fitted [with the SOA]' (*ibid.*).

According to the minutes of the subsequent Environment Partnership Team meeting, the SEA lead then 'explained that the text had been revised to take account of the concerns of the Alliance Board and outlined the significant changes' (Environment Partnership Team, Clackmannanshire Alliance, October 2009). The published minute does not itself outline the significant changes wrought by the Board's input. Highlighting the role of governmentality, though not necessarily an environmentally-focused governmentality, instilled through SEA, edits included updating of the policy and legislative context while the SEA lead spoke of having 'changed the targets a bit and put in the language the Government is using' (NPO, October 2009). The percolation of specific discourses through adherence to centrally-defined targets and language undermines the equitable decision making aspirations of the European Commission (2004) and the OECD (2006) and so renders the bottom-up democratic legitimacy, gleaned through the SEA/good governance nexus in this case, questionable.

7.1.2 *Centralised criteria*

As with the central definition of targets and language, the delineation of SEA topics at the European level has consequences for all lower tiers of governance if national-level SEA legislation and guidance replicates the requirements of the Directive. In the Clackmannanshire case, the options assessment was conducted using a combination of Community Planning criteria, drawn from national guidance, and SEA criteria drawn from the centrally-defined SEA topics. The decision-making criteria were legitimised when

presented to, and approved by, the focus group which scoped the PPS.

In the Highland case, by contrast, there was resistance from the PPS consultant to using SEA topics in the development of plans (Interview, November 2007). Consequently there was criticism amongst the feedback from Consultations Authorities that the planning consultants had not used SEA topic areas as decision criteria. Rather, they had developed their own criteria within the *Collaboration for Success* approach, in turn informed by the *Smart Growth* framework. These included environmental criteria alongside social and economic criteria, although they did not mirror the environmental categories of SEA (Davidson, 2007).

7.1.3 Central data repositories

The use of the centrally-defined taxonomy of SEA topic areas, and the insistence upon its use by Consultation Authorities, supports the development of centralised data repositories. As Haklay *et al* (1998) recommend a centralised national repository of data for SEA (see section 4.2.1), the Sustainable Development Officer in the Highland case supports having the Responsible Authority's SEA-related data centrally located within the Council:

what I would like to see is a system where every service pre-screens everything that they do ... because it's not a big job, it's a very easy job, and then if it does need to be screened it comes to a centralised file here so we know everything that's been screened and then likewise scoping. And I've tried to create a centralised file here and actually some services are now sending through things as they're doing them but there'll be some services where nothing's being screened. (Interview, March 2009)

Furthermore, the local authority had been in discussions with 'partner agencies' regarding 'working together collecting the regional baseline data because that's a very time-consuming part of the SEA process and we're all gathering the same data so if some centralised resource could be utilised by all these organisations, that'd be great' (*ibid.*). Data, in this view, should be centralised not only in and for the public sector but also the third and private sectors. Data centralisation therefore facilitates the intensification of the effects of power where all sectors are engaged and accessing the same data; and the power/knowledge axis where powerful actors define the dominant discourses shaping the collection and presentation of data. In advising in both cases, Consultation Authorities pointed to centralised, national-level data sources relevant to their functions, although they

also drew Responsible Authority's attention to their own data holdings, necessary despite each Responsible Authority having either a sustainable development officer or sustainability team.

7.1.4 Centralisation of sustainability in Responsible Authorities

The ostensible joining up of government to create sustainability teams in local authorities not only makes sustainability advice more accessible to other council officers conducting (or steering) a range of functions, it facilitates the work of private-sector consultants involved in assessments. The SEA consultant in the Highland case praised the establishment of 'dedicated sustainability teams' facilitating the work of hired consultants who 'would engage with the sustainability team rather than having to infiltrate the organisation' (Interview, May 2009). Having such a specialist sustainability team has, according to the consultant, 'made the job far easier actually than it historically has been' (*ibid.*).

Such 'infiltration' is, however, helpful for governmentality where two-way learning, feeding into subsequent processes, occurs as a result. Ideally, according to Thérivel, council officers working on PPSs and decision makers deciding on them should be 'thinking SEA'. Although useful as points of contact for the public, the creation of sustainability teams may stem rather than facilitate the flow of biopower through SEA if private sector consultants conducting SEA can access all the necessary data and knowledge through a few members of a sustainability team or even one sustainability officer.

The standpoint of the Sustainable Development Officer in the Highland case provides an example of sustainability being centralised within a Responsible Authority, desirable in satisfying the joined-up government element of the SEA/good governance nexus: working in the Policy Unit within the Chief Executive's office, the officer is 'not actually silo'd', stating by contrast, 'I've got a very strategic role' (Interview, March 2009). If SEAs are conducted by private-sector consultants, it limits not only learning within the organisation but compromises the 'strategic connectivity' of a centralised sustainability function (Barker and Fischer, 2003).

7.1.5 Panopticon – the Scottish SEA Gateway

The Scottish Government's SEA Gateway epitomises the centralised sustainability function. Assisting in disciplining subjects to conform to a governmentality informed by SEA, it is

positioned to perform as panopticon for Scottish SEA. In the Clackmannanshire case, although acknowledging the tiering concept and being keen to ensure a fit between higher-tier PPSs and the PPS, participants were less convinced regarding the SEA Gateway's overseeing of SEA: 'I don't think anyone's looking in practice' (Environmental Policy Officer, Interview, October 2008). Answering the question posed separately by the Highland Sustainability Officer, 'who's policing it?' (Interview, March 2009), the Clackmannanshire counterpart continues, 'no one seems to be policing what's actually happening' (Interview, October 2008). The sustainability team leader also believed there to be an observation shortfall: '... the Gateway should really be monitoring what's going on, they're getting all the information back' (Interview, April 2009). Although the role of the panopticon is to encourage *self*-discipline, that role requires a belief that the subject *may* be being watched.

As a central repository, the Gateway does hold information supplied within the official SEA documentation relating to each case, but it cannot address the deficiencies of the SEA/good governance nexus described in the case study chapters. Perceptions that the Gateway is not watching and suffers from a 'lack of teeth' (Clackmannanshire sustainability team leader, Interview, April 2009) mean the panopticon is failing, in the case of Scottish SEA, to instil the required discipline in the population, necessary for any shift towards an environmentally-focused governmentality. Resistance to SEA and the SEA/good governance nexus remain possible even where the boxes are ostensibly being ticked.

Although for Darier (1996: 601) environmental assessment may in itself represent centralisation, for the successful instillation of an environmentally-focused governmentality the 'capillary diffusion of power effects' (Darier, 1999: 21) must construct individuals as environmentally-focused subjects. This simultaneous *omnes et singulatum* is evident where the Sustainability Team Leader in the Clackmannanshire case states,

SEA, if it's really going to be effective in terms of us fully understanding what the environmental implications of our actions are, and really improving environmental sustainability, it would have to... it's almost ... it can't be a top-down exercise, you know, it has to be a bottom-up exercise' (Interview, April 2009)

The next section will examine the success of SEA in the intensification of the effects of power through elements of the SEA/good governance nexus including transparency, consultation and public participation.

7.2 Intensification of the effects of power

While centralisation is a characteristic of governmentality, a simultaneous decentralisation occurs where the intensification of the effects of power seeks to instil an environmentally-focused governmentality through SEA. SEA must then reach out 'to each individual through a process of normalisation of individual and collective environmental conducts which result in the constitution of specific environmental subjectivities' (Darier, 1996: 601). The involvement of decision makers and the public in SEA helps construct them as environmentally-aware.

7.2.1 *Economy versus environment – no win-win here*

The instillation of an environmentally-focused governmentality requires clear conduits for the flow of biopower. Subjects must know what is required of them. However, resistance may be met locally and the message subverted. For example, Clackmannanshire's Single Outcome Agreement document, laying out the 'strategic priorities' of the Community Planning Partnership (Clackmannanshire Alliance, July 2009: 25), demonstrates the different values attributed to the environment. In the requirement for local governance to contribute to national outcomes, the document states that one Community Planning 'Priority Outcome', 'the area has a positive image and attracts people and businesses', will contribute to the desired Scottish Government national outcomes, specifically, 'we value and enjoy our built and natural environment and protect it and enhance it for future generations' (*ibid.*). Although the Scottish Government is adopting a Brundtlandesque portrayal of its aspirations for sustainable development, echoed by authors such as Bailey and Dixon (1999: 253), who, '[b]y environmental [...] mean a broad range of issues; not only biophysical, but also social, cultural and economic', the local interpretation says nothing of either sustainable development or the environment. Rather it focuses solely on the county's economic aspirations to attract 'people and businesses' (*ibid.*).

Furthermore, although the PPS document states at the outset that '[t]he EPT considers that to be sustainable, economic growth must be balanced with protecting the environment and improving quality of life' (Clackmannanshire Alliance, 2010a: 2), at a meeting of the Environment Partnership Team, the representative from the Economic Development Partnership Team emphasised that environment and sustainability did not

appear amongst Clackmannanshire Alliance's top six priorities as defined two weeks previously at a special meeting of Clackmannanshire Alliance (NPO, May 2010). Similarly, contrary to efforts to normalise the inclusion of environmental concerns in PPS development through SEA or otherwise, in keeping with a purely liberal governmentality, section 6.2.5 discussed the Chief Executive's keenness to ensure the prioritisation of economic aspirations. At the same time the Responsible Authority was chastised by the environmentally-concerned statutory consultees for including reference to a sustainable economy in the Environmental Report. The tension between the irreconciled liberal economic and environmentally-focused governmentalities constitutes resistance to the sustainability team's efforts at joining up government and encompassing all aspects of Brundtlandesque sustainable development. For Dryzek (2001: 660), 'Deliberation as the contestation of discourses in the public sphere remains faithful to the core idea of deliberative democracy'. However, the possibility of reconciling the conflicting positions was undermined where the representative from the Economic Development Partnership Team did not attend previous meetings of the Environment Partnership Team during the development of the PPS.

The SEA consultant in the Highland case also points to the fate of sustainability and SEA within extant liberal governmentality: 'sometimes within [...] cost-cutting, re-prioritisation, re-evaluation of targets process, sometimes sustainability, SEA doesn't fare well' (Interview, May 2009). As discussed in Chapter 5, the PPS document refers to the role of SEA in 'coupling environmental sustainability with sustainable developing' (Halcrow Group Limited, 2007d: 3). However, Chapter 5 also highlights some of the Responsible Authority's shortcomings in monitoring the effects of PPSs, thereby undermining claims of proper integration of environmental concerns into PPS development and implementation in keeping with an environmentally-focused governmentality. Indeed, both cases accord with Gachechiladze-Bozhesku and Fischer's finding that, 'Whilst most SEAs promoted the integration of SEA monitoring frameworks with those of the underlying plans and programmes, in practice this was found to be underdeveloped' (2012: 28).

Although the consultants posit sustainability and pioneering governance as central to their planning for the area (Halcrow Group Limited, 2007: [5]), the economic focus of the PPS is illustrated by the location of the announcement for the consultation that appeared on the Council website: it was to be found within economic development under the section 'business information' (The Highland Council, 2011a). For an environmentally-focused governmentality, facilitated by the SEA/good governance nexus, to usurp the existing,

economically-focused liberal governmentality, awareness of SEA as a conduit for involvement in PPS-making must be raised.

7.2.2 *Facilitating the flow of biopower: winning hearts & minds*

In the Clackmannanshire case, the Strategy and Support Manager points to Scottish SEA's focus purely on environmental matters as it incurs a 'problem in winning hearts and minds of other people within the Council' (Interview, February 2009). For that officer, Scotland's lack of integrated approach to assessment, where elsewhere environmental effects are considered alongside social and economic considerations, means it 'doesn't fit in as well as it could' (*ibid.*). The Clackmannanshire PPS provides a broad definition of environment, relevant across Council departments: 'It embraces a range of challenges from climate change, resource and energy use, and sustainable production and consumption through to enhancing the health and well being of our communities' (Clackmannanshire Alliance, 2010: 2). However, where the success of SEA as a technique of an environmentally-focused governmentality, and as a mode of democratisation, depends on the proliferation of this message and awareness-raising of SEA's statutory role in achieving sustainable development, it is undermined in this case by the failure of the PPS document to mention the SEA process or the Environmental Report.

Pischke and Cashmore (2006: 657) provide the 'commonsensical' reminder that '...the introduction of environmental assessment procedures needs to be accompanied by measures to ensure that there is an adequate level of institutional capacity to implement them effectively'. In the Highland case, the Responsible Authority's Sustainability Officer is positive about the prospects for SEA in the Council. There is, the officer states, 'quite a high level of senior management buy-in to the issues ... sustainability and climate change in general so that gives the backbone if you like ... that makes sure that doors are opened' (Interview, March 2009). Despite the assertion by the officer that, 'the Planning and Development department here are *definitely* the most bought into SEA' (*ibid.*), the lack of integration of SEA into the PPS in that case suggests that during the development of the plans, those local authority staff involved were not 'thinking SEA'.

Unfortunately, whether or not the Planning and Development staff of Highland Council are thinking SEA or not is less important when planning and SEA processes are contracted out to the private sector, as they were in both cases. Furthermore, in looking at

the barriers to the flow of biopower through SEA, the role of the private sector warrants further scrutiny: the issue of liability for SEA being perceived as being confined to purely public sector initiatives is salient in both cases.

7.2.3 *Perceived loophole*

Jay and Marshall note the relative lack of 'practical attention being given to SEA in the private sector' (2005: 315); however, SEA, as a technique of an environmentally-focused governmentality, can bring multi-sector partners involved in PPS development under the gaze of government where the PPSs in which they are involved are of a public character. However, a perceived loophole, whereby PPSs can evade SEA through appeals to being located within the private sector, facilitates resistance to the democratisation of such PPS development and to the assessment of their potential environmental implications.

The Scottish Executive's *Toolkit* assures the reader that 'The nature of public PPS ensures that it is highly unlikely that a public body could adopt a PPS that should have been subject to SEA' (2006: para. 4.3.2). The evidence reveals practices contrary to that assurance. In the Highland case, the proposed town at Tornagrain evaded strategic environmental assessment as it was deemed in the Environmental Report, despite significant public funding, to be a private development. There was no opportunity for anyone to be 'thinking SEA' about the proposed town of Tornagrain, or the other proposed developments in the corridor outwith the major developments at Inverness East and Nairn South. Despite the SEA Gateway's assertion that there has been no need for further clarification regarding sectoral liability and SEA, it also became relevant in the Clackmannanshire case.

At the same time as town centre regeneration was being considered as an element of the PPS in that case, and so became liable for consideration in the SEA, a Business improvement District (BID) proposal 'to enhance the image and facilities of the county's main town' was being put together (Clackmannanshire Alliance, 2009c: 10). Aimed at improvements in the physical environment in the town, and hoping to increase footfall in the shopping areas, the proposal would be, if successful in its implementation, likely to incur significant environmental impacts. The BID proposal, concerned with environmental quality and its impact on business thus bringing together economic and environmentally-focused discourses, was not screened for SEA as it was, according to a Council officer, 'business-led' (pers. comm., April 2008).

BIDs are, according to Brown (2008: 74), 'in the purest form [...] a way of unlocking private sector interests for the wider public good'. Reiterating the public character of the scheme, the Council press release on the Council website tells the reader, 'The BIDs are run by businesses, for businesses, funding improvements *for the benefits of all*' [emphasis added] (Clackmannanshire Council, 2011). The page also provides a (public sector) Council officer contact. The public character of BIDs is again clear where the model appears in the first Clackmannanshire SOA (under the auspices of Clackmannanshire Alliance, the Community Planning partnership whose Environment Framework *was*, as this study explains, subject to SEA): 'Local actions' stipulated under the 2008-2009 Single Outcome Agreement *signed off by the Council* included, '1. Promote and develop Business Improvement District' (Clackmannanshire Alliance, 2008: 27). As the Council is 'steering' the initiative to the extent it is, it is operating within the parameters of public governance set out within governance theory. BIDs may therefore qualify for SEA screening under section 5(4) of the SEA Act.

7.2.4 Joining up governance and SEA through 'best value'

In his study of Canada's Green Plan, Darier notes that 'environmental normalisation competes against other more powerful normalisation processes' (1996: 602). In attempting to embed sustainable development in local government operations, the Local Government in Scotland Act 2003 (s.1(4)-(5)) requires local authorities, in achieving the managerial ends of efficiency, effectiveness and economy to do so in such a way as to contribute to sustainable development. The best value reports (the requirement for which stems from the same piece of legislation) for the Responsible Authorities in the cases herein reveal that there is substantially less attention paid to sustainable development than to the economic imperatives of the Act (Audit Scotland, 2007; Audit Scotland, 2010).

Best value is listed by Ling (2002: 627) as part of '[a] new repertoire of central direction', however where Responsible Authorities fail to establish a relationship between best value and SEA in the cases marks an opportunity missed to embed environmental assessment further in the operation of governmentality and so blocks another possibly conduit for biopower properly focused on the environment (albeit as a means of maintaining human life). Although SEA can be located within ecological modernisation discourse inasmuch as it seeks to mitigate the worst impacts of PPSs developed against an extant neoliberal ideological backdrop, even this soft version of environmentalism is avoided.

7.2.5 *Top-down vs. bottom-up*

Stoeglehner *et al* assert (2009: 111), 'SEA professionals need to consider 'democratic effectiveness' as well as 'environmental effectiveness''. If SEA, and any democratisation that may occur through the SEA/good governance nexus, is resisted then opportunities for SEA to be a useful meeting point between top-down sustainability initiatives such as the sustainable development requirement of best value, and bottom-up environmental efforts are thwarted: the flow of biopower through SEA is blocked. SEA's role as a technique of governmentality depends on effective conduits for the flow of biopower, clear from Noble's assertion that '... to ensure that the greatest benefits are derived from SEA the decision implications of an SEA should trickle both up- and downstream' (2003: 136). Barker and Fischer hope their proposed approach to regional SEA will do exactly that inasmuch as it will,

be able to ensure that national policy and in particular sustainability objectives and targets may filter down to the local level, while local sustainability objectives and targets as considered and proposed by e.g. Local Agenda 21, may also find their way to higher tiers of decision-making. (2003: 712)

In the Clackmannanshire case, at the kick-off meeting between the Responsible Authority and the SEA consultants, the SEA lead was of the opinion that 'we're never our own masters when we're looking at environmental policy' (NPO, March 2008). The Sustainability Team leader echoed that officer's concern at the difficulty of a sustainability team tasked with normalising environmentally-focused thinking in the face of hierarchies focused, from the top, on economic development above all else: 'one small team in one division in one service of the Council ... it doesn't really work' (Interview, April 2009). One Council officer asserted that even within the local authority awareness of SEA was hindered by an unreceptive workforce: 'most people close their ears to SEA in the Council' (Interview, November, 2007).

7.2.6 *Participation failures*

It is clear that there are extant difficulties in facilitating the flow of biopower to ensure an environmentally-focused governmentality within the Responsible Authorities themselves. However, the SEA/good governance also seeks to bring the public and non-Responsible

Authority groups into PPS making through environmental assessment processes. Chapters 5 and 6 outline the successes and failures of the democratising efforts - through transparency, accountability and participation - of the SEA/good governance nexus. This section will examine these in light of governmentality.

Although Clackmannanshire Council officers were explicit about the use of SEA criteria throughout the process, at the end of the statutory SEA process there remains a lack of awareness of SEA, whether as an environmental assessment tool, or as a mechanism to increase participation in decision-making processes, even amongst those who have been involved in the process. For example, one non-RA member of the Environment Partnership Team claimed to have learned little about the assessment despite having been part of the focus group which approved the approach: 'the whole SEA thing, I don't think anybody knows what that is' (Interview, July 2008). Another team member stated, 'I don't know *about* it, I just know that it's being done and why and there was obligations to carry it out' (Interview, February 2010).

What had begun as an ideal application of SEA with regard to the consideration of environmental impacts throughout the process was also less effective in engaging the public. Devlin and Yap (2008: 20) acknowledge that 'insufficient resource mobilization' and 'ineffective discursive mobilization' by environmental advocates may explain the general failure of public participation in environmental assessment processes. However, crucially, they also acknowledge that, hindering the equity promised by sustainable development discourse, the opportunity structure 'provided by legislative regimes' may be 'insufficient' (*ibid.*). While such a conclusion can be reasonably drawn from the Highland case, those responsible for the SEA in the Clackmannanshire case failed to use those opportunities that already existed. In neither case did the RA act to enhance the SEA competencies of the public.

Rutherford (2007: 300-301) discusses Foucault's omission of 'exclusion' from his writings on governmentality. However, exclusion, whether of issues, elements of PPSs, or of potential participants, will be considered here within discussion of resistance— central to Foucault's understanding of power. Indeed, in contrast with Lemos *et al's* (2012) finding that '[w]hen looking at how consultation was done, the Scottish and Welsh experiences stand out as examples of good practice' (*ibid.*: 7), both Responsible Authorities displayed a degree of resistance to the democratising elements of the SEA/good governance nexus. Kiersey and Weidner (2009: 357) assert '...governmentality can refer to any programmatic

attempt to govern subjects, whether by structuring the field of possibilities for subjects and/or influencing the development of the subject itself'. The case chapters discussed the field-structuring scoping exercises undertaken by the Responsible Authorities and the treatment of input from partners and public at that stage and subsequent stages. The next section will consider how that treatment facilitated the intensification of the effects of power.

7.2.7 *Reaching out*

Highland

The democratising elements of the SEA/good governance nexus require Responsible Authority engagement with the public during the development of PPSs. Indeed, one of the prime objectives of SEA for the Scottish Executive was, 'to ensure wide consultation and engagement with the statutory Consultation Authorities, such other bodies as the Responsible Authority considers appropriate (e.g. health), *and the public* at an early and effective stage of the PPS preparation' [emphasis added] (2006, para. 2.2.6). In considering conflict in the context of environmental assessment, Persson (2006: 612) notes: 'Through communication about values and interests associated with any implementation of plans and projects, these can be defined and displayed. [...] this will also increase democracy regarding e.g. influence, transparency and trust, and prevent conflicts of interests'.

The Highland PPS post-adoption statement reveals one response from an individual, submitted during the SEA consultation, which criticises the availability of the Environmental Report: '[the] SEA document is only available at post offices, service points and exhibitions – unreasonable to expect anyone to read and digest it at these locations' (The Highland Council, 2008: 62). When asked subsequently how they had heard about the SEA, the respondent replied:

It was word of mouth and at that time we're becoming more aware of what there was and wasn't ... more aware maybe of what to look for and questioning, more questioning, you know, and to start with, if somebody said "SEA" [*laughs*] What does SEA stand for? Because ... you know, what *does* it stand for? (Interview, August, 2008)

Failure to reach the public with SEA is further illustrated by the leaflet produced by the Responsible Authority in February 2007 and provided at the exhibitions held as part of the consultation for the plan. It states that the plan 'is accompanied by a Strategic

Environmental Assessment (SEA) which the Council is now lodging for consideration by the statutory Consultation Authorities via the SEA Gateway' (The Highland Council, 2007). None of the terms are defined and no advice is given as to *how* the public can provide the 'expressions of opinion' that the leaflet invites. The Responsible Authority again misses an opportunity to use SEA to as a technique of governmentality whereby engagement with the process helps reconstruct the affected population as environmentally-focused citizens. Indeed, little effort was made in that instance to remedy the concern of the sustainable development officer that 'the whole SEA process is so bureaucratic and inaccessible that it puts the public off contributing' (Interview, March 2009).

A member of the action group who had engaged with the planning process echoed the perception of the sustainable development officer: in their own efforts to encourage members of the public to engage with the SEA process they found, 'people just look at you with this look of helplessness, terror, boredom! You see the look on... and then you [get] this feeling in yourself and you're thinking, 'he's gone'' (Interview, August 2008).

The SEA consultant in the Highland case also recognises the difficulty in engaging the public with SEA: while the scoping report states, 'SEA *requires* the integration of the results of public consultation and Consultation Authority engagement into the plan-making process' [emphasis added] (Halcrow Goup Limited, 2006, para. 6.2.1), the author of the Report, the SEA consultant in this case, was concerned that strategic-level planning is 'too remote from most people's ... experiences and understanding. Yes, there will be individuals that could contribute to it but, in general, consulting with the public on SEA could be complicated' (Interview, May 2009).

McAdam *et al* (2001: 29) describe contentious episodes as those in which people resist 'instead of fleeing or subsiding into passivity'. However, the public's efforts at resistance in the contentious Highland case were unsuccessful. Indeed, Chapter 5 reveals that in the Highland case there were 22 consultation responses from individuals that referred specifically to the SEA, each of which was met with a 'no change' (The Highland Council, 2008). For Rutherford (2007: 305), 'the most compelling part of Foucauldian analysis is that, if things are *made* rather than found, then the possibility exists for them to be *unmade*, or *made differently*'. However, the lack of responsiveness in this case to the contributions that were made demonstrates 'things' are not in this case being remade through effective public engagement in SEA.

SEA, in this case, has failed to satisfy the desires of either the Consultation

Authorities or the public to work in partnership on the development of the plan proposals. This position is summed up by the local action group in a report for consideration by members of The Highland Council Planning, Environment and Development Committee where they voice their perception that: '*a relatively small number of stakeholders were involved in devising the overarching framework*' [original emphasis] (Action for Planning Transparency, 2007).

Certainly, the 22-0 effectiveness scorecard for the public contributions to the SEA consultation does nothing to indicate that public participation in SEA, even where the public are informed and willing, will further the intensification of the effects of power where Responsible Authorities are resistant and have avenues of resistance such as the appeals to sectoral exclusion discussed in section 7.2.3. Commercial interests had more success in the development of the PPS: 'The percentage developer contribution protocol had also been revised from 75% to 66% following the Consultants having revisited their calculations following representations from the industry' (The Highland Council, 2007b).

Clackmannanshire

In its good governance standards the Independent Commission for Good Governance in Public Services (2004: 12) states, 'It is very important that a wide range of experiences and perspectives inform governance decisions. This is enhanced by the participation of a cross-section of the public in governance decision making'. On being asked whether the issues raised in the SEA reflect environmental concerns of the public, one of Clackmannanshire's sustainability team replied, 'It's hard to know what they are. I mean, we haven't done any systematic research on what the public's concerns actually are as far as I know' (Interview, October 2008). The apparent lack of acknowledgement and utilisation of existing public engagement initiatives such as the Clacks 1000 surveys and Sustainable Dialogues illustrates the lack of joined-up government discussed in section 6.3.4.

Chapter 6 also argued that the gatekeeper role taken on by the Responsible Authority in the Clackmannanshire case helped thwart the SEA/good governance nexus in that case. Rutherford (2007: 301) cites Judith Butler's critique of Foucault: 'oppression works not merely through the mechanisms of regulation and production but by foreclosing the very possibility of articulation' (1996: 68). The foreclosure of articulation, whether by exclusion of sections of the population or of selective inclusion of safe PPS/SEA content,

can be considered resistance to the democratisation aspects of the SEA/good governance nexus. Another Council officer describes the reluctance that hinders the flow of biopower through SEA:

...it comes down to it being a technical process and the fact that you'd have to go out there and inform the public as to exactly how it works, how they can be involved and that effort's just not being put in ... by anybody (Interview, February 2009)

Even when public participants do have the relevant competency, the Clackmannanshire case demonstrated a lack of credibility afforded to public participants and to the possibility of strengthening of the public's role in governance: one unpaid public participant had as much training in SEA as those in the sustainability team yet, as discussed in section 6.3.6, the contribution of that participant was not treated seriously. Taylor recognises such behaviour where she notes from her research on community participation that, 'It is [...] easy for partners to diminish the 'community' contribution by questioning the legitimacy of representatives' (2007: 307). Subsequently there was no public response to the formal consultation on the Environmental Report. The only Community Council to respond did not mention the SEA.

Governmentality requires the collection of data regarding the population (and the conditions necessary for its survival) and the instillation of the requisite mindset in those subjects. Each of these strands requires clear conduits for the operation of biopower. Instances of resistance to SEA and the democratising aspirations of the SEA/good governance nexus ensured, in both cases, that these conduits were not clear. Opportunities to raise awareness of SEA were missed, as were opportunities to bring existing public engagement initiatives into SEA. Even amongst active non-RA participants in the PPS processes, knowledge of SEA was limited. The next section will examine in more detail how the knowledge of the various actors was treated in the cases.

7.3 Power/knowledge

The SEA/good governance nexus posits a shift towards more participatory assessment processes, replacing the expert-focused, technical-rational exercises that have dominated heretofore. Public participation and wider consultation amongst established groups may bring new perspectives and knowledges to assessment, some of which will contradict the assumptions of 'objective' technical-rational decision making. There may be conflict even

amongst those discourses appealing to technical-rational legitimacy: the ‘experts’ are not a homogeneous grouping, united around static ‘facts’. Darier notes, ‘it is the dynamic of power relations in society that explains which scientific disciplines and which research projects receive funding, and which are therefore legitimised’ (1996: 598).

Neither the dominance of obscure technical-rational assessment nor contradictory accounts of facts when processes are made transparent enhances the good governance credentials of processes. There remains an inherent tension, illustrated by resistance to the SEA/good governance nexus in the cases, which echoes the ‘contradiction between democratic theory and technocratic practice’ recognised by Bäckstrand (2004: 695-696; cf. Connelly and Richardson, 2005: 392). Indeed, the SEA/good governance nexus calls for both democratisation *and* the efficiency and effectiveness sought by managerialist practices. Building on the discussions in the case chapters, this section therefore examines which actors’ knowledges were admitted to the SEA process in the cases and how they were treated.

7.3.1 Role of the SEA Gateway

For the OECD (2002), a ‘professional and highly skilled civil service’ is ‘one of the ‘building blocks of good governance’. One Council officer in Clackmannanshire case believed that the Scottish Government’s SEA Gateway ‘was very helpful’ in providing ‘examples of LBAP documents that had been produced before and the SEAs that they’d gone through’ (Interview, February 2009). Such centrally-defined best practice was, however, less warmly welcomed by another officer who felt, ‘they are over-stepping their remit’ (Interview October 2008). The Gateway is not, however, the only central government body influencing SEA in Scotland; the statutory consultees are also national-level organisations.

7.3.2 Role of statutory expertise

The Consultation Authorities, the appointed specialists on the natural and built environment, are statutorily involved from the earliest stages of Scottish SEA. They must provide: responses to Responsible Authorities where formal screening is undertaken; formal responses to Scoping Reports; and should they choose to do so, they may respond to the formal consultations at the Environmental Report stage. However, the veracity of Rutherford’s statement, that ‘environmental experts simultaneously provide scientifically

authoritative technical judgements and politically legitimized policies' (1999:60), depends on the Responsible Authorities' reception of statutory consultees' input.

In the Highland case the statutory consultees were unhappy with the treatment of their responses. Where environmentally-mindful planning is to be furthered through SEA, the SEA/good governance nexus assumes Responsible Authorities will work in partnership with the Consultation Authorities. However, in their comments during the formal consultation period on the Environmental Report, statutory consultees felt variously 'disappointed', 'misrepresented', and as if matters remained unresolved (SNH, 2007d; Historic Scotland, 2007c; SEPA, 2007c). Furthermore, the SEA consultant makes no mention of the Consultation Authorities where they state that in the development of the plan, 'there is an ongoing consultation, engagement with... well, between the public sector, the local authority, and the developers that are looking to invest within [the area covered by the plan]' (Interview, May 2009).

There was further concern that the Consultation Authority responses would not be considered at all at the Environmental Report stage: three separate responses from the public (including, as signatories, four individuals and one community council) had referred to the timing of Consultation Authority responses and the Responsible Authority decision regarding the PPS, and voiced concern that elected members would make decisions before being fully informed (The Highland Council, 2007e: Appendix 1, submission nos. 117-119). The Statement assured that, given the disquiet about the lack of consideration of consultation responses, 'Committee postponed until SEPA, SNH, and Historic Scotland consultations received and assessed' (*ibid.*). However, again the Responsible Authority had to account for the short time available for consideration of information: one statutory consultee complained that it had 'received a finalised copy of The A96 Growth Corridor Development Framework dated August 2007 on the 24 September 2007 prior to it going to Planning Committee on the 26 September 2007' (SEPA, 2007c).

One of the fundamental aims of SEA, besides integration of environmental considerations at early stages is, as one Consultation Authority reminds the Responsible Authority, 'the provision of information to the decision maker on the environmental effects of the Masterplan' (The Highland Council, 2008: 30-31). However, the formal post-adoption statement contains information on the impacts of the Plan upon the environment which was not made available in the SEA Statement attached as an appendix to the Report by the Director containing recommendations to progress the Plan.

Feedback received in response to the Scoping Report in the Clackmannanshire case was partially addressed: points of concern were subsequently mentioned in the Environmental Report but not integrated (see section 6.2.5). None of the responses to the Environmental Report from the three statutory consultees received any acknowledgement in the post-adoption statement.

7.3.3 *Contested knowledge: inter-expert*

Where there is expertise within the SEA Gateway, the Consultation Authorities and the Responsible Authorities, and the SEA/good governance requires the admittance of further knowledges from outwith the previously recognised experts, Bäckstrand's 'question of who is the legitimate expert' arises (2004: 706). Runhaar (2009) found, in the case of the Wadden Sea Policy Arrangement, that expert environmental knowledge was ignored when it did not fit with the dominant discourse. Again, Bovaird and Löffler's (2003) demand for 'ethical and honest behaviour' in good governance comes to the fore.

In the Highland case, the environmental report asserts that the SEA 'relies on expert analysis and judgement to predict potential effects and ascertain how these effects can be accommodated' (Halcrow Group Limited, 2007b, para. 6.1.1). However, one statutory consultee's response to the Environmental Report questions the effectiveness of the expert analysis that has been undertaken:

the Environmental Report does not adequately identify the current state of the environment and key trends. Nor does it adequately assess the likely significant effects on the environment. In addition the mitigation and monitoring measures described in the report are [...] too vague to give confidence that they will prevent, reduce or offset any significant adverse effects on the environment. (SNH, 2007a)

The profundity of this clash between the knowledges of different experts, on one hand the SEA and planning consultants and on the other the statutory consultees, in this case is most vividly illustrated by the response in which a Consultation Authority disagreed that airport expansion was 'green development' (see section 5.3.5).

The post-adoption statement makes transparent further conflicting accounts. For example Historic Scotland complains of misrepresentation of its 'concerns about the potential loss of nationally important historic environment features and/or effects on their setting. Nowhere does our response refer to "minor effects on the integrity of features" as

set out in Paragraph 2.3.8. [of the environmental report]’ (The Highland Council, 2008: 31). The Responsible Authority accepts the criticism, stating in the post-adoption statement, ‘It is accepted that a more complete representation of HS comments, rather than paraphrasing a summary of concerns, may not have led to these conclusions’ (*ibid.*). According to the post-adoption statement, this is to be remedied by ‘[ensuring] full involvement of Historic Scotland in the preparation of the Highland wide Local Development Plan and associated Strategic Environmental Assessment’ (*ibid.*).

Scottish Badgers’ consultation response included concern that ‘[c]umulative impact of development in this area will have a serious impact’ (cited in The Highland Council, 2008: 57). They therefore recommend that ‘development be looked at as a whole and not on an ad hoc, site by site basis’ (*ibid.*). However, the examination of cumulative impacts is again deferred where the Responsible Authority responds, ‘SEA will be undertaken at the Local Development Plan stage (when proposals for land take are sited/proposed in detail) i.e. looking at development and cumulative impacts as a whole’ (*ibid.*).

In an update report to the relevant Council Committee, the Director of Planning and Development reported, ‘The majority of comments will also either inform the Strategic Environmental Assessment which must be prepared for the Highland Local Development Plan or inform the detailed masterplanning exercises which are or will be carried out in relation to the expansion areas identified in the Plan’ (The Highland Council, 2007e: para. 3.2).

Overall these procrastinatory responses mean that knowledge in the *current* assessment and planning processes is to remain partial with the selective inclusion and addressing of feedback biased towards that favoured by the Responsible Authority. Acknowledgement of gaps with the promise to address them at a later date may be construed as learning, however learning through SEA is more immediately achieved where it, ‘captures the process and content-related knowledge outcomes for potential use in future assessments’ (Fitzpatrick, 2006: 158). Even recognising the inherently bounded rationality of decision makers (Simon, cited in Parsons, 1995: 276), the fullest inclusion and application of relevant knowledge for a given PPS should therefore be sought. Indeed, Holling illustrates the risks inherent in delays in the consideration of potential cumulative impacts where he states, ‘present decisions have future decision consequences as well as direct environmental ones, and these subsequent induced decisions often generate greater environmental impacts than seemed possible originally’ (1978: 2). Clearly, there are

significant gaps in both cases where specialist contributions have not been fully integrated into the PPS and SEA processes. A fuller picture of potential environmental effects of PPSs may be gleaned not only with such integration but also where experts and the public work together.

7.3.4 *Aligned intellectuals*

Devlin and Yap (2008, 18) argue that 'locally based and environmentally oriented groups will be more successful if they are aligned with intellectuals who are capable of addressing the technocratic issues that arise during an EA'. However, in the Highland case the involvement of interested intellectuals was fruitless. One academic, who had also been involved with the Scottish Government on planning matters, was invited to address a public meeting organised by the local action group. The speaker outlined his belief in centralized planning: 'planning by the 1960s was succeeding ... then government said "we've got to democratise this ..."' (NPO, public meeting, May 2008).

The speaker did not acknowledge recent calls for democratisation from planning theorists such as Metzger who believes 'spatial planning - as it plays out in the present - is in need of a radical democratic(izing) makeover' (2011: 192). Rather, the speaker twice told the meeting that the planning system they were highlighting, and from which they felt alienated, 'is what we've created' (*ibid.*), implicating the members of the public attending the meeting in the same constellation of power/knowledge as himself, contrary to their perceptions of powerlessness. Having had all efforts at influencing the planning process resisted by the Responsible Authority, participants voiced feelings of despair: 'No-one is listening ... I now don't see any way out' (Action group member, Interview, March, 2009), and '[on receiving the Ombudsman's response to the action group's complaint that consultation had been inadequate] It was just the most soul destroying ... it really was' (Action group member, Interview, August 2008).

There was little reassurance from the speaker when he expressed his wish to 'ban [the] public speaking to planning officials' (NPO, public meeting, May, 2008): rather, in his view, communication should be channelled through elected members. The group had convened, however, precisely because of their common perception of a failure of the representative system.

7.3.5 *Non- (environmentally) specialist partners*

While Responsible Authorities may write off the contributions of non-specialists, those participants may also lack confidence in their own abilities. One interviewee in the Highland case stated they did not feel at all informed. Rather, the consultation event cited by the proponents in subsequent documentation was, for that interviewee, 'the first thing I ever went to as a Community Councillor and I went in totally green' (Interview, March 2009). The participant therefore questioned the value of their own contribution. The inclusion of inexperienced or uninformed participants, and subsequent referencing of such events in claims to democratic legitimacy on the part of the Responsible Authority, support the position of Bickerstaff and Walker for whom ostensibly inclusive, deliberative local transport planning processes did little to democratise decision making (2005: 2139-2140):

rather than providing for the possibility of a radical challenge to existing power structures, professional positions and knowledge systems, these civic deliberations emerge as more or less compatible with traditional top-down decision-making processes [...] and in their current form can be interpreted as part of a system of domination rather than emancipation.

In the governmentality context, where events are misrepresented and participants are either ill-informed or uninformed, the intensification of the effects of power is compromised and the likelihood of shifting to of a differently-focused governmentality diminished.

As discussed in section 6.3.6, those third sector representatives most consistently involved in the PPS process showed little enthusiasm for being more deeply involved in the SEA. Lafferty and Meadowcroft point to the relevance of that statement in light of the SEA/good governance nexus (1996: 6): 'If decisions are to be taken by small groups of experts, where does that leave the democratic ideal that ultimately the citizens are to determine the orientation of public life?'. Besides the democratic ideal, the intensification of the effects of power, central to effecting a given governmentality, requires the involvement of the population. Where the two participants in the Clackmannanshire case resist active involvement in the SEA aspect of the decision process and so fail to engage with SEA discourse, they hinder the possibility that all those involved in decision making in the county will be 'thinking SEA'.

7.3.6 The public: democratising decision making through participatory social learning?

In the Clackmannanshire case, the lack of engagement of the third sector participants was mirrored by the subsequent lack of response by the wider public in the SEA. Both diminish the possibility of social learning resulting from SEA (see section 4.2.3). While social learning through SEA may ultimately improve the effectiveness of assessment, Rose and Miller (1992) point to its governmentality role as facilitating co-option of citizens into the supporting discourses. That role, too, is undermined in Clackmannanshire where the behaviour of the wider public accorded with Bowler and Donovan's (2002: 378) observation, that '[r]eal-world voters are often not nearly as responsive to the opportunities to participate as academics and intellectuals would like'. In a case study of public participation in UK energy policy, Stagl (2006: 57) found participants in the research to support 'assertive' government in the face of public inaction.

Although there was more enthusiasm for participation in the Highland case, a lack of knowledge of the system was perceived to have hindered the public's effectiveness: 'We're supposed to follow process, but if you don't know what that process is ...' (Participant A, Interview, March 2009). Even where 'civic literacy' (Bovaird and Löffler, 2003: 8) is such that the public is able to find its way, and is then admitted into the process by the Responsible Authority gatekeeper, the quality of that experience is variable. The discussion in Chapter 5 reveals a lack of effectiveness of those public participants able to contribute in the Highland case. If public involvement is limited to consumption of information, although there may be some education taking place, participation can be located at the bottom of Petts' and Arnstein's ladders.

1-way info flows - conserving public-expert status quo

In the Highland case, as the Responsible Authority decided to go straight to SEA, the screening stage was not documented. There was, therefore, no opportunity at this earliest stage to raise the public's awareness of the plan from an environmental perspective. Subsequently, the extensive scoping report produced by the SEA consultant was not published on the Council website alongside the other PPS documentation. Again, an opportunity to engage the public in the plan through SEA and to facilitate a mutual learning process was missed. In accordance with the statutory requirements, the environmental

report and post-adoption statement were made publicly available. Section 5.3.1, however, described the difficulties faced by members of the public wishing to digest the materials, and so opportunities for learning about the PPS and its environmental implications were considered inadequate. Clackmannanshire, too, published the relevant documentation at each stage, although that Responsible Authority went further than Highland in publishing SEA documentation earlier in the process.

In each case the conveyance of information met the statutory minimum and ostensibly satisfied the SEA/good governance nexus. The passive implication of the public in participation via publication on a website assumes consumption and so transparency. The successful instillation of a governmentality depends, however, on the *actual* consumption of such materials. The lack of outreach in each case, regarding the SEA, will do little to enhance the reach of the materials and any social learning about the PPS, SEA process or specific assessment results. The location of public participation processes at best on the bottom rung of Arnstein and Petts' ladders maintains the existing distribution of power as opportunities for effective social learning are foregone. Where the public is admitted to PPS and SEA processes in an ostensible two-way exchange of knowledge, the chances of social learning occurring are enhanced.

2-way

Sheate and Pártidario (2010: 278) examine the potential for SEA and sustainability appraisal in terms of 'the information exchange they can facilitate among stakeholders'. In contrast, social learning through SEA was unlikely to result from the consultation events organised by the Highland plan consultants: though cited in the environmental report, the *Collaboration for Success* workshops did not consider SEA. The attendance lists reveal that mutual learning amongst the stakeholders was also unlikely to result as 'Government and Commercial Shareholders' attended on different days from 'Community and Political Shareholders' (The Highland Council, n.d.).

In Clackmannanshire, the Community Planning officer believes, 'there's enough exchange of information that [Community Planning partners] wouldn't have an excuse for not knowing that [the SEA] existed and for recognising that it was relevant to them' (Interview, February 2010). The PPS facilitator emphasised the learning role of PPS process at the outset. In the initial document circulated to partners, the consultant states, 'A key

strand of the process will be enabling a fuller mutual understanding – but we recognise that this learning thread will run on into the implementation phase’ (Clark, 2006). By the end of the process, one of the six PPS priorities is ‘Education and Awareness Raising’, within the ‘Caring for Green’ action area (Clackmannanshire Alliance, March 2010a: 8).

The use of an external private-sector consultant and the lack of engagement with the SEA by participants and public diminish the possibility of the double-loop learning required for transformative SEA (Bina 2007). The intensification of the effects of power and instillation of a governmentality, discussed in the previous section, require the learning of, and conformity with, the discourses invoked by that governmentality. In considering the impact of SEA, the sustainability team leader in the Clackmannanshire case stated, ‘you would hope that that not only did it improve governance but actually I suppose in a way that it changed our thinking about governance’ (Interview, April 2009). However, there is little evidence in either case that such change has been effected. Rather, while there was a lack of engagement with the public in Clackmannanshire, in Highland contention arose over conflicting accounts of knowledge where the public was involved.

7.3.7 Contested knowledge – public vs. Responsible Authority and Responsible Authority vs. itself

The Consultation Authorities contributed their expertise to the SEA processes at each formal stage. There was limited effectiveness of their input where it was variously adopted, misrepresented and ignored. However, one significant omission in this flow of knowledge and advice from statutory consultees was specialist input on the SEA theme of population and human health. As the Highland sustainable development officer states, ‘none of them have that expertise so they will never give you feedback on that section ... which is a real gap’ (Interview, March 2009).

For the action group, the population figures used by the Responsible Authority to justify the proposed developments were a source of concern but a lack of information hindered their own efforts at representation in terms likely to be accepted by decision makers, a theme noted by Participant B (Interview, August 2008):

the majority of people will just say ‘this is not right, ‘this doesn’t seem right to us’, or ‘this is not going to work in our place’, because they instinctively know their place but they don’t know how to [*pauses*] articulate in planning terms and therefore they’re just patted on the head and they go ‘yes, yes’.

One participant relates the emotional reaction to the proposal, included in the PPS and scoping report but not the environmental report, for the development of the new town: 'In the very early days after the announcement that a new town was to be built, the feelings I experienced were those of incredulity and frustration, things did not 'feel right'...' (Participant A, 2008). The action group, however, understood the necessity of a recognisably scientific approach to presenting their objections while voicing concern that such an approach biases the system against many likely to be affected by decisions:

...folk do seem to be taking Action for Planning Transparency more seriously, you know we are getting [*pause*] *acknowledged*. I think that's the thing. And that means probably the reasonable but also the [...] researched approach which I think is unfair for members of the general public, you know, that that's what you have to do to be acknowledged and even remotely listened to... (Participant B, Interview, August 2008)

All the published SEA documents in the Highland case, the scoping report, the environmental report and the post-adoption statement reiterate the basis for the proposed PPS: population increases in the Inverness area. The scoping report cites *The Inverness City Vision* from 2003 which 'envisaged the Corridor accommodating up to 30,000 more people over the next 30-40 years' (Halcrow Group, 2006: 3.7.1). The environmental report is more explicit in asserting the factual nature of the cited population increases: '...the Masterplan is designed to deal with expected growth, rather than to attract new residents...' (Halcrow Group Limited, 2007a: [29]). Moreover, the post-adoption statement, addressing a comment on the potential haphazard development in the A96 Corridor, cites the planned accommodation of 30,000 as the response to the SEA requirement to demonstrate 'How integrated/taken into account or reason for not being taken into account' (The Highland Council, 2008: 6). By the time of the planning application the developers assert, 'The Highland Council conservatively estimate that one thousand people will move to the area every year over the next thirty years' (Moray Estates Development Company Limited, 2007: [1]).

However, a *City Vision* document produced by the Council confirms the aspirational basis for the Responsible Authority's population figures where it states that '[o]ne very good way of shaping this future is by agreeing a vision – *what we want that future to be like*' [emphasis added] (The Highland Council 2010: [1]). The PPS itself states, 'Inverness City-Vision (2003) sets out an aspiration to develop the A96 Corridor and to deliver quality places' (Halcrow Group Limited, 2007d). Indeed, the report circulated for the 14th March

2007 meeting to determine whether elected members were 'minded' to see the PPS be progressed, in responding to questions raised about the basis for the 30,000 figure, states in an appendix, 'The *target* level of population increase in this area also relates well to the core *demographic aspirations* set out within the Highlands and Islands Enterprise economic development strategy "A Smart Successful Highlands and Islands".' (The Highland Council, 2007a: Appendix 1 para. 1.4). Flyvbjerg notes (1998:113), 'The repetition of statements until they have an effect is a principal strategy in the rationality of power and in the way in which power defines reality'.

The knowledge claims of the Responsible Authority were challenged repeatedly: one action group member, 'wanted to know where the projected 30,000 incomers would be coming from and questioned the information sources used by those who had put forward this 'aspirational' figure' (APT, 2008a). The group presented alternative estimates based on General Registry Office Scotland population growth projections. The group's figures suggested more modest population increases than those presented by the Council as justification for the PPS in the SEA documentation (APT, 2009a). Fiorino notes that at the stage of making policy choices 'the reliability of the facts becomes critical' (1996: 205). The feeling amongst the action group members regarding the veracity of the Responsible Authority's figures was summarized by one participant (NPO, public meeting, March 2009): 'there isn't a shred of basis'. In their submission for the consultation on the second National Planning Framework, which includes Tornagrain, the action group states:

APT differentiates between projected population growth and aspirational growth. Each area has taken the GROS projections and added significant aspirational growth on a thesis that such growth would be beneficial. In the case of the Highlands, this aspirational growth has been taken to unattainable levels. (APT, 2009a: 1.7.1)

While the group appreciates that, 'To plan for the sort of modest population growth that emerges from the GROS projections is sensible' (*ibid.*: 1.7.2), they believe there is a danger in circulating aspirational figures,

the mere act of adding a guessed figure opens opportunities for developers to propose major new towns and housing schemes, which then take on a self-fulfilling (and circular) justification that they are based upon the need as expressed in NPF2, which need has been based on unsubstantiated population growth projections founded only on national ambitions to grow the population. (*ibid.*)

The contestation from the public is supported by earlier documents, for example, a

consultant's report supporting the first phase of the masterplanning process justifies the necessity for the Plan inasmuch as it 'emerges from the Highland Structure Plan (approved 2001) which outlines *desires* for the development of 10,000 new dwellings' (Brown, October 2004: 1.1).

The action group's knowledge-based appeals were fruitless; the Responsible Authority's rationalization accepted. As Flyvbjerg found (1998: 135), 'Despite the imaginary foundation of these rationalizations, however, their consequences are tangible – as tangible as the money that flows into a cash register'. Indeed, Chomsky points out in his discussions with community activists (Mitchell and Schoeffel, 2003, 186): 'Education is just the beginning – and furthermore, there are situations where you can get everybody aware and on your side, and they still won't be able to do anything'.

In Clackmannanshire, as with the Highland case, population figures are contested, this time within the environmental report. In the 'Environmental Problems' section, 'Data on Clackmannanshire's population identifies there will be an increase in the projected population of 8.9% to 2025' (Mabbett and Associates, 2008: 11). Later, in the 'Environmental Problems' section (*ibid.*: 18), under 'Population and Human Health', the environmental report warns of a 'Predicted population decline'. There was no comment from respondents on the contradiction during the consultation period.

Ultimately, regardless of who is involved in the SEA process, an environmental report will be produced which purports to describe the expected environmental effects of the PPS to which the report is related. The expectation is that decision makers will then consider that report, whether accurate or not, inclusive of various knowledges or not, alongside any other relevant concerns prior to making an informed decision. The importance of the impacts of the content is highlighted where Peyton and Thomson advise, 'The most powerful and effective way to intervene in a system is by changing the mindset or paradigm which gave rise to the system structure in the first place. The least effective is fiddling with the numbers' (1999: 217).

7.3.8 *Elected members*

The instillation of an environmentally-focused governmentality requires SEA to be properly integrated into decision making. The case chapters, however, suggest that in Highland and Clackmannanshire, SEA, having been integrated up to a point, is side-lined. In Highland, there

was criticism that elected members responsible for approving the PPS were not fully informed of the possible environmental consequences of their decisions. The PPS in the Clackmannanshire case did not go before the Council. Rather it was approved by Clackmannanshire Alliance, the Community Planning partnership. Although SEA objectives were woven into the decision process of the Environment Partnership Team, the Partnership overall did not prioritise environmental concerns. In that case, the content of the PPS, developed using SEA, was altered to ensure it fitted with the economically-focused priorities of the Partnership and the Responsible Authority's Chief Executive.

That SEA has been sidelined, regardless of degree and representativeness of knowledge therein, in the Clackmannanshire case is clear where, according to the official minutes, there was no discussion of the SEA at the 27th November 2009 meeting of Clackmannanshire Alliance which approved the PPS (Clackmannanshire Alliance, 2009d). At the Environment Partnership Team meeting on the 9th March 2010, cited as the date of adoption of the PPS in the post-adoption statement, the only mention of SEA was that 'a post adaptation [*sic*] statement would also have to be complied to meet SEA regulations' (Environment Partnership Team, March 2010b).

Contrary to Hollings' assertion that '[t]he design of policies or economic developments implies knowledge – knowledge to develop alternative policies, and knowledge to evaluate their respective consequences' (1978: 7), decision makers at neither crucial decision point were in possession of enough knowledge to legitimise their decisions through SEA.

7.4 Conclusions

Structured using the three axes of governmentality employed in the chapter, this final section summarises the analysis of the cases presented herein.

7.4.1 Centralisation as facilitation and resistance

Located within the Scottish Government, the SEA Gateway lies at the heart of Scottish SEA. Its central position facilitates its role as panopticon. The Gateway's role enhances centralisation where it brings not only public sector actors, as Responsible Authorities, under the gaze of national government, but also private and third sectors, where they are responsible for PPSs of a public character. However, this chapter reveals its perceived 'lack

of teeth' is undermining its role in effecting a shift to a more environmentally-focused governmentality.

Centralisation can be said to be enhanced by the operation of the tiering principle which promises efficiency gains in PPS development through assessment, and reconciliation of conflicting interests, at appropriate levels. It can, however, be employed as an evasive measure: in the Highland case appeals to national government's second National Planning Framework and Scottish Sustainable Communities Initiative centralised legitimacy of the planned new town in the absence of proper SEA. Locally, transparency was diminished, accountability blurred, and lack of participation through SEA obscured while the Responsible Authority claimed the democratic credentials of the SEA/good governance nexus.

The Clackmannanshire case demonstrated that decision making remained centralised, despite ostensibly inclusive, deliberative Community Planning PPS development. While decision making was centralised, responsibility, and so accountability, for environmental impacts was largely deferred down the hierarchy with repeated reference to a future role for planners at project level.

The use of centrally-provided templates and SEA topics, alongside Responsible Authority aspirations to develop more central data repositories, further assert SEA's role as a technique of governmentality, however the Highland case demonstrated resistance to the integration of SEA criteria during PPS development, preferring to use bespoke consultant-defined criteria and complying, to an unsatisfactory standard in the eyes of Consultation Authorities, with the SEA-based taxonomy only for the statutory publication of the environmental report. While such publications are available to the public, centralisation of the sustainability function within Responsible Authorities, while contributing to the joined-up government element of the SEA/good governance nexus, did less, in the cases examined, to facilitate the intensification of the effects of power discussed in the next section.

7.4.2 Intensification of the effects of power

Economic considerations won out in both cases where the win-win of sustainable development discourse was laid aside by the side-lining of SEAs. As a result of Scotland's decision to have stand-alone, specifically environmental, assessment, both Responsible Authorities' attempts at joining up government through integrated assessment were

criticised by the CAs. The planning consultants in the Highland case had initially undertaken their own sustainability assessment, rather than SEA; indeed, there was resistance from the PPS planning consultant to SEA, while the Consultation Authorities also criticised Clackmannanshire for bringing the aspiration for a sustainable economy into the Environmental Report.

Within the Responsible Authorities, barriers to winning 'heart and minds' and having the population of decision makers and wider public 'thinking SEA' include the use of external consultants. More damaging to efforts at shifting governmentality is a perceived loophole: claims were made in the cases that parts of a PPS, or an entire PPS need not be considered for SEA because they are primarily located in the private-sector, thus undermining both the SEA/good governance nexus and the instillation of a shift of governmentality through SEA. In stipulating that PPSs of a 'public character' may be liable for assessment, SEA provides a means whereby the intensification of the effects of power, aiming at an environmentally-focused governmentality, reaches across non-RA private- and third-sector partners in PPS development as they are brought under government and public scrutiny. In addition to the transparency and accountability thus entailed, in a context of fragmented PPS development and implementation, the joining up of government and partnership working required in contemporary governance may be potentially enhanced.

Where PPSs are subject to full SEA, such as the Clackmannanshire case, lack of SEA awareness amongst PPS actors and the public, both before and after PPS development and associated SEA, inhibits the effectiveness of SEA as a tool of governmentality hindering the flow of biopower and so the intensification of the effects of power. Not only did Responsible Authorities fail to reach out in a bid to enhance the transparency and inclusiveness of PPS development and SEA, they did not fully utilise existing public engagement initiatives, again blocking the flow of biopower through SEA.

Even where the public sought to be heard through SEA, the Responsible Authority in the Highland case proved to be largely unresponsive to their concerns. Where SEA is ostensibly accepted, selective or absent uptake of input from the public, or lack of engagement to the extent that there is no input from the public, locates SEA within the 'techno-scientific version of ecological modernisation', which, for Bäckstrand (2004: 697), 'pav[es] the way for technocracy and consolidating consensus between scientific elites, corporations and governments'.

7.4.3 Power/knowledge: creating rationality

The fundamental tension within the SEA/good governance nexus, between the democratic and institutional elements, brings into the twenty-first century what Lafferty and Meadowcroft describe as ‘a core concern of 19th- and 20th-century democratic theory’; that of ‘[r]econciling popular control with expert and technical inputs’ (1996: 7). The example of population projections demonstrates that neither Highland nor Clackmannanshire succeeded in achieving that reconciliation in the SEAs of their PPSs. In Highland, even where the action group laid claim to more credible figures, and the situation was effectively reversed, the Responsible Authority’s estimates were subsequently cited and planning was legitimated upon them. Flyvbjerg (1998: 37) warns, ‘...rational argument is one of the few forms of power that those without much influence still possess; rationality is part of the power of the weak’. In the Highland case, power trumped the action group’s appeals to rationality. In Clackmannanshire contradictory accounts of population were presented within the Environmental Report, undermining the knowledge-based legitimacy of the assessment in that case.

The effectiveness of the public’s efforts was not enhanced by alignment with an interested intellectual in the Highland case, nor was the specialist knowledge of the Consultation Authorities of much interest to the Responsible Authority: all three responded that they were unhappy that their comments submitted at the scoping stage had not been adequately considered in the Environmental Report. Indeed, neither Responsible Authority paid full cognisance to the statutory consultees’ contributions: in Clackmannanshire, although integrated at earlier stages in the SEA, statutory consultees’ responses were not included or addressed in the post-adoption statement. In the cases examined, knowledge contributions and concerns were deflected either up or down the decision hierarchy, effecting procrastination, counter to the adaptive management potential of SEA and undermining its learning potential within the specific PPS processes. Both the SEA/good governance nexus and an effective environmentally-focused governmentality are again undermined.

Ultimately, SEA is a decision support tool providing environment-related information for decision makers to consider, alongside other factors, the potential impact of their decisions. If undertaken in keeping with the SEA/good governance nexus, it helps bring a wider range of relevant knowledges to PPS development helping to democratise decision

making and enhancing the positive effects of PPSs while minimising their negative impacts. Regardless of which knowledges were admitted to the SEA process in the Highland case, the assessment was partial in its scope, and the information related to the SEA presented to elected members incomplete. Decision makers in that case were not given the opportunity to be properly 'thinking SEA'.

In Clackmannanshire, the Environment Partnership Team, charged with the development of the PPS, integrated SEA criteria throughout their planning. Inasmuch as the process was ostensibly inclusive and the transparency-, participation- and consultation-related elements of the SEA/good governance nexus satisfied, the evidence suggests a limited input of non-RA knowledges. Community Planning partners ultimately responsible for taking the Community Planning frameworks forward voiced exclusively economic aims in their top six priorities. Similarly, the Chief Executive of the Council was clear that the PPS should not contradict economic aims. There was, therefore, limited opportunity in the Clackmannanshire case to instil an environmentally-focused governmentality outwith the EPT: as Flyvbjerg observes (1998: 227), 'defining reality by defining rationality is a principal means by which power exerts itself'.

For Foucault, power is only possible where there is freedom to resist. In the cases, resistance to the SEA/good governance nexus manifests in the partial application of SEA in the Highland case, and the re-assertion of economic primacy in decision making in the Clackmannanshire case. Each of the SEA stages presented Responsible Authorities with both windows of opportunity and opportunities to resist the SEA/good governance nexus. Although meeting statutory requirements, minimal heed was paid in either case to the transparency and accountability potential of SEA. Joined-up government and partnership, central to contemporary governance, ostensibly received rather more support although, ultimately, resistance to effective input from non-RA participants blocked the flow of the biopower necessary for a shift in governmentality. Resistance to consultation inputs thwarted centralisation with local authority officers shaping the degree and form of input of consultation authorities and resistance to 'early and effective' engagement with the public hindered the potential of SEA as a useful meeting point for top-down and bottom-up approaches to sustainability and the intensification of the effects of power. According to Foucault, 'in so far as power relations are an unequal and relatively stable relation of forces, it's clear that this implies an above and a below, a difference in potentials' (Foucault orig. 1977, cited in Kiersey, 2009: 379).

Little has occurred through the application of SEA in the cases examined, even where elements of the SEA/good governance nexus have been satisfied, to suggest that either the population of decision makers or the wider public is 'thinking SEA'. The status quo of power relations supporting a liberal economic governmentality has been preserved while the democratic credentials of the SEA/good governance nexus, and legitimacy gained thereby, are undermined.

Chapter 8

Conclusions and Recommendations

Environmental assessment is intended to bring ‘ecological rationality into systems of governance’ (Wallington *et al*, 2007: 575). The SEA/good governance nexus, by contrast, attempts to bring a specific, normative formulation of ‘good governance’ into strategic environmental assessment. Using a range of qualitative methods, the thesis tests the veracity of the SEA/good governance nexus in the context of the SEA processes of two Scottish, meso-level PPSs. It then considers the impact of those SEA processes in effecting a shift towards a more environmentally-focused governmentality. In doing so, the thesis is able to reveal the extent of the shift from government to governance in the case studies and the degree to which the democratic elements of the SEA/good governance nexus open the black box of decision making.

Contemporary governance discourse posits both democratic and institutional enhancements as addressing the perceived deficiencies of the first ‘wave’ of the move from government to governance (Bevir, 2011). Fragmentation, discussed in section 2.1, is to be countered by efforts towards joining up governance both within government and between the partners involved in the development and implementation of PPSs. The democratic deficit identified where lines of accountability are blurred within partnership arrangements is to be countered by enhancing not only transparency and making explicit accountability arrangements, but also involving the public and a broader range of consultees in PPS development. These improvements, characteristic of the second wave of governance changes, are encompassed within the label of ‘good governance’. Evidence of the elements of good governance, variously defined in table 2.1, are said to lend legitimacy to PPS processes and outcomes (Getimis and Heinelt 2004; Philp, 2009). Good governance is to be evident not only in PPS development but also in assessment processes undertaken as part of the PPS process.

This thesis gives an explicit statement of the SEA/good governance nexus implicit in many of the claims made for SEA. From Meyer-Steinbrenner’s (2005) hopes for SEA-

enhanced European democracy and Jackson and Illsley's (2006) expectations of more open government through SEA in Scotland, to Bina's (2008: 144) comprehensive statement of SEA's potential to improve 'transparency, coordination, effectiveness and legitimacy – all of which', she states, 'are crucial to good governance', SEA theorists have expanded the role of the tool considerably beyond its primary purpose as 'a systematic process for evaluating the environmental consequences of proposed policy, plan or programme initiatives' (Sadler and Verheem, cited in Thérivel, 2004: 7).

Where the Scottish Executive (2005: 4) speaks of SEA, if successful, effecting 'change to culture, policy and action', Fischer and Marshall (2006) look to SEA to ensure a change to 'hearts and minds', and Thérivel sees the ultimate aim of strategic assessment as having decision makers 'thinking SEA', SEA can be examined through the lens of governmentality as a technique of government seeking to ensure a shift towards a more environmentally-focused governmentality. Following Susan Owens' (2008) expression of the 'huge potential' to bridge the gap between theory and empirical work in SEA research, the thesis applies a governmentality analytical framework, drawn from Foucault and Darier (1996), to two real-life cases. It applies three axes of governmentality - centralisation, intensification of the effects of power, and power/knowledge - to the results of the examination of the SEA/good governance nexus in those cases. In doing so, it aims to explain the successes, failures and tensions arising from the operation of the SEA/good governance nexus in the Scottish local authority context.

One Scottish SEA consultant, interviewed in the course of the research points to the potential gap between rhetoric and reality, stating:

obviously sustainability is very high up, understandably, on the Scottish Government's agenda. ... There seems to be a mis-match between how it actually needs to be implemented in order that those targets are achieved so when you go down the hierarchy, down to the local authority and partnership level, sometimes they are struggling to actually put in place a process, an SEA process, a sustainability process, in order that they can respond to these targets. (Interview, May 2009)

The research presented herein focuses on that 'struggle' to implement SEA at the local authority level, but specifically, to do so in such a way as SEA contributes to good governance. Using elements drawn from the literature: transparency; accountability; joined-up government; partnership working; consultation; and public participation, the research aims to address questions of:

- How SEA contributes to good governance in the cases;
- Looking specifically at the democracy-related aspects of the SEA/good governance nexus (transparency; accountability; public participation), how SEA is enhancing Scottish democracy, making Scottish democracy ‘fit for the twenty-first century’ (Neil, 2009), and so, whether SEA therefore helps address the excesses of managerialism and provide a meeting point between top-down and bottom-up approaches to sustainable development;
- How partners, statutory consultees and others directly involved in the PPS/SEA process contribute during the various stages;
- How the contributions from the public, statutory consultees and other partners are treated during the SEA processes; and
- If it is located within the second wave of the shift from government to governance, how SEA integrates with Clackmannanshire’s Community Planning, which exemplifies contemporary multi-partner governance, and the ‘pioneering governance’ aspirations of the planning/SEA consultants in the Highland case.

Having begun with a re-iteration of the aims of the research, this concluding chapter continues in section 8.1 with a summary of the research methods and key findings from the cases presented in Chapters 5 and 6 and their significance in light of a governmentality analysis. Section 8.2 offers some recommendations for SEA practice in Scotland, while section 8.3 suggests avenues for future research. The chapter finishes with some concluding remarks in section 8.4.

8.1 Summary of methods and key findings

The research was conducted using a variety of qualitative methods within two separate Scottish case study contexts. As discussed in section 3.2.2, the Clackmannanshire case was selected as a potentially proto-typical example of the SEA/good governance nexus, where the aspiration of the PPS was to enhance environmental quality in the county, and where SEA criteria were integrated to the core of the decision-making process. The Highland PPS also made claims of pioneering collaborative governance (Halcrow Group Limited, 2007d), however, in that case, the contentious nature of aspects of the proposed Plan posed more of a challenge to the SEA/good governance nexus.

While acknowledging that all cannot be known (see section 3.3), the employment of a range of data collection methods helps develop a fuller picture than would be possible using a single method: examination of semi-structured interviews and non-participant observation alongside the official documentary accounts of the PPS processes reveals dissonance and contention as well as, at times, supporting the formal narrative.

All official documentation associated with the SEAs was examined. The availability of those documents goes some way to answering the questions around transparency and public participation. The substance therein, discussed in Chapters 5 and 6, goes further. Issues related to both accessing and understanding information supplied in support of the SEA processes are revealed by semi-structured interviews with those closest to the processes, and with those who believe their contributions to be largely excluded from the processes. Similarly, non-participant observation during meetings related to the PPS and SEA processes helped open, to some extent, the black boxes of decision making (Heald, 2006). Overall, the case study chapters found that, while conforming to statutory minimal assessment, there was at best partial achievement of the six elements of good governance (see Table 7.1). This section briefly summarises the findings from the cases regarding these elements then locates them within a governmentality framework.

SEA ostensibly provides an audit trail of the decision process, enhancing transparency and accountability and explaining how consultation and public participation contributions have been incorporated into the decision processes. However, in the Highland case, the disappearance between the scoping and environmental report stages of what is considered to be a nationally strategically significant new town development meant the SEA could not be a conduit for transparency or accountability in that case. Joined-up government and fully 'collaborative' working, too, are compromised by partial SEA, while the contributions from both statutory consultees and public participants on the Environmental Report were largely distorted or dismissed.

In Clackmannanshire, too, transparency and accountability were compromised by the partial reporting within the post-adoption statement. The incompleteness of the report also undermined the consultation credentials of the SEA, while efforts at, and subsequent levels of, public participation were minimal. The integration of SEA into the development of the PPS satisfied the joined-up government element of the SEA/good governance nexus although efforts at partnership working failed to reconcile disparate rationalities where economic

priorities of the Responsible Authorities overshadowed the potential for SEA to have countered command-and-control tendencies. In neither case did SEA fully open the black box of decision making.

The processes were underpinned and overshadowed by a conflict between economically- and environmentally-focused rationalities. In Clackmannanshire, although the SEA/PPS process was a model of contemporary collaborative democratic decision making, ultimately the economic priorities of the Chief Executive were pre-eminent. In Highland, echoing the practices in Aalborg researched by Flyvbjerg (1998), the aspirations of the Responsible Authority were repeatedly presented as facts to legitimise the scale of proposed development. The success of the Responsible Authority's discourse points to another recurrent tension, facilitated by the tiering principle in SEA (despite the joined-up aspiration of that good governance element): that between extant top-down and efforts at bottom-up PPS development.

Section 1.4 cites Cashmore *et al* (2008: 1246) for whom, 'the concept of a universal heuristic is no longer tenable or, in fact, desirable'. They continue, 'The more modest expectation of theory should be for it to provide a knowledge base that can aid reflexive contextual design of environmental assessment systems and practices' (*ibid.*; cf. Hilding-Rydevik and Bjarnadóttir, 2007). The application of a governmentality analytical approach provides a framework within which the successes, failures and tensions which emerged during the individual SEA processes can be revealed, ensuring lessons learned can be fed into ongoing SEA research and practice. This discussion therefore locates the themes of the case studies across Darier's three axes: centralisation; intensification of the effects of power; and power/knowledge.

8.1.1 Centralisation: tiering as deflection and resistance to SEA

Although, in the Highland case, the Sustainability Officer was committed to ensuring a central repository of SEA data within the local authority, there was resistance to centrally-defined SEA criteria: the planning consultant, presenting the Masterplan as an exemplar of pioneering collaborative governance, preferred an integrated SA approach to impact assessment. During the subsequent SEA the centralisation inherent in governmentality was evident where, at the same time as avoiding SEA of an entire town, part of the PPS, and so undermining transparency of planning processes through SEA, the Highland case revealed a

centralisation of legitimacy for the planned new town through appeals to conformity with higher, national-level PPSs, specifically the second National Planning Framework and the Scottish Sustainable Communities Initiative.

The aspirations of democratisation through SEA were thwarted in the Clackmannanshire case by an apparent ongoing command-and-control ethos. Ostensibly deliberative mechanisms, described in Chapter 6, including an initial ideas-generating workshop and a (PPS) scoping focus group, conformed to the SEA/good governance nexus. However, the bottom-up, democratic credentials of the process were undermined by: the selection of options being steered towards those preferred by the Responsible Authority; a lack of legitimacy afforded to volunteer participant input; and lack of effort towards engagement with the public more broadly. Moreover, the veto which lay with the Chief Executive meant that ostensible partnership working throughout the PPS development was undermined where after all the consultation and technical input, the PPS was to avoid any conflict with economic goals.

Properly-implemented SEA calls for reporting on suggested enhancement and mitigation measures. In the Clackmannanshire case, SEA documentation merely asserted that these would be considered later, by someone else; someone who, given the sectoral shifts inherent in contemporary governance, would be under no obligation to perform the duties conferred upon them within a report of which they may not be aware. Looking up and down the decision hierarchy therefore clarifies routes of resistance for Responsible Authorities seeking to continue current, preferred prioritisation of resources.

In both cases, criticism arose regarding the lack of 'teeth' of Scottish SEA. The SEA Gateway was ineffective as panopticon - a centralised, disciplining body - and so contributing to a shift to a more environmentally-focused governmentality, as would be achieved by proper implementation of the SEA/good governance where Responsible Authorities are assumed to be accountable through SEA for the environmental impacts of their PPSs, was unlikely.

The flaws in the application of the SEA/good governance nexus in the cases means that the possibility of SEA acting as meeting point between top-down, hierarchical, technocratic command-and-control decision making and more equitable bottom-up grassroots, decision making based on local knowledge and power was thwarted. The ineffectiveness of the public responses to the formal consultation in the Highland case and absence of public participation in the Clackmannanshire case, and the implications of those failures for a shift to a more

environmentally-focused governmentality, will be considered further in the next section.

8.1.2 *Intensification of the effects of power: bio-power and democracy thwarted*

If a shift to a more environmentally-focused governmentality is to be effected through SEA, the flow of biopower should be facilitated. Genuine and effective tiering, that is, successful vertical joined-up government, alongside horizontal joined-up government, will help ensure a population of decision makers 'thinking SEA'. Governmentality, however, requires not only the construction of environmentally-focused decision makers but also of an environmentally-focused wider population: *omnes et singulatum*. For SEA to be an effective conduit, the construction of environmentally-focused subjects requires engagement in SEA processes.

The minimal adherence to the democratising aspirations of the SEA/good governance nexus was evident where even transparency, providing stakeholders with a foothold on the lowest rung of Arnstein's and Petts' ladders, was compromised. Those responsible for SEA in the Highland case obscured objective environmental assessment of the PPS where there was only partial assessment. The lack of responsiveness perceived by the public and evidenced by the impact of 22 contributions from non-Responsible Authority participants concerned about environmental impacts in the Highland case will do little to effect the intensification of power where the aim is a shift to a more environmentally-focused governmentality.

In Clackmannanshire, an ostensibly proto-typical case of the operation of the SEA/good governance nexus, even the SEA lead expressed concern about lack of transparency in PPS decision making, although that officer did little to enhance good governance through SEA where, undermining Weale's (2011) definition of political accountability whereby clear justification for decisions must be provided, the contributions of the statutory consultees were omitted from the post-adoption statement.

Accepting that 'as finite beings we can never be fully transparent, not only to others, but even to ourselves' (Smith and Deemer, 2000: 889), the black box of decision making may never be fully opened. The cases examined are closer to Connelly *et al*'s (2006: 273) findings that ...'in practice the members were presented with policy options which had been developed through 'behind-closed-doors' deliberation between officers'. Thereafter, the process will only be as transparent as the Responsible Authority will allow, and then the question arises of who's looking? As Mill noted, 'Publicity ... is no impediment to evil or

stimulus to good if the public will not look at what is done' (orig. 1861, cited in O'Flynn, 2010: 579). Accountability is thus also compromised as limited effort at awareness-raising and motivation of the public to engage with SEA, by Responsible Authorities in the cases presented, ensured minimal community involvement in SEA.

8.1.3 *Power/knowledge: maintaining the status quo*

The power/knowledge axis allows examination of whose knowledge was admitted to the process and how it was admitted. The SEA/good governance nexus is ostensibly formulated to ensure a degree of democratisation of assessment processes often considered too technocratic; a counter to the command-and-control planning of the modernist era. The admittance of a wider range of knowledges not only enhances democracy, according to the nexus, but also improves the environmental credentials of PPSs thus improving decision making overall. The assumption persisting therein does not, however, divert from enlightenment thinking, acknowledged by Flyvbjerg (1998) as being absent from actual decision making: it assumes that consultation and participation *will* add relevant factual knowledge to the process; knowledge which *will* be taken into account in the making of decisions.

However, the evidence in the cases in this research suggests that Responsible Authorities have little interest in the consideration of additional knowledge outwith their own expertise. The Highland documentation stated that part of that SEA's purpose was to demonstrate 'the benefits of the Masterplan' (Halcrow Group Limited, 2007a: para. 2.2.3), while in Clackmannanshire there was discussion of 'shoe-horning' (NPO, 11th March 2008). The similarity of the in-house and consultants' assessments, too, raises questions around admittance of wider knowledges and the objectivity of assessment. In the cases examined, the risk of Responsible Authority bias undermining the good governance aspirations of SEA was not addressed by the employment of external consultants.

Resistance to admittance and sharing of wider knowledges is evident in Clackmannanshire where the contributions from Consultation Authorities are variously incorporated, acknowledged, and omitted from the main conduit of transparency for SEA-supported decision making, the post-adoption SEA statement. In Highland, statutory consultees were unhappy about the treatment of their contributions. One wrote to the Responsible Authority after the decision to progress the Plan had been taken, articulating

that Consultation Authority's unease that their environmental expertise had not been properly incorporated into decision making. Such resistance to incorporation of knowledge outwith that of the Responsible Authority is not unprecedented: Flyvbjerg (1998: 36) warns that 'power seeks change, not knowledge', continuing, '[a]nd power may very well see knowledge as an obstacle to the change power wants'.

In Highland, external non-CA expertise was enlisted to support those amongst the public objecting to the Plan. Contrary to Devlin and Yap's (2008) research on the effectiveness of aligned intellectuals, little support or effective help was gleaned in the Highland case. Rather, direct contestation with the Responsible Authority arose from alternative claims to knowledge emerging from the local action group itself. Regardless, Flyvbjerg's conclusion on power's resistance to others' knowledge was further borne out where, despite the contested nature of their truth claims, the Responsible Authority's discourse justifying the PPS remained the accepted 'truth'.

The Consultation Authorities' unhappiness at the treatment of their informed contributions, and a 22-0 responsiveness scorecard for participants outwith the statutory consultees, raises questions around environmentally-informed decision making in that case, largely excluding as it does both expert and local knowledge. In Clackmannanshire, the local unpaid volunteer participant who participated in the initial ideas-generating workshop and the (PPS) scoping focus group had both knowledge of SEA, having undertaken the same training as council officers, and local knowledge. That participant's contribution was, however, dismissed. Wiklund (2005: 281) presents the ideal whereby,

Deliberative democratic theorists claim that deliberation increases the 'legitimacy' of decisions by giving people a fair chance to have their views heard and considered. Deliberative planning theorists claim that deliberation enhances the rationality of decisions by integrating the local and situated knowledge of ordinary citizens.

Contrary to assertions of collaborative PPS development in both cases, the evidence suggests that neither the legitimacy sought by deliberative democratic theorists nor the rationality sought by deliberative planning theorists have been achieved. The gate-keeping roles of the Responsible Authority and their hired consultants ensure that this research adds to the store of '[e]mpirical studies of the 'new' governance in action [which] commonly suggest that government still retains considerable power to shape both the formation of networks and the direction of their activity', noted by Hudson *et al* (2007: 57).

In neither case is the Responsible Authority's power being used to implement the

SEA/good governance and effect a shift to a more environmentally-focused governmentality. Decision makers are not 'thinking SEA' and, contrary to Marshall and Fischer's (2006) aspiration, 'hearts and minds' were not, in the cases examined, changed by SEA. Thérivel (1993: 165) asserts that, '[w]ithout a fundamental shift in the weight given to environmental considerations, decision makers will continue to opt for the least contentious, most politically desirable options, and SEA itself will have precious little positive impact on the environment'. The ease with which SEA was de-prioritised in both Highland and Clackmannanshire, with partial assessment in one and partial reporting through the PAS in the other, undermines the position of SEA in Scotland as having more weight as it deals explicitly with environmental considerations. Regardless of the form that formal, science-based expertise and the local knowledge and expertise of the public takes, '[p]ower procures the knowledge which supports its purpose, while it ignores or suppresses that knowledge which does not serve it' (Flyvbjerg, 1998: 36).

8.2 Recommendations for SEA Practice

Sections 8.2.1 to 8.2.4 provide some recommendations which, if adopted, would enhance the implementation of the SEA/good governance nexus in Scottish SEA.

8.2.1 Clarification of 'public character'

Assertions of SEA's role in smoothing the decision process contrast with Hogwood and Gunn (1984: 264), for whom:

[p]olicy analysis cannot make politically difficult decisions any easier and, indeed, by laying out the implications of options more explicitly may make it more difficult to achieve the types of fudge and compromise which produce coalitions of decision-makers or placate losers.

Resistance to the fullest application of SEA in the cases examined is, in light of Hogwood and Gunn's assertion, unsurprising. If a more environmentally-focused governmentality is to be effected through SEA, such resistance should be challenged. If fully applied within contemporary PPS development, SEA provides a mechanism whereby those partners outwith the state sector, if their responsibilities are clearly defined, can be brought within formal assessment procedures. However, the blurring of the public/private divide in contemporary

governance has, in both cases examined herein, provided an (albeit erroneous) loophole facilitating the evasion of SEA, challenging Jackson and Illsley's assertion that 'virtually all Scottish public sector policies, plans and programmes (PPPs) will be screened to establish whether they have significant environmental implications' (2006: 361-362).

McLauchlan (2010: 143) asserts that rather than looking further at the notion of 'public character' in this context, there is a need for clarification 'of what is a "Scottish public authority with mixed functions and no reserved functions"'. However, as discussed in Chapter 7, the Council was the lead in both examples of PPSs, or parts of PPSs, emerging from the research which evaded SEA: the new town in Highland and the BIDs proposal in Clackmannanshire. The clarity of that leading role - through public statement - proved no hindrance to evasion through the perceived 'public character' loophole, which suggests 'public character' in reference to the PPS rather than the Responsible Authority should be clarified through the publication of Scottish Government guidance.

8.2.2 Responsible application of tiering

The evidence of further SEA avoidance through deferment to lower and higher tiers demonstrates the need for further clarity regarding when, and at which level, the degree of assessment appropriate to SEA will be undertaken. A requirement for inclusion in the environmental report of an explicit statement on tiering, to clarify the place of the SEA in the decision hierarchy, may go some way to addressing the procrastination and thus opacity revealed in the cases herein. Such an explicit statement, in a separate section of the environmental report, would enhance transparency and accountability and help ensure that strategic decisions are actually underpinned by strategic assessment. In addition, if responsibility for assessment or mitigation is deflected to higher or lower tiers, those subsequent tiers should also be required to consider the consultation contributions made during the consultation on the original PPS.

8.2.3 Enhancing institutional learning

Where SEA is undertaken, effecting a shift towards a more environmentally-focused governmentality (reaching across the breadth of governance) through decision makers 'thinking SEA' demands that decision makers themselves have a more active role in SEA. The lack of awareness and understanding of SEA demonstrated by many of those closely involved

with the PPSs in the cases supports Marshall and Fischer's assertion that (2006: 297):

SEA process should not be entirely devolved to consultants ... only internal management and understanding of the SEA objectives can ensure that the pace of the SEA complements decision-making phases ... management should understand, rather than simply out-source, environmental problems and issues and needs to be actively involved in the process.

Institutional learning was central to C.S. Holling's 'adaptive management' approach (1978). Thirty years on, Sue Kidd (2008) addressed a symposium on learning in environmental assessment, stating that during the course of her research, 'it was sort of implicit that learning would go on'. The evidence in this study suggests that such assumptions cannot be made: the shortfalls in the SEA/good governance nexus were such that, in the cases examined, Noble's (2003) ideal of environmental assessment's promotion of 'interactive and participatory learning' was minimal. Contrasting rationalities ensured that the operation of biopower towards effecting a shift to a more environmentally-focused governmentality was curtailed.

To enhance interest in SEA within Responsible Authorities, it would be advantageous to bring the contrasting rationalities together. This may be achieved by highlighting the efficiencies that are possible by integrating SEA with other local authority duties. As discussed in section 7.2.4, there is a sustainable development requirement within the best value commitments demanded of local authorities to satisfy the Local Government (Scotland) Act 2003. A satisfactory performance of SEA uptake within the Responsible Authority should be accepted by Audit Scotland as satisfying that criterion. Audit Scotland should also be requested by the Scottish Government to properly report on performance regarding the sustainable development requirement. Similarly, following the publication of guidance for SEA practitioners and plan makers (Scottish Government, 2010c), the role of SEA in the satisfaction of climate change duties, required of local authorities under the Climate Change (Scotland) Act 2009, should be explicit.

To further integrate SEA into mainstream decision making, the non-technical summary, required as part of environmental reports, should be replicated and included as a section of all PPS documents where SEA has been undertaken. Joining up the SEA and PPS processes in this way would ensure that the perceived benefits of having stand-alone SEA are retained while making the assessment results more accessible to the public, consultees and decision makers.

If the SEA/good governance nexus is to be realised and a shift in governmentality achieved within Scottish Responsible Authorities, mirroring Levett-Thérivel's practice in England, best practice should be publicly recognised. Provision of examples of best practice would enhance institutional learning. Selection could be undertaken by the SEA Gateway, or by a panel including a range of interested bodies such as the Consultation Authorities and representatives from the Community Council collective body. Results could then be published on the Scottish Government's website. Examples of bad practice may also go some way to improving the mindfulness of quality and bias in SEA processes. Publication of good and bad practice will address concerns about lack of 'policing' of SEA at the same time encouraging the self-policing sought within a governmentality framework.

Finally, to boost SEA awareness and competencies within Responsible Authorities, SEA consultants' role should be as trainers rather than practitioners within those authorities. They should be consulted as experts in SEA where added knowledge of the processes is required. The research herein indicates that the Responsible Authorities and Consultation Authorities were the most effective partners within the SEA processes presented in Chapters 5 and 6. Institutional learning for SEA may further strengthen that position thus maintaining the dominance of Responsible Authorities in decision processes which claim to be inclusive. It is important, therefore, that, while strengthening SEA competencies within those authorities, effort should be made to enhance SEA competencies amongst other potential participants.

8.2.4 Enhancing social learning

Social learning, too, was minimal in the cases examined. As discussed in Chapter 5, one participant questioned the value of SEA as a tool of social learning by raising the issue of the 'minefield of interpretation' that the words 'strategic environmental assessment' involved (Interview, August, 2008). To reduce resistance to SEA from the public, steps can be taken to simplify the message, from publicising SEA consultation as simply being involved in a 'Green Test' to, where appropriate, inviting the public to contribute to green mapping initiatives as part of the SEA, helping to bridge the perceived gap between strategic-level assessment and decision making and potential local impacts, described in accounts of the participation paradox.

If social learning is to happen through SEA in Scotland, effort should also be made to

more actively engage the interested public through existing lines of least resistance such as the citizens' panel, green mapping and Sustainable Dialogues initiatives that existed in Clackmannanshire, enhancing both the degree of public participation (and the transparency and accountability inherent to that participation) and the joined-up government credentials. By harnessing existing examples of the shift to governance, such as those extra-governmental inclusion initiatives, SEA may more effectively enhance governance. Therefore, scoping in SEA should include scoping for existing conduits and for methods of engagement employed in other contexts within the Responsible Authority and elsewhere.

Participants at the scoping stage can be involved in properly developing criteria within centralised SEA topic areas for local application. Such input would help accommodate arguments against centralisation. Similarly, within government, Consultation Authorities and Responsible Authorities, relevant data repositories should admit knowledge garnered by all those involved in SEA and facilitate access to existing data for all those interested. Thus both economies of scale and local relevance could be enhanced.

At the other end of the SEA process, the turnaround time for the post-adoption statement should be limited in order to increase contributors' sense of connectedness to the processes. If the consultation input has been incorporated into the decision-making process, that should be documented during that process. The preparation of the post-adoption statement should then simply presentational prior to publication. The statement is the central mode of transparency and should provide continuity in the process. In furthering transparency it should provide an accurate account of the SEA process; its integration into the PPS process; and how the outputs from the assessment were integrated, or *not* integrated, into any final decision.

Thereafter, to counter the problem of disparity between PPS and SEA monitoring intentions, PPS monitoring reports should incorporate the monitoring activities described by the environmental report. Integration of SEA monitoring activities would increase transparency and enhance perception of the relevance of monitoring activities in which the interested public may become involved.

8.3 Recommendations for further research

The cases considered in the thesis present some areas where comparison is possible. However, the research was not designed as an exercise in comparative politics. Further

research could be undertaken to facilitate more direct comparison across local authorities. In order to better assess the impact of SEA upon governance within PPS processes, such research might use the same mix of qualitative methods to examine the SEA processes for PPSs which are statutorily required and directly comparable, for example, Local Transport Strategies or strategic development plans. Similarly, comparative studies could be conducted to investigate the relative impacts upon governance of stand-alone SEA in Scotland and integrated Sustainability Appraisal of equivalent PPSs in the English context.

The inclusion of six core components in the SEA/good governance nexus examined in the research necessarily limited the attention it was possible to pay to each. Future research may therefore be undertaken to examine the operation of specific components within SEA processes. For example, in examining the enhancement of public participation in PPS processes through SEA, research could be undertaken into the possible impacts of extending the role of Community Councils, already statutory consultees in local authority planning processes in Scotland, to statutory inclusion in SEA consultation. Using questionnaires, initial research into awareness, capability and access to training of Community Councillors would help examine the potential effectiveness of Community Councils as statutory consultees. Further qualitative research could cover the potential for useful input to SEA at the scoping stage as well as a requirement to include Community Councils in statutory consultation at the Environmental Report stage. As the Scottish Government ostensibly seeks to extend the roles and responsibilities of Community Councils (Scottish Government, 2011c), research may usefully be undertaken to assess the possibility of engaging them in post-adoption, ongoing monitoring of local environmental effects of PPSs.

At the national level, although the Association of Scottish Community Councils is expected to wind up in 2012 following a substantial reduction in funding from the Scottish Government (Association of Scottish Community Councils, 2011), further research could be conducted into the possibility of reversing that decision or investigating an alternative form of national community council representation which could perform as statutory consultees for PPSs and associated SEAs at that level.

The research reveals the formation of an action group in the Highland case which brought together participants who shared concerns, including the perceived ineffectiveness of community council involvement in the PPS process. Further research, employing network analysis, could usefully investigate the role of *social capital* in SEA public participation and

consultation. It could look at the role of social capital in enhancing knowledge of SEA and PPS processes amongst those involved and the effectiveness of their involvement.

Useful mixed-method research could also be conducted into the addition of a body with expertise in population to the list of statutory SEA consultees. Population is central to a governmentality approach in which data-gathering on that population and the conditions necessary for its survival is considered central to better governmental performance. The Highland case further illustrated the political importance of population where contested population projections were the core of disagreement around a contentious major development omitted from the SEA, an evasion which undermines SEA's possible success as a tool to reconcile 'conflicting agendas' (Barker and Fischer, 2003; 707). Despite being a core SEA topic, the implications of, and on, population have not been satisfactorily addressed in either case, with contradictory trends being cited in the less contentious Clackmannanshire case. Further research would clarify whether statutory consultation with Scotland's Registrar General of Births, Deaths and Marriages in SEA would help address perceptions and practice of political manipulation of population figures by Responsible Authorities.

Research efforts suggested thus far would be intended to contribute to the democratic and environmental aspirations of the SEA/good governance nexus where SEA is undertaken. However, in addition to addressing the perceived 'public character' loophole, discussed in section 8.2.1, further research may be usefully undertaken into the impact on SEA of the minimisation of the 'regulatory burden' (Scottish Government, 2009e, in initiatives such as the designation of Scottish Sustainable Community Initiative status on non-SEAd major developments, discussed in Chapter 7. That research would clarify whether such easing of the 'regulatory burden' undermines the democratic credentials of PPS development, counter to the aims of the SEA/good governance nexus.

8.4 Concluding remarks

Although not in the context of SEA, O'Riordan (1996: 142) points to the elements used within the SEA/good governance nexus framework in his assertion that they are central to the sustainability transition:

at a local government level a commitment to audit environmental performance, to establish mechanisms for policy and departmental coordination, to promote civic involvement at the household and neighbourhood level, and to generate a real sense of personal contribution to the sustainability transition – all this is now in motion

The evidence in the cases examined suggests that while these may well be in motion, it is not through SEA as the SEA/good governance nexus demands. Indeed, the analysis herein contributes to understanding shortcomings in SEA implementation in Scottish local authorities where contextual factors inhibit performance of the SEA/good governance nexus.

Flyvbjerg (1998) notes the ongoing dominance of a pre-Enlightenment operation of power in his case study of town centre transport planning in Aalborg. Like his Aalborg study, the cases examined herein demonstrate the contrasting rationalities at play in the decision processes. SEA's primary role of informing rational decision making is, in the Highland case, undermined by the partial approach to the assessment. In the Clackmannanshire case, claims to a collaborative community planning process, with fully integrated SEA and ostensibly presenting a proto-typical operation of the SEA/good governance nexus, are undermined in the latter stages by failures of public engagement in the SEA and of the representation of the contributions of the statutory consultees in the definitive conduit of transparency and accountability in SEA, the post-adoption statement.

The background of perennial political play offered by Flyvbjerg should be fully acknowledged. Sonnenfeld and Mol (2002: 1461) recognize that '[a]nalysis of the complex, contingent conditions necessary for constructing effective environmental governance, and ultimately producing positive environmental transformations, is a central task for environmental social science and a necessity for successful environmental reform'. A governmentality analytical approach is in this respect a useful framework for examining that context in specific cases, offering as it does opportunities to clarify: the tension between top-down vs bottom-up approaches to sustainable development (centralisation); the flow of, and resistance to, biopower through the decision hierarchy and the population (intensification of the effects of power); and the factors at play in ensuring admittance of and resistance to formal expertise and local knowledge brought to SEA by communities affected by PPSs (power/knowledge).

The attention governmentality theory pays to the range of rationalities at play and the opportunities for resistance in a given situation has, in this research, enhanced the examination of the operation of an SEA/good governance nexus which ostensibly seeks democratic and institutional improvements to PPS processes. Against a backdrop of an ideological shift of focus from government to governance, the application of a governmentality framework also assists examination of what's in and what's out of SEA,

crucial where the nature of 'public character' in PPS development and implementation is obscured by the very multi-sector partnerships promoted by that governance.

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Appendix A

Core categories (from SEA and governance literature) and sub-categories (from the cases) of the SEA/good governance nexus

| | |
|-----------------------------|---|
| Transparency | barriers to transparency scrutiny publicity transparency - conduct transparency - tiering transparency - horizontal transparency - responsibility transparency - vertical downwards transparency - vertical upwards transparency and trust transparency of process transparency of info provision of information quality/accuracy of information Comprehensibility/presentation of info e-transparency who's looking |
| Accountability | accountability - general types of accountability democratic accountability professional accountability accountability of community accountability of decision makers accountability of partners ownership reporting |
| Joined-up government | barriers to J-U (joined-up) govt departmentalism/fragmentation efficiency J-U govt - general J-U govt - communication J-U govt - Community Planning J-U govt - cross-cutting J-U govt - horiz J-U govt - vertical J-U govt - horiz vs vert J-U govt - info J-U govt - memo of understanding J-U govt - other LAs J-U govt - planned & existing J-U govt - temporal J-U govt - networking J-U govt - transport J-U govt/integration - PPS-SEA integration of input |

| | |
|------------------------------|---|
| | multiple hits |
| Partnerships – Clacks | <ul style="list-style-type: none"> partnership working - general extent of partnership working partners - responsibility barriers to partnership working equity partnerships - synergy third sector role of community partners |
| Consultation | <ul style="list-style-type: none"> consultation – general effectiveness of consultation consultation fatigue claims of consultation consultation opportunities scope of consultation role of statutory consultees role of consultants role of voluntary sector role of other third sector role of community planning |
| Participation | <ul style="list-style-type: none"> participation - general access to governance networks access to participation accessibility of participation/ capacity/resources justification for participation barriers to participation degree of input - general deliberation co-option data as participation passive participation early/early and effective effectiveness/efficacy of participation meaningful/teeth expectations treatment/consideration of input use of input informed participation e-participation feedback inclusion/involvement mechanisms for community input 'NIMBYism' number of participants participation as hassle vs opportunity participation as legitimization participation paradox point of entry to process/tier of entry representation/representative responsibility for participation status of participants |

'usual suspects'/recurrent objectors
value of public participation
organisational learning
social learning/two-way info
engagement
genuine engagement
modes of engagement
Clacks 1000
Green-mapping
Citizens Panel
Community councils

Appendix B

Emergent categories from the cases lying outwith the SEA/good governance nexus

agenda setting
buy-in/'thinking SEA'
competition
consensus
contention
definitions: environment & sustainability
de-politicisation
discretion/subjectivity
expertise
instrumentality
interests
iterative
legitimacy
material considerations /planning
context
policing SEA
political opportunity structure
power
procrastination
rationality
SEA as a 'bolt-on'
SEA as burden
shifting context/moving targets
template/'cookie cutter'
trust

Appendix C

Community Planning Officer (CPO) #2 Semi-structured Interview Schedule

SEA Intro

- *How well informed do you feel re. the SEA process?*
- *Have you had any training in SEA?*

[I will ask about the role & influence of SEA across various topic areas – It's ok to say you don't know]

Public Participation

'CPO – What about Tenants & Residents – may have more presence on the ground ...

Voluntary sector rep. - ... yes, that would be another route in ... [...]

'CPO – on Community Council representation?

Biodiversity Officer – no reply ... contacted Alva one, Secretary wanted to be involved ...

CPO – I might give them a reminder'

'PPS consultant – this is quite an empowering structure'

- *From your experience, what's your take on public participation in Clacks?*
- *Do you believe SEA is an effective method of bringing communities into the planning process?*
- *'PPS consultant [on Community Planning itself] – this is quite an empowering structure' – Do you agree?*

Consultation

- *How do you feel about the role of the statutory consultation authorities in the development of the E&S Framework & the SEA? SEPA; SNH; HS?*

Partnerships

Clackmannanshire Alliance Special Meeting 24th Feb 2009 10:00 Greenfield House

CPO – on new 3rd sector interface '[...] Govt. not defining interface but are defining functions ... a chance to look at what's working'

- *Could you explain what that was about?*
- *Do you believe your input during the process has been fairly reflected in the output (projects being taken forward)?*

12th Jan 2009 2pm Alloa Town Hall, Alloa: Meeting of the Environment Partnership Team

'CPO [reporting back]: we refused to be bound by the boxes you gave us. In reverse order

- Sustainable transport
 - Food production
 - Town centre regeneration and community and environment are 1 priority. Education and awareness raising can run through ... as progress is made ...'
-
- *I'm interested that you say: "Town centre regeneration and community and environment are 1 priority" – Could you explain that?*
 - *Are you satisfied with the role of SEA in the Community Planning process i.e. provision of decision criteria?*
 - *More broadly, do you believe the priorities of the public in Clackmannanshire are fairly reflected in the outputs*
 - *How would you describe the balance of power across the sectors of the Community Planning Partnership?*

Joined-up government

Meeting of the Environment Partnership Team 12th Jan 2009 2pm Alloa Town Hall, Alloa

[Economic Development Officer] – [CPO] and me engaging with each of the PTs in a more structured way than before ... looking at cross-boundary issues ... partly about spotting opportunities and project development it needs to be more ... An ownership question at the end of the day'

'[Senior council officer] – [on members of different teams in different teams] ... the links are important ... all these teams working in silos ... there are overlaps

CPO – it's helpful if we can spot ourselves where the links are'

- *Your role is concerned with joining up governance. What are the main barriers, if any, to this objective?*
- *What do you see as the most important element of joined-up governance*
- *Do you think impact assessment can help?*

Accountability

Clackmannanshire Alliance Special Meeting 24th Feb 2009 10:00 Greenfield House

[...] [new 3rd sector interface] will be accountable to whoever agrees to be accountable → not the Community Planning Partnership'

- *Do you feel that those who make decisions involving potentially significant environmental impacts are held accountable for those decisions?*
- *How do you feel about the role of consultants such as Simon & the SEA consultants in SEA and policy processes?*
- Can SEA enhance accountability? (Stewart and Collett (1998))
 - *Market* accountability [best value incl. SD?]
 - *User* accountability [quality of decisions and service?]
 - *Political* accountability [democratic/electoral?]
 - ... *temporal* [inter-generational equity]
- *How do you feel about the increasing emphasis on accountability generally*

Transparency

'CPO: (wants Environment Partnership team as a link in Clacksweb) –

(a response to) people asking about the complicated structure

... .. to make the Partnership Teams what they are – open (& accessible).

there is a perception these are secret meetings ! and that everything's behind closed doors! ... we need people to see it's all straightforward and clear ' [...]

- *Why do you think there's that perception?*
- *Do you think impact assessment procedures can help with transparency?*
- *In the E&S Theme team meetings, were you aware you were contributing to the SEA process (inasmuch as the 1st line of criteria were SEA objectives)?*
- *Are you aware of who developed the decision-making criteria with the Framework development process?*
- *Who do you think is looking?*

Top Down vs Bottom up

'CPO - ... all the PTs and Services are struggling at the moment to get everything to align ...

it is the responsibility of the PT to get the document to align with the SOA ...

[Senior council officer] – Individual [themes] ... are going to deal with achieving SOA ...

CPO – you mean this document should make obvious links ...'

'CPO – the SOA mentions the relevant strategies .. it should be in this year's

[...]

[Senior council officer] – we need to make sure it's very clear how it links together'

'CPO – important to be explicit ... the SOA needs to refer specifically to this document.

[GrC]'

- *Where on the top-down/bottom-up continuum do you think policy making in Clacks falls?*
- *Do you think SEA can change this?*

Conclusion

- *Do you feel you've learned anything from your involvement in the SEA process?*
- *Have you read the Environmental Report?*
- *Off the top of your head, what do you see as the main aim of the E&S Framework*
- *Economy & environment – win-win or zero-sum?*

Appendix D



INFORMATION SHEET

The Contribution of Strategic Environmental Assessment to ‘Good Governance’ for Sustainable Development in Scotland

You have been invited to participate in a student research project with the working title ‘The Contribution of Strategic Environmental Assessment to ‘Good Governance’ for Sustainable Development’. Before you decide whether to take part it is important that you understand why the research is being done and what it will involve. Please take time to read the following information carefully.

Why the research is being done

Since the transposition of European Directive 2001/42/EC into Scots Law in 2004, Strategic Environmental Assessment (SEA) has aspired to realise sustainable development by ‘encourag[ing] the incorporation of environmental considerations at an early stage into public sector policy formulation, through processes which will also demand more open government and greater public participation in the final adoption of PPPs [policies, plans and programmes]’ (Jackson and Illsley, 2006: 379).

Placing SEA in the context of the shift from *government* to *governance*, this research aims to demonstrate the extent to which the constituents of ‘good governance’ – including transparency, partnership-working and public participation - are being enhanced by local authority SEA practice. The research is employing a case-study approach using Clackmannanshire and Highland Councils’ [...] SEA practice to examine the potential contribution to ‘good governance’ for sustainability.

Who the study is being carried out by

The study is doctoral research being conducted by Caroline Scott of the David Livingstone Centre for Sustainability, University of Strathclyde under the supervision of Dr Elsa João (elsa.joao@strath.ac.uk).

Your contribution

Participation is voluntary and if you decide to take part you will be asked to sign a consent form. You can withdraw your consent at any time without having to give a reason. I may publish some of my research findings however responses will be anonymised so if I publish any comments from the communications/interviews no one will be referred to by name. All data gathered from communications/interviews will be securely stored.

Contact Details

If you wish to raise any question or concerns before, during or after this study please do not hesitate to contact, Caroline Scott, using the contact details below:

Caroline Scott
PhD Student: SEA & Sustainability

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50 Richmond Street
Glasgow, G1 1XN
Scotland

t: 0141 548 4048 / 0141 423 6848
m: 07748 432 917
e: caroline.scott.100@strath.ac.uk

Questions or concerns can also be addressed to Dr Elsa João who is supervising this student project:

Dr Elsa João
Senior Lecturer and Director of Postgraduate Studies

David Livingstone Centre for Sustainability
6th Floor, Graham Hills Building
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t: 0141 548 4056
e: elsa.joao@strath.ac.uk

Thank you for your time
Please keep this sheet for your information

31-03-08

CONSENT FORM

The Contribution of Strategic Environmental Assessment to ‘Good Governance’ for Sustainable Development in Scotland

Caroline Scott

1. I confirm that I have read and understand the information sheet dated 31-03-08 for the Study and have had the opportunity to ask questions.
2. I understand that my participation is voluntary and that I am free to withdraw at any time, without giving any reason. I understand also that I can ask to have my data withdrawn from the Study at any time.
3. I understand that by signing this consent form I am indicating that:
 - I am aware of what my participation in the Study involves, and of any potential risk; and
 - All my questions concerning the Study have been satisfactorily answered.
4. I understand that confidentiality and anonymity are assured during and after the Study has been completed.
5. I understand that data collected during the Study may be looked at by responsible individuals from the research team where it is relevant to my taking part in this research. I give my permission for these individuals to have access to my records.
6. I agree to take part in the Study.

Name of Participant

Date

Signature

31-03-08