

My Ref: 281125-Ecocide
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Edward Mountain MSP
Convenor
Net Zero, Energy and Transport Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Sent via email to netzero.committee@parliament.scot

Dear Sir,

Ecocide (Scotland) Bill

Further to your letter dated 11 November 2025 which was sent to all Scottish Local Authorities I write to provide comments from a Renfrewshire perspective. In this regard I will provide comments in respect of the topics highlighted in your letter.

Consented or licensed activities

It is submitted that any Bill should provide relevant exemptions in circumstances where planning permission or other relevant permissions or licences have been granted. In addition, any Bill must provide relevant exemptions to criminal liability to those involved in the granting of planning permission or other relevant permissions or licences. Any future Bill must be explicit in detailing the circumstances in which individuals or organisations, including local authorities and their Elected Members and staff, may be exposed to criminal liability.

Decision-making and liability

The possibility of criminal prosecution could influence the approach of the planning authority and put the 'plan led system' at risk. The possibility of a criminal prosecution even where the charge relates to a site identified for development within the Local Development Plan (LDP) is likely to change the approach and indeed significantly change how planning decisions are reached given the potential financial risks which the local authority may face should it be found guilty of environmental ecocide and indeed the risks to individuals who may be involved in the consenting process.

The Bill is likely to have a number of impacts on the determination of planning applications and thus impact the wider planning system:

- Officers may be more inclined to decline to use delegated authority where there is a fear of a future criminal charge. This is likely to slow the determination of planning applications and result in more applications being considered by board/committee.
- Elected Members on the board/committee may be more inclined to refuse applications where there is a fear of a future criminal charge. This is likely to slow the determination of planning applications and result in more applications being considered by the DPEA.
- Elected Members may not be willing to serve on the planning board/committee for fear of being involved any a decision which may later be the subject to criminal charge.

In the event that an application is determined by the DPEA or Scottish Ministers will the relevant Minister or indeed the First Minister be subject to criminal charge and the subsequent sentence should they be found guilty?

It is submitted that there is significant concern in respect of the Bill and how it would impact the consideration and determination of planning applications and indeed those involved in such processes. Furthermore, we would also note concern in relation to what impact the Bill would have on the wider planning system, the lack of certainty which would be created and indeed the impact on the delivery of future development which may be required to deliver key infrastructure or indeed help respond to the ongoing housing emergency.

Threshold of harm

The thresholds outlined in the Bill are not considered to be sufficiently clear and workable in the context of planning assessments. The Bill fails to consider the context in which the '*severe environmental harm*' has taken place. For instance, it could be argued that severe environmental harm could occur as a result of the clearance of a greenfield site to enable future development to take place, while it could also be argued that the removal of a single tree from a homeowners garden could result in '*severe environmental harm*'. It is submitted any defined thresholds require to consider the context in which the 'harm' is taking place.

In addition, we would raise concern with how '*severe environmental harm*' is considered in respect of a development which has been the subject of an Environmental Impact Assessment (EIA). How would '*severe environmental harm*' be considered by an EIA and could mitigation be implemented to overcome such identified harm? Furthermore, would amendments be required to National Planning Framework 4 (NPF4) in order to ensure that '*severe environmental harm*' forms part of planning considerations?

It is submitted that any Bill would require to include clearly defined thresholds and provide greater clarity how these would be applied in the consideration of planning applications against the development plan and also where a development is supported by an EIA report.

Cumulative impacts and course of conduct

It is not clear from a planning perspective how the Bill might apply to incremental harm. Further detail and clarification would be required especially if the site in question is subject to multiple planning applications over a period of time. In addition, thought should be given to how a large development site which is developed in a phased manner would be considered against the terms of the Bill. An example would be a large development site which benefits from a masterplan approved as part of planning permission in principle and is thereafter subject to multiple applications for the approval of matters specified in condition (AMSC). Would such a phased approach and multiple AMSC applications be considered to cause cumulative harm? It should also be noted that in such circumstances the development in question may have been subject to an Environmental Impact Assessment as part of the application for planning permission in principle.

Enforcement and investigation

In the event that the Bill will provide enforcement powers to local authorities to investigate ecocide, we would note concern with such arrangements. Local authorities are likely to have been involved in the consenting process relating to planning or other relevant permissions and in this regard any investigation would create a conflict given that those providing consent could also be criminal liable for any ecocide event. It is our opinion that should the Bill proceed in its current form local authorities would be unable to act as an enforcing authority.

Notwithstanding the above we would also raise concern with the inclusion of local authorities as an enforcing authority without any detail as to how an extension of such powers would be funded. Local authorities are already operating under significant financial pressures and in this regard should further powers be extended to local authorities financial assurances would be required to demonstrate how additional expectations in respect of enforcement matters would be funded in the short, medium and long term.

I trust the above comments are useful in the consideration of the Bill in question however we would welcome the opportunity to provide further comments as the bill progresses.

Yours faithfully,

David Love
Chief Planning Officer
Renfrewshire Council