



LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

8th Meeting, 2018 (Session 5)

Wednesday 7 March 2018

The Committee will meet at 9.00 am in the James Clerk Maxwell Room (CR4).

1. **Planning (Scotland) Bill:** The Committee will take evidence on the Bill at Stage 1 from—

Tammy Swift-Adams, Director of Planning, Homes for Scotland;

Jenny Hogan, Deputy Chief Executive, and Stuart Winter, Member (and Associate Director, JLL), Scottish Renewables;

Gordon Nelson, Director, Federation of Master Builders Scotland;

Sarah Boyack, Head of Public Affairs, Scottish Federation of Housing Associations;

Jonathan Fair, Regional Managing Director - Scotland, McCarthy and Stone;

and then from—

Kate Houghton, Policy and Practice Officer, RTPI Scotland;

Malcolm Fraser, Consultant Architect;

Professor Cliff Hague, Emeritus Professor of Planning and Spatial Development, Heriot-Watt University;

Stuart Tait, Manager, and Dorothy McDonald, Assistant Manager, Clydeplan.

2. **Planning (Scotland) Bill (in private):** The Committee will consider the evidence heard earlier in the meeting.

LGC/S5/18/8/A

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The papers for this meeting are as follows—

Agenda item 1

Note by the Clerk

LGC/S5/18/8/1

PRIVATE PAPER

LGC/S5/18/8/2 (P)

Agenda item 2

PRIVATE PAPER

LGC/S5/18/8/3 (P)

Local Government and Communities Committee

8th Meeting 2018 (Session 5), Wednesday 7 March 2018

Planning (Scotland) Bill: Note by the Clerk

Purpose

1. This paper provides background information on Committee's stage 1 scrutiny of the Planning (Scotland) Bill.
2. This Scottish Government Bill was introduced by the Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance MSP, on 4 December 2017.
3. The Bill and its accompanying documents can be found [online](#).

Background

4. The Committee launched a [call for written evidence](#) on Friday 15 December 2017 with a deadline of 2 February. The [responses](#) to the Committee's call for written views have been published on the Committee's webpage. A summary of the written views will be available in due course.
5. In addition the Committee members have undertaken community events in [Skye](#), [Stonehaven](#) and [Motherwell](#) on 5 February 2018 and summary notes have been published on those discussions.
6. On 19 February 2018 members of the Committee has also visited Linlithgow to discuss local place plans with the Linlithgow Planning Forum and West Lothian Council Officials. A summary note of those discussions will be published in due course.
7. An online survey was conducted principally seeking views from young people via the Scottish Youth Parliament and Youthlink. A summary of these views will be available in due course.
8. The Committee has also sought views on the Bill (from 20 February until 2 March) [using Dialogue](#) as well as hosting a conference in Stirling on 26 February with invited public and private sector representatives. A summary of the discussions held at the conference will be available in due course.
9. A number of briefings have been published relevant to the Planning (Scotland) Bill by the Scottish Parliament's Information Centre:

[Planning \(Scotland\) Bill: Proposed Infrastructure Levy](#)
[The Planning \(Scotland\) Bill](#)

10. On 16 February 2018 the [Minister for Local Government and Housing wrote](#) to the Committee on the Agent and Change principle confirming that the Scottish Government intends to “include explicit policy guidance in the next National Planning Framework and the SPP, implementing the Agent of Change principle”.

Oral evidence taking

11. At its meeting on 28 February 2018 the Committee took evidence from:

Panel 1:

Planning Democracy, Community Land Scotland, Development Trusts Association Scotland, PAS;

Panel 2:

Music Venues Trust, UK Music.

[Link to the Committee papers of 28 February](#)

[Link to the Official Report of 28 February](#) (due for publication by 6 pm on 2 March)

12. At its meeting on 7 March 2018 the Committee will take evidence from:

Panel 3:

Homes for Scotland, Scottish Renewables, Federation of Master Builders Scotland, Scottish Federation of Housing Associations, McCarthy and Stone;

Panel 4:

Royal Town Planning Institute Scotland, Malcolm Fraser, Professor Cliff Hague, Clydeplan.

13. Submissions from those giving oral evidence at the meeting on 7 March are contained in Annexe A.

Next Steps

14. The Committee has also invited oral evidence on the following dates from:

Wednesday 14 March 2018:

Panel 5:

Built Environment Forum Scotland, National Trust for Scotland, Scottish Water, Scottish Environment Link;

Panel 6:

COSLA, Heads of Planning Scotland, Cairngorms National Park Authority, City of Edinburgh Council.

Wednesday 21 March 2018:

Minister for Local Government and Housing, Scottish Government.

Written Submission from Homes for Scotland

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

1.1 Homes for Scotland supports the Scottish Government's aim to achieve the right development in the right location. The Bill as drafted can help ensure the inherent balances the planning system must find are the right ones, particularly in its focus on collaboration rather than finding new opportunities for conflict. It could however be amended in places to better embed this positive change. There is significant reliance on secondary legislation, guidance, policy and voluntary action to fully enshrine the wider planning review. Some matters, such as collaboration in early plan-making and consistency within Development Plans, are too important to leave to trust. Other more radical matters such the potential Infrastructure Levy are perhaps too nebulous at this stage to be significantly delegated to secondary legislation and not fully scrutinised by parliament.

1.2 The intent behind 10-year Development Plans is also understood; to avoid the constant treadmill of plan preparation and allow a greater focus on delivery. However, in an ever-changing world, that timeframe could be too long and plans should not be allowed to linger without responding to changing local circumstances. There is therefore a need for Development Plan review triggers to be clearly defined to allow such changes to be responded to timeously.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

2.1 The current Planning Review set out to increase the supply of homes in Scotland. Standing in isolation this Bill can cannot deliver on that objective. Success will be heavily reliant on the secondary legislation, guidance and updated national policy that will follow. The Bill has purposely and rightly avoided reforms which could have further restricted or hampered the supply of new homes.

2.2 To ensure the Bill does what is intended, we believe several clarificatory and strengthening amendments are required. We are of course concerned that the Bill should have maximum positive influence on the delivery of enough new homes to meet all of Scotland's housing needs, but we believe these amendments would have a broader benefit in terms of the coherence and effectiveness of the planning system. These amendments would include:

- Making it an obligation within the proposed new Section 3AA(2) to the 1997 Act¹ that information on housing needs and education capacity are included as matters to be taken into consideration in the formulation of the National

¹ The Town and Country Planning (Scotland) Act 1997 (as amended)

Planning Framework. Section 15(5) of 1997 Act would need to be similarly amended in relation to the formulation of Local Development Plans. This must be supported by a critical policy update where the Scottish Government bring forward an unambiguous methodology (to be developed in collaboration with planning authorities and Homes for Scotland) for setting housing supply targets and monitoring how these can and will be met.

- Making stakeholder engagement a statutory requirement in the production of the new Local Development Plan Evidence Reports to ensure proper scrutiny is achieved. Collaboration on plan making is a corner-stone of the changes being sought and support for engagement at that stage in plan preparation is essential if this new 'Gate Check' in development plan making is to be the game-changer it is intended to be. As a minimum, the Bill must mirror the depth of engagement sought as part of the production of the proposed Local Development Plan (as referred to at present within Section 18 of the 1997 Act) to ensure that plan preparation starts with as full an understanding of the context for delivering new development as possible and not then left to chance. Ideally the Evidence Report would be a recognised and agreed product of genuine collaboration with all key stakeholders, including those who will be relied upon to deliver the plan and, like the proposed Local Development Plan and Delivery programme, ought to be agreed by Full Council.
- A commitment to bring forward Regulations that define what circumstances would trigger an amendment or full review of the Local Development Plan (e.g. failure to maintain an effective land supply / meet Housing Supply Targets) through amendments to proposed Section 20AA(6) of the Bill. In the interests of clarity and confidence the Bill itself should signpost the possible use of secondary legislation to ensure Local Development Plans are kept fresh and relevant where circumstances require it.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

3.1 The removal of Strategic Development Plans is supported by Homes for Scotland. Strategic Development Plans have not been effective in ensuring the delivery of enough new homes and it removes a resource-intensive aspect of the system. Regional spatial strategies and Housing Supply Targets / Housing Land Requirements (which were contained in Strategic Development Plans where they existed) do however play a critical role in the planning system and should be key features of the National Policy Framework once that assumes its new Development Plan status. Local Development Plans will need to do a better job of striving to deliver on these strategies and targets and be held to account where they do not.

3.2 It is fully understood that the ethos behind the Planning Bill is to not prescribe what regional activity should replace Strategic Development Plan production. However, the omission of any detail on this is a missed opportunity to set a default expectation within the Bill that regional working through Regional Partnerships will be an important component of the system and that it must be resourced. The Bill should be amended as follows to establish that default position:

- Having the Bill refer to input from Regional Partnerships throughout Scotland to Development Plan preparation within the proposed new Section 3AA(2) of the Planning Act and through further revisions to the existing Section 15(5) of the Planning Act.
- Ensuring the National Planning Framework sets regional Housing Supply Targets (which to be effective and supported should be the product of regional collaboration between local authorities and their stakeholders).
- Indicating that the Ministerial powers to direct local authorities to work together (as proposed within the new Section 3AA(1) to the Planning Act) would be enacted only where Regional Partnerships are not established voluntarily.
- Requiring the involvement of relevant stakeholders (such as infrastructure providers, community representatives and delivery-focussed national bodies including Homes for Scotland) in Regional Partnerships.

3.3 Whilst guidance, advice and expectations can be set out in other documentation, the Bill itself should make Regional Partnerships a requirement and not an assumption. Without Regional Partnerships having a statutory locus the priority given to them by planning authorities is likely to be diminished as budgets become more focused on statutory functions.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

4.1 The change in status of the National Planning Framework necessitates a change in how this informs Local Development Plans. There is a need to reflect the respective function of each component of the Development Plan and must be a statutory requirement for the Local Development Plan to be consistent with the National Planning Framework (as per the current requirement for it to be consistent with the Strategic Development Plan – see Section 16(6) of the 1997 Act). Without this, the Bill will effect a loosening of the expectation that Local Development Plans must deliver regional and national objectives (including targets on housing delivery). To succeed in increasing delivery that expectation of compliance needs to be strengthened, not weakened.

4.2 This is further exacerbated by the apparent acceptance within the Bill that Local Development Plans can be incompatible with the National Planning Framework. This arises from the wording of the proposed revisions to Section 24 of the 1997 Act. Any incompatibility would fundamentally undermine the intended improvements in the effectiveness of, and trust in, the Development Plan system. With both parts of the Development Plan being closely linked (one consistent with and supportive of the other) significant investment decisions can be agreed in principle at the National Planning Framework stage and details then developed through the Local Development Plan thereafter. To allow one part of the Development Plan to deviate from the other runs counter to the principle of delivering greater certainty through plan making and is likely to simply generate conflict within the planning system.

4.3 The Bill's requirement for Local Place Plans and Local Development Plans "to have regard to" one another is a reasonable default position so long as the Local Place Plan is not part of the Development Plan. We agree that if a Local Place Plan is to be incorporated into a Local Development Plan at a later date then the relationship test must be that the Local Place Plan is consistent with the rest of the Development Plan.

4.4 The requirement for the Local Development Plan and the Delivery Programme to be endorsed by a Full Council (proposed changes to Sections 18 & 21 of the Planning Act) can only help elevate plan making and plan delivery within the planning authority priorities, as well as achieve better alignment between the Development Plan and capital budgets, and a such is a positive move. For these reasons, we would wish this requirement to be extended to the Evidence Report stages as well.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

5.1 Homes for Scotland recognises that the opportunity offered to designate a Simplified Development Zone is positive in allowing development to potentially be delivered in a more expedient manner. The proposed extension of the range of permissions that can be delivered through a Simplified Development Zone is therefore a further positive.

5.2 Nevertheless, the very fact that such Zones are perceived to be necessary suggests that the 'everyday' planning system may not currently be able to deliver enough new homes or appropriate new commercial development. The reality is that delays can be often related to mis-functions within the planning system, but planning is not the only constraint on delivery. Whilst a Simplified Development Zone can tackle some obstacles it may struggle to overcome a misalignment between allocated land and market demand, make utility capacity available or overcome any infrastructure constraints that make development unviable. Care will need to be taken that these zones are not relied on too heavily in instances where other approaches, or ultimately other land, could bear more fruit.

5.3 Fundamentally, Simplified Development Zones will not be an alternative to a properly functioning planning system and will only be a supplement to the functions of a pro-active planning authority.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local Development Plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

6.1 Improving community engagement in Development Plan preparation and introducing Local Place Plans is the right approach to providing communities with a

more effective avenue to engage. Local Place Plans can provide communities with a positive opportunity to contribute to the policy landscape.

6.2 Homes for Scotland is of the view that delivering better opportunities to engage in the planning system, and to positively influence outcomes, is an important objective to pursue and we support the Scottish Government in such aspirations. There is an equal necessity to ensure engagement with all relevant stakeholders but for Development Plans to be fully fit for purpose, achieving an outcome where communities can recognise their involvement and engagement in Plan making is essential.

6.3 The inevitable challenge to that objective is ensuring that communities have a real opportunity to understand and accept the need for and benefit of new development and the need for a balance to be struck between different needs and aspirations. If Local Development Plans make more adequate and realistic provision for development in appropriate locations, then communities (and utility and infrastructure providers) can be more confident it can, and will, be delivered. There ought to be less need for developers to bring forward alternative development solutions to fill gaps in new home provision that are so often misinterpreted as departures from the Plan.

6.4 The new Local Place Plans present a positive opportunity for communities to show how they wish to see an area grow and develop and to consider what is needed to support that. It's a new chance for them to demonstrate how they can positively support the future development of their areas. However, to "do" Local Place Planning properly will need time, training and funding to ensure that community participation is effective, inclusive and informed. This will certainly be essential if a Local Place Plan is to be incorporated into a Local Development Plan in due course. It is right though to give local communities this new and recognised means of creating a positive role for themselves in planning.

6.5 Whilst much of the way better stakeholder engagement as a whole will be achieved will be progressed through secondary legislation and guidance, as a minimum, the Planning Bill must be amended to be explicit that collaborative stakeholder engagement is an essential element of the Evidence Report production and appraisal.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

7.1 Homes for Scotland has no comments on this aspect of the Bill.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

8.1 Whilst a Levy approach has the potential to provide more certainty and clarity than the current approach to securing developer contributions, it has yet to be proven whether a Levy could be effective enough in the wider sense of fully funding infrastructure (acknowledging the need to preserve development viability) and of delivering it. We recognise the 'hook' the draft Bill provisions provide for bringing a Levy in if a workable model can be agreed. However, significant further work is required, and we are not fully convinced it is appropriate to enable the strategic and detailed thinking on this to be undertaken out with the full Parliamentary scrutiny afforded to primary legislation. It would therefore be more logical to see the enabling powers entirely removed from the Bill. This would remove a problematic and distracting area of uncertainty and concern without significantly upsetting or delaying planning reform, given wider work and engagement on a levy approach and infrastructure delivery remains at a very nebulous stage. Homes for Scotland is fully committed to working with the Scottish Government and others to resolve issues relating to developer contributions and infrastructure and it always be fully recognised that developers are committed to paying what is due as part of the delivery of the new development where this is justified and necessary to support the development in question.

8.2 The process put in place to deliver any Levy will rely on transparency and fairness in the system and viability considerations will be paramount not only to its success but in ensuring a levy itself does not present significant barriers to development. Ensuring monies collected are spent on infrastructure required in consequence of development, and that other measures are in place to fully fund and deliver that infrastructure are also essential. A Levy must not be a tax on development, it must continue to be related to the infrastructure investment need created by the development proposed, linked to a properly funded forward investment programme by infrastructure providers, paid in line with a development being delivered and used locally to address associated infrastructure investment needs. Proposed Sections 9 and 14 of Schedule 1 of the Planning Bill therefore, at the very least, must be deleted.

8.3 Experience from the Communities Infrastructure Levy in England & Wales has identified issues such as the need for the Levy to support infrastructure investment and not be a replacement for capital investment in infrastructure from infrastructure providers. It has also been noted that the Levy must only be used to support the delivery of the infrastructure required because of development growth, not to address existing deficiencies in infrastructure provision. The Levy must also be a replacement to planning obligations rather than additional to these. We understand difficulties have emerged in England & Wales in ensuring unpredictable additional development contribution requirements do not continue to emerge once a Community Infrastructure Levy is in place. If this happens the clarity and certainty benefit is clearly lost.

8.4 There remains the important challenge that any Infrastructure Levy does not undermine the competitiveness and attractiveness of Scotland as a location within which to invest in home-building.

8.5 Homes for Scotland notes the proposed expansion of remit for Planning Obligations under proposed changes to Section 75 of the Planning Act. Such

changes may allow for greater flexibility in what Section 75 Agreements can be used to pay for. However, any expectations must be fully and clearly justified and appropriately evidenced through local planning policy and there must continue to be a clear and unambiguous link between a development and the contributions sought from it.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

9.1 Homes for Scotland supports appropriate and proportionate training for all elected members who are dealing with planning matters and would gladly assist in the delivery of appropriate training for councillors. There is an extensive library of legal statutes, statutory instruments and planning policies that those working with the planning system must consider. Therefore, to ensure that all planning decisions are robust, those making the decision must understand how the planning system works, what it is intended to achieve (in terms of the sustainable economic growth of Scotland) and the role of various parties within the system including stakeholders such as Homes for Scotland.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

10.1 Planning authorities currently complete a voluntary annual Planning Performance Framework response administered by Heads of Planning Scotland. The effect of the proposed new Part 12A to the Planning Act is to formalise that process and Homes for Scotland supports the principle of this approach. The added powers to assess performance and report on that assessment must have a primary function to allow for both good practice to be identified and promoted as well as issues of concern to be formally acknowledged and remediation measures progressed. Homes for Scotland believes performance monitoring and reporting should be an expedient and inclusive process and we would support delegated powers being used to ensure peers and national agencies are involved in this process as a matter of course

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high –performing planning system the Scottish Government wants? If not, what needs to change?

11.1 Performance relies on how much a local authority invests in its planning service. Planning fees provide an income stream which can contribute to the planning service's budget. Home builders are prepared to pay for a good quality planning service and the fees system enables them to make fair contribution. However, other beneficiaries need to contribute as well and sufficient public funding is necessary for the system to function properly.

11.2 Between 2014 and 2017 Scotland's planners dealt with between 230 to 300 major planning applications² each year compared to 28,700 to 30,300 "other" applications³. Hoping to secure full cost recovery through increased fees for major applications would be flawed and unfair. Over reliance on fees in general to resource the planning system is also at odds with the fact the planning system does not solely benefit applicants for planning permission. It exists in the wider public interest and it should not rely unduly on those applicants (who are essential to plan delivery) to resource all of it.

11.3 A wholesale stock-take is needed of all planning fees. This should be undertaken before further fee rises or new fees are introduced. In the meantime, planning fees should continue to be consistent across Scotland rather than a patchwork of different structures. Planning fees are not a form of tax and it is time for tangible efforts to be made to ensure local authorities are capable of responding in kind to fee increases by providing better services that support delivery.

12. Are there any other comments you would like to make about the Bill?

12.1 Homes for Scotland is generally comfortable with the package of measures presented in this Bill, recognising it is part of a much wider programme of reform. The amendments we have suggested are intended to help ensure the Bill achieves its intended role without leaving too many important details to chance.

12.2 Homes for Scotland fully supports the current statutory provisions on appeal rights and we welcome the fact the Planning Bill preserves the status quo. We have consistently supported the view that a third party right of appeal would not be a positive addition to the planning system. It would present a new opportunity for conflict, disunity and delay. The Bill takes the right approach to improving community engagement by focussing on development planning (and we have suggested helpful amendments to better enshrine the spirit and practice of collaboration).

12.3 We must avoid reducing Scotland's competitive advantage and attractiveness as a place to invest in home building, and the economic impact of a third party rights of appeal (including the costs to the planning authority) must be fully explored if this comes forward as a proposed amendment or future proposal.

12.4 Retaining an applicant's existing right of appeal is also essential. Public interest is rightly considered through the local democratic process including the planning decisions made by local planning authorities. An applicant's rights are only protected through the appeal process. It ensures opportunities for sustainable development and plan delivery are not missed and allows critical shortfalls in the delivery of new homes to be reduced. It is as important a part of the planning system as ever.

12.5 Further reasoning for the right of appeal was succinctly set out at paragraph 2.4 of the Scottish Government's consultation paper of 2004 on the Rights of Appeal in

² This includes sites over 2 ha in size or developments of 50 houses or more.

³ This also includes Applications affecting Tree Preservation Orders, Listed Building Consent Applications and Conservation Area Consent Applications

Planning⁴ as: *“This existing right of appeal should be seen in the context of the introduction of the current system of planning legislation in 1947 which, in effect, had the potential to restrict a property owner’s “right” to develop their land. The appeal provision formed part of the planning process to provide appropriate scrutiny of the denial of that right to develop.”* That reason remains valid.

12.6 It is acknowledged that there appears to be some loss of public trust in the planning system. Achieving more effective collaboration with communities in Development Plan preparation is the right and most positive method to address this rather than waiting to engage at the decision stage.

12.7 The planning system has a function of enabling the delivery of the development that each part of Scotland needs. It is responsible for ensuring that enough new homes are capable of being built and the right forms of other development are brought forward. A properly functioning planning system that embraces stakeholders at the stage where they can be most effective is an essential pre-requisite to ensure that the new development Scotland needs will come forward in the timescales, volume and locations needed to deliver tangible sustainable economic growth. Our views and proposed amendments are intended to help achieve this broad outcome.

⁴ This also includes Applications affecting Tree Preservation Orders, Listed Building Consent Applications and Conservation Area .

Written Submission from Scottish Renewables

Scottish Renewables is the representative body for the renewable energy sector in Scotland, working to grow a sustainable industry which delivers secure supplies of low-carbon, clean energy for heat, power and transport at the lowest possible cost. We represent around 280 organisations ranging from large energy suppliers, operators and manufacturers to small developers, installers and community groups, and companies throughout the supply chain.

Scottish Renewables welcomes aspects of the Planning (Scotland) Bill, but is concerned that some of the proposals contained in it would have unintended consequences for the renewables sector and, as a result, the Scottish Government's climate change targets. Scottish Renewables is of the view that renewable energy should be given a greater degree of focus than is currently the case in the Bill.

The Scottish Government, with cross-party support, has set world-leading targets for renewable energy generation and emissions reduction. These ambitions are challenging and require a joined-up approach within government if they are to be achieved.

Scottish Renewables' members provide the engine that realises the Scottish political consensus on climate change and renewable energy leadership. At the same time, with the increasing pressure on cost reduction and the erosion of most forms of revenue support for renewables, the need for the Scottish Government to do everything in its power to make renewable energy investment as competitive as possible is greater than ever.

Creating and sustaining a fair and robust planning system is critical to ensuring that well-sited, responsibly developed projects continue to contribute towards achieving sustainable and inclusive growth across Scotland, as well as to our energy and climate change targets.

If you have any questions on the comments set out in this response, please contact Peter Speirs, Public Affairs Manager.

Yours sincerely,

Jenny Hogan
Deputy Chief Executive

Response to Committee Questions on the Bill

- 1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?**
 - 1.1. Whilst this Bill has many positive provisions, it appears that it was drafted with insufficient consideration given to the Scottish Government's recently published Energy Strategy, Onshore Wind Policy Statement, draft Climate Change Plan and both the existing Climate Change (Scotland) Act 2009 and forthcoming Climate Change Bill. It is our hope that scrutiny of the Bill will be focused not just on housing policy, but on enabling the Scottish Government to deliver the challenging targets that all major parties support as well as the Scottish Government's National Outcomes.
 - 1.2. The recently published Energy Strategy outlines the Scottish Government's energy transition plan out to 2050, setting a new 'all energy' renewables target to deliver the equivalent of half of Scotland's heat, transport and electricity needs from renewable sources by 2030, along with a clear message of ongoing support for existing renewable energy technologies. We welcome the level of ambition contained within the Energy Strategy, but believe that some of the proposals contained in this Bill could undermine this target.
 - 1.3. We would expect to see more alignment with the policies set out in the draft Climate Change Plan, Energy Strategy, Onshore Wind Policy Statement, and in Scotland's Energy Efficiency Programme (SEEP) consultation document on 'Local Heat & Energy Efficiency Strategies (LHEES), and Regulation of District and Communal Heating'. These refer to a number of planning changes that are not referenced as part of the wider review. For example, the consultation on heat regulation proposes establishing district heating zones which will need to be considered alongside local plan policies. Those scrutinising the Bill should regard renewable energy as an issue of the same degree of importance and relevance to the Bill as housing.
- 2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?**
 - 2.1. We have no comment to make on this point.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

3.1. Overall, Scottish Renewables is supportive of the proposed ending of Strategic Development Plans. However, the detail on how proposals for regional partnerships would work in practice and how this would be resourced will be of the utmost importance. It would be desirable for secondary legislation to provide a clear steer for regional planners towards the Scottish Government's national priorities.

3.2. In relation to the appeals and local review system, a greater degree of realism is required regarding the designation of renewable energy developments between 'major' and 'local' projects. The requirement for an Environmental Impact Assessment (EIA) broadly relates to the scale of the development, but also takes into consideration the sensitivity of the environment in which the development is proposed. For most development types, the thresholds for becoming a 'major' development generally accord with the guideline thresholds set out in Schedule 2 of the EIA regulations for EIA screening (determining whether an EIA is necessary) with the exception of wind farms.

3.3. If an EIA is required then, in many cases, the developer's application costs will increase from a relatively small amount to several hundred thousand pounds. The requirement for an EIA would, therefore, seem to be a logical test for whether an application is 'major' or 'local'. In most cases, the Bill or secondary legislation could therefore be amended to state that a development that requires an EIA cannot be regarded as 'local' and, therefore, appeals cannot be determined by the local authority. This would ensure that significant energy developments are considered with the appropriate regard for their broader significance to Scotland's strategic goals.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

4.1. We welcome the proposal to strengthen links between the development plan and community planning. It is important that any guidance on community and spatial planning must adhere to policies set out in the

National Planning Framework (NPF) and Scottish Planning Policy (SPP). We look forward to engaging in the process on developing future guidance.

- 4.2. Scottish Renewables is comfortable with the provision to increase the length of time between reviews of Local Development Plans (LDPs) provided the increased intervals of review have regular reviews built into them. It must be borne in mind that the renewables industry – and indeed the energy realm as a whole - is one of the most innovative and dynamic areas of our economy. The rapid pace and scale of change in the past decade, which was largely unanticipated, is likely to accelerate more quickly and to an even greater degree in the next. It is a concern that the provisions of the NPF and the LDP's 10 year review cycles could be overtaken by the rate of change in the energy sector. It would therefore be desirable for provision to be made for interim amendments to the NPF and LDP when appropriate, and for those amendments to be subject to consultation and scrutiny.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

- 5.1. Whilst Simplified Development Zones (SDZs) do not appear on the surface to apply to most renewable energy developments, they present an opportunity for the enhancement of the Scottish Government's decarbonisation plans. The Local Heat and Energy Efficiency Strategies will outline ambitious plans for low carbon heat projects in Scotland. SDZs with a clear steer towards heat could help catalyse district heating networks and other innovative solutions to the heat challenges set out in the Energy Strategy.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

- 6.1. Community engagement is an important aspect of the development process and sharing advice and knowledge of real experiences is an excellent way of improving practice across Scotland. However, as highlighted by the independent review, the experience of neighbourhood planning in England and Wales, created under the Localism Act 2011, has

been mixed. More than half of the draft plans published for consultation (55%) have been described as having ‘protectionist’ agendas and being openly anti-development.⁵ We are concerned that this could cause unnecessary delay and act as a barrier to development.

- 6.2. We are supportive of communities being involved in the planning system and inputting into proposals for their local area, however we are concerned that communities may not have the resources, skills and knowledge to prepare local place plans which can be translated into viable development options. We would therefore welcome further clarity on the role of the local place plan, the level of scrutiny that would be applied, and the availability of resources and skills to develop these plans at a local level.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

- 8.1. It is Scottish Renewables’ understanding that the primary target of the Levy is housebuilding developments. As most renewables projects are self-enabling, there should be little impact on renewables projects. We believe that the intentions of the Levy should be made more explicit to avoid confusion.

- 8.2. In the case of onshore wind and solar PV, the introduction of an Infrastructure Levy could increase costs which would be at odds with the Scottish Government’s focus on cost reduction and its challenge to the industry to develop the UK’s first commercial wind farm without subsidy in Scotland. For all renewable energy technologies, keeping costs as low as possible is vital in order to ensure the competitiveness of the industry and safeguard the tens of thousands of jobs reliant both directly and indirectly on the renewables sector.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

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www.turley.co.uk/sites/default/files/uploads/news/Turley_%20Neighbourhood%20Planning_March_2014.pdf.

- 9.1. Scottish Renewables' members continue to express concern with the unpredictability and lack of scrutiny in the review process. Many of our members feel that Local Review Bodies (LRBs) are often ill-equipped to make decisions on renewable energy projects due to their technical nature and the level of complexity involved. Our concerns were echoed in the report from the independent panel preceding this Bill which highlighted ongoing and long-running concerns about inconsistency in LRBs' working practices and decision-making.
- 9.2. We would welcome training for any committee members or members taking part in Local Review Boards to increase the knowledge and skills base which would increase the quality of decision making. Some form of accreditation or membership to the Royal Town Planning Institute may be an appropriate route as part of training and may instil greater trust in their decision making. It is important that training for councillors is not focused on housing developments to the exclusion of other major infrastructure projects, not least renewable energy. It should be emphasised to local councillors that their decisions have a significant impact on Scotland's ability to achieve our renewable energy and climate change targets, which have cross-party backing, as well as the Scottish Government's National Outcomes.
- 10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?**
- 10.1. The most recent annual statistics provided by the Scottish Government Environmental Appeals Division demonstrate that the success rate for delegated appeals is 49%, which implies that half of the initial determinations did not strike the correct planning balance.⁶ This figure is largely consistent with that of previous years.
- 10.2. The renewables industry remains of the view that some planning decisions may be made largely for local political reasons, not least those involving onshore wind developments. There are also long-running concerns regarding the performance of some planning authorities. The provisions included in the Bill appear to strike the correct balance between maintaining a commitment to local decision-making and the need for co-ordinated national action to achieve our ambitious targets.

⁶ <https://beta.gov.scot/publications/planning-and-environmental-review-2016-17/>

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish Government wants? If not, what needs to change?

11.1. In the Onshore Wind Policy Statement, the Scottish Government recognised that, as “arrangements which have enabled onshore wind to expand and to reduce its costs so successfully are no longer in place,” a “supportive and well-resourced planning system” is necessary but insufficient to deliver the Scottish Government priority of “support[ing] a route to market for onshore wind.”⁷ The Policy sets a challenge to industry to develop the UK’s first commercial wind farm without subsidy in Scotland.

11.2. As discussed above, any action which increases the cost of development for onshore wind will make meeting this challenge more difficult. We recognise that it is only reasonable that the costs of processing a planning application should be reflected in the fees paid by applicants. Planning fees have already been subjected to substantial increases in recent years. It remains unclear to developers what tangible benefits have been realised as a result of these fee rises. Further increases to existing fees and the levying of additional fees for services which are currently provided without charge must be accompanied by clear, measurable, and transparent improvements in planning service provision.

11.3. Scottish Renewables welcomes the Scottish Government’s commitment to reinvest any increase in revenue from the planning system back in to improving the planning system. It would be unacceptable for additional fees to be spent on anything other than improving the planning system in order to ensure decisions are taken as efficiently and effectively as possible and by trained planners. It may, therefore, be desirable for a consideration of the inclusion of a provision implementing a form of ring-fencing in the Bill or in secondary legislation in order to guarantee that increases in planning costs are met with a concomitant improvement in planning delivery.

12. Are there any other comments you would like to make about the Bill?

12.1. Scottish Renewables is aware that there continues to be a vocal minority which advocates for the introduction of either a third party right of appeal,

⁷ <http://www.gov.scot/Resource/0052/00529536.pdf>

a so-called 'equalisation' of appeal rights, or even the abolition of any right of appeal of planning decisions.

- 12.2. The question of third party rights of appeal was previously explored in great depth and rejected by the then Scottish Executive.⁸ Alterations to the appeal process were also rejected by the People, Places, and Planning Review. It is our view that the case against the introduction of such an appeal right has strengthened in the intervening time. The generation of renewable energy and climate change mitigation is now of utmost importance to the Scottish Government. The cross-party support for robust targets on renewable energy and climate change included in the Climate Change (Scotland) Act 2009 and the Scottish Government Energy Strategy provides impetus for major renewables infrastructure projects.
- 12.3. Many of those who seek alterations to the planning process do so in good faith with the aim of addressing their concerns about the operation of the planning system. The position adopted in the Bill provides a superior alternative to any alteration to the appeals process for these interested parties. Frontloading community consultation obviates the need for intrusive amendments to the existing appeals process. These changes will provide an opportunity for local communities to help shape planning rules in their area.
- 12.4. Recent experience of countries considering third party rights of appeal indicate that its introduction would be of limited value and could lead to significant unintended consequences. The introduction of a third party right of appeal was considered during the progress of the Planning (Wales) Bill through the Welsh Assembly in 2015. After extensive consultation the proposed right of appeal was not enacted due to concerns over resource and time consumption within the planning system. The right of appeal in the Republic of Ireland does not apply to major infrastructure projects.
- 12.5. The frontloading of community engagement in the planning process will mean that local communities will be involved in the planning process from the outset. The alteration of the current appeals process will necessarily result in significant delays for major renewable energy projects. In some instances, this will mean that this will lead to many years of delays, and empower politically motivated individuals to make vexatious appeals rather than engage in the good faith frontloaded engagement processes

⁸ <http://www.gov.scot/Publications/2004/04/19206/35611>

contained in this Bill. This would likely result in the already extremely challenging renewables and climate change targets becoming inordinately difficult to meet.

- 12.6. The Committee on Climate Change recently reported that renewable energy capacity in the UK will need to double by 2030 if we are to meet our binding climate change targets. It is clear that, to achieve this, we will need to continue to develop and repower onshore wind sites at the lowest possible cost. It is therefore essential that the application process is streamlined wherever possible; taking into account the sites' existing uses as highlighted in SPP and using all relevant existing information from the previous/existing developments to inform planning decisions for new developments. With this in mind, we believe that the environmental baseline should reflect the environmental conditions at the time of the repowering application and not the baseline conditions of the original wind farm applications submission.
- 12.7. In addition, Scottish Renewables believes that a strong signal should be given to all those involved in the planning process that planning forms a key driver of renewables targets delivery. Given the high level of importance invested in tackling climate change and securing strong and inclusive economic growth, provision should be made for the explicit inclusion of a recognition that planning policy should have regard to and seek, wherever practicable, to implement the Scottish Government's National Outcomes and Energy Strategy. This would act to emphasise the significance of renewable energy projects to Scotland.

Written Submission from Federation of Master Builders Scotland

Introduction

About the FMB

The Federation of Master Builders (FMB) is the largest trade association in the UK construction industry, and with over 8,000 members, it is the recognised voice of small and medium-sized (SME) construction firms. Established in 1941 to protect the interests of construction SMEs, the FMB is independent and non-profit-making, lobbying continuously for members' interests at both the national and local level

About this submission

Our submission is based on the questions put forward by the Local Government and Communities Committee.

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

Broadly, yes. The Bill's emphasis on the delivery of development, and objectives to reduce complexity and improving accountability in the planning process is welcome. This should all serve to support the diversification of housing delivery in Scotland.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

Sections 1 to 8 of the Bill aim to ensure that development plans bring a far greater focus to the delivery of development. This should stimulate higher levels of house building. Many of our SME house builder members have commented that the planning system has become too bureaucratic and complex. The time it takes to navigate the planning system and the consequent delays to decision making by planning authorities jeopardise the cash flow of SMEs: resulting in a collapse in their confidence in the planning system.

The FMB would welcome further changes to support SME house builders. In reality, most sites suitable for SME house builders may typically be considered too small to be allocated within local plans. This means that SMEs are largely reliant on bringing forward non-allocated sites on which the risk is significantly greater. If Scottish planning policy can make the application process for these sites less onerous, this would assist such applications. Ultimately this would diversify and increase housing supply in Scotland.

3. Do the proposals in Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

The FMB does not currently take a view on this matter.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

The FMB supports the policy objective in the Bill of significantly strengthening Local Development Plans (LDP's) through giving them a greater focus on place and delivery. The extension of the timescale for LDP's from five to 10 years will impart a more settled vision of how an area should develop in the future. Through this, developers of all sizes should have greater certainty and confidence to invest in bringing forward more sites and building more homes.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

We agree that the zoning of land through SDZ's could unlock more areas for new housing. However, any pipelines of development-ready land must encourage a diverse range of house builders, including SMEs and smaller-scale house builders. SDZ's must be used in supporting the development of smaller sites, not just in enabling through master-planning, what are effectively very large developments. SME house builders provide greater diversity in housing design, scale and quality, and are also critical players in delivering self and custom build housing. The cumulative potential of SME builders building more homes on smaller sites across Scotland is considerable. Stimulating more small sites and more custom and self-build will be assisted via the frontloading of scrutiny, for instance through greater use of design code-type arrangements and the alignment of consents.

Given that SME house builders build within their local area, they will have an understanding and respect for community interests. They are part of their community, employ locally and have a stake in the local environment.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

The FMB believes that local development plans need to consider community planning, but the primary focus should be on the development plan agreed by the local authority.

We support the view set out in the consultation that introducing a third party right of appeal would have a detrimental effect. The impact on planning timescales would lead to further delays which would slow down housing delivery and disincentivise many SME house builders, who already cite planning delays as a major obstacle in developing smaller sites.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

Planning authorities must be adequately resourced, otherwise it will be difficult to achieve better compliance with planning control.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

The FMB believes that any levy should not apply to the smallest sites, as viability varies much more sharply on smaller, particularly brownfield sites. The land market does not operate in the straightforward way assumed by viability models when it comes to these kinds of sites. Additionally, there must be a review of planning policy relating to current planning obligations, especially the use of section 75 and how these will relate to the proposed new levy. Developers of all sizes may view that potential developments are no longer viable, owing to the perceived and actual risk of excessive charging. Planning authorities need to be encouraging, not discouraging, appropriate development in Scotland.

In terms of lessons which can be and should be learnt from the experience in England following the introduction of the Community Infrastructure Levy, we would suggest that the following are all important points to consider.

1. The inflexibility of a levy type arrangement on large developments has been a hindrance to the development of more bespoke agreements necessary to deliver complex and extensive infrastructure required to unlock large sites.

2. At the same time, the inflexibility of a levy type arrangement, when applied on top of already-applying developer contributions, will make the economics of small scale development much more difficult and prohibitive in many instances, unless accompanied by a lower threshold for one or the other of these contributory streams. In response to this concern, the Westminster Government introduced a ten unit threshold for the application of Section 106 obligations in England. We would suggest either the extension of a similar threshold to the new Levy or to the already-applying section 75 agreements.

3. It should be normal practice that any levy is payable at least from commencement, but preferably from completion of the property, as this will make little difference financially to local authorities, but it will make a very significant difference to SME developers.

4. Surveys of FMB house builder members in England and Wales suggest that the greater transparency and certainty which CIL was meant to deliver has not in fact

been delivered and that most developers see no greater certainty in CIL than they do in the section 106 agreements.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes, the FMB supports this. Those who sit on planning committees or on local review bodies should be sufficiently trained in planning law and their legal responsibilities.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

A major factor in the delays and uncertainties experienced by SME house builders is the inconsistent and poor performance of planning authorities. Excessive bureaucracy and unnecessary delay in the planning system are major burdens for SME developers. Therefore, the FMB supports the package of three broad measures introduced by section 26 of the Bill:

- Statutory requirement to produce annual performance reports
- Appointment of a national planning performance co-ordinator
- Powers to conduct assessments of planning authorities' performance and to pursue improvements.

Local authorities should share good practice and gather feedback from users of the planning system. The FMB is optimistic that the statutory role of the planning performance co-ordinator will help make both happen. Moreover, local authorities could derive efficiencies through pooling resources, thereby helping the planning system to become more effective at assisting appropriate development.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish Government wants? If not, what needs to change?

It is the FMB's view that planning services need to be sufficiently resourced to ensure they are efficient and effective. FMB supports the principle of local discretionary charging for service provision in section 21 of the Bill, provided we can be reasonably certain that this extra revenue generated will be used to adequately resource and improve the performance of planning services. Flexibility in charging fees can be a positive thing; if this is used to rationalise the resourcing of planning services. If the flexibility of charging fees can be justified, applicants are more likely to accept paying higher fees; especially when this results in demonstrably improved performance. However, if flexibility becomes code for hiking up fees in order to fund other services, this will further stymie development and the FMB would not support this. The provision for authorities to reduce or waiver fees could be especially encouraging for SMEs, if this is used to encourage greater diversity of supply in new housing.

12. Are there any other comments you would like to make about the Bill?

Scottish Government housing statistics demonstrate that housebuilding in Scotland has declined by around 40% since 2007. There are many factors contributing towards this, but one important factor is the decline in the number of and the output of SMEs building new homes. Research by the FMB has consistently highlighted the lack of viable land as one of the key barriers to SME house builders' ability to build more homes. A more strategic approach to establishing the number of homes required at a national level is welcome, as is the drive to diversify housing provision. SME house builders are key to this, especially through their role in the delivery of custom and self-build homes.

Written Submission from the Scottish Federation of Housing Associations

1. Who we are

1.1 The SFHA leads, represents and supports Scotland's housing associations and co-operatives. We want to see a thriving housing association and co-operative sector providing sustainable and affordable homes.

1.2 Housing associations and co-operatives are the principle providers of new build affordable and social rented housing in Scotland.

2. Executive summary

2.1 There is an established outstanding need for affordable housing in Scotland, especially for social rent. A study commissioned by SFHA and partners found an unmet need for 60,000 new homes for social rent in 5 years⁹

2.2 The Scottish Government has set an ambitious target to deliver 50,000 affordable homes during the current parliamentary term. The target is very welcome – the planning bill, however, provides an opportunity to put in place a system to deliver an increased supply of affordable housing longer term.

2.3 We welcome proposals to introduce Local Place Plans but believe these will only succeed if properly resourced and if all parts of a community are supported to participate.

2.4 While we support proposals for Simplified Planning Zones for Housing, the type and tenure of the homes should meet local needs.

2.5 The Independent Review of Planning was set up with the main aim of increasing housing supply in Scotland; we believe that the Planning Bill can do more to achieve this.

2.6 We are calling on the Planning Bill to make provision for the transfer of land at existing use value in order to increase the supply of affordable housing.

2.7 We are also calling on Land Value Capture (LVC) from land granted planning permission for housing to be used to ensure the increased delivery of affordable housing, the funding of infrastructure and the development of better places.

¹ SFHA, CiH and Shelter (2015) Affordable Housing need in Scotland – available at https://scotland.shelter.org.uk/_data/assets/pdf_file/0009/1190871/7909_Final_Housing_Needs_Research.pdf accessed 2nd February 2018

2.8 A recent study by the Black Commission¹⁰ highlighted inequalities in the housing system and their impacts on health and wellbeing, while a report by Audit Scotland highlighted the role that quality affordable housing can play in delivering policy priorities such as economic growth and improved health¹¹.

2.9 Affordable housing has a significant role to play in delivering the health and social care agenda, and in helping the Scottish Government to meet its social-economic duty by providing secure, quality affordable housing for people on low incomes.

2.10 The Scottish Government's commitment to deliver 50,000 homes, and the £3billion public funds made available to support affordable housing, is therefore extremely welcome and will help meet outstanding need and support housing associations to deliver quality affordable homes while also helping to tackle poverty and reduce inequality.

3. Main Report

3.1 Our proposals in this submission look at what happens after the 5 year 50,000 homes commitment ends in 2021, and are also written with people unlikely to be housed in social housing but unable to buy a home in mind.

3.2 We believe, that the Planning (Scotland) Bill provides an opportunity to make provision for increasing supply of affordable housing on a longer term basis. Below we suggest some provisions that we believe would help to increase the supply of affordable housing of all tenures.

3.3 We welcome the provision in the Planning Bill to designate Simplified Planning Zones (SPZs) for Housing. For SPZs to meet housing need and deliver wider policy benefits they should be developed based on a local Housing Needs and Demands Assessment that identifies the type and tenure of homes needed in the area, and they should be based on good urban design principles and promote active travel and quality green spaces.

3.4 We also welcome the provision for an instrument to set up an Infrastructure Levy, although we believe that proposals on LVC set out below can do more to increase the delivery homes and better places. Challenges with funding infrastructure can

¹⁰ Shelter (2015) Commission on Health and Wellbeing – available at <http://housingandwellbeing.org/assets/documents/Commission-Final-Report.pdf> - accessed 2nd February 2018

³ Audit Scotland (2013) Housing in Scotland – available at http://www.audit-scotland.gov.uk/docs/local/2013/nr_130711_housing_overview.pdf accessed 2nd February 2018

often delay or prevent the delivery of new housing. We support calls for the bill to allow LVC to be used to capture the increased value attached to land that gains planning approval for housing. The uplift in value could be used by local authorities to fund infrastructure and community facilities, and reduce the cost of developing affordable housing. The uplift in value would be redistributed on the basis of need and help the Scottish Government to fulfil its socio-economic duty.

3.5 We are aware from our members that the availability and cost of land suitable for housing development is a significant constraint on the delivery of affordable housing. We therefore propose that the bill should contain provision for land to be transferred at existing use value for development for affordable housing by local authorities and housing associations. This would allow affordable homes to be developed at lower cost, keep rent levels down and allow more land to be made available to increase housing supply.

3.6 Planning approval or the purchase of a site with the intention of the development for housing does not always lead to delivery of homes in the near future. We believe that the use of Compulsory Sales Orders for land that has not been developed, and that has lain empty for 5 years, would help to increase housing supply.

3.7 Finally the SFHA believe that the Planning (Scotland) Bill prevents a significant opportunity to deliver better places and increase the delivery of quality affordable homes – we have therefore become part of the Scottish Alliance for People and Places and support the alliance’s submission on the bill.

Written Submission from McCarthy and Stone

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment

The Planning Bill provides an opportunity to place Scotland as a leader in the development of much-needed specialist retirement housing. However, the Bill, as drafted, fails to reflect the work of the independent planning review. The 2016 review noted that *“future proofing is needed to ensure the needs of Scotland’s ageing population are met”*. In addition recommendations 16 and 24 called for *“a proactive approach to expanding homes for the elderly”* and *“using conditions, rather than planning obligations in some circumstances”* for Section 75 obligations.

Indeed, the existing Bill and accompanying policy documents make no mention of older people’s housing as a policy priority.

This is despite the fact that within a generation, a third of all Scots will be aged over 65, increasing from almost one million people to 1.8 million by 2039. Those aged over 75 will have nearly doubled from 0.44 million to 0.8 million. But there is a significant shortfall in the number of retirement properties available.

The data shows Scotland is not building enough retirement housing to meet the needs of a rapidly ageing population. There are only about 20,000 sheltered and very sheltered housing dwellings provided by local authorities and just more than 4,500 available for homeowners. There is therefore substantial under provision of owner occupied retirement housing which is highly desired amongst the older population.

Without urgent action, many older people will continue to be trapped in unsuitable and often oversized properties which are difficult to heat, expensive to maintain and often unsuitable for their care needs.

The updated 2014 Scottish Planning Policy (SPP) identified the need to plan for older people’s housing for the first time; however experience suggests that this has had little impact in increasing supply in either the public or private sector.

Given the increase in population further action is needed to address the shortfall in suitable retirement housing. The Planning Bill provides ideal opportunities to address this imbalance and meet the needs of the ageing population.

We urge the committee to support amendments to the Planning Bill that give specific consideration to specialist older people’s housing. These are to:

1. Requires local authorities to prioritise specialist retirement housing: it should be regarded as important as the need for, or equivalent to, affordable housing.
2. Sets a clear national target for new build housing exclusively for older people: across a range of tenures over the next 10 years including Extra Care, sheltered and

retirement. Delivery against these targets should then be monitored in yearly statements by the Scottish Government. Should NPF4 set regional housebuilding targets then within those targets a figure for older people's housing should be included.

3. Provides guidance to identify and protect suitable sites for older people's housing in local development plans: sites are in short supply but high demand for a wide range of commercial, leisure, and residential uses including self-build homes. In particular, central brownfield sites between 0.25 to 0.5 hectares in size, close to shops, services, and transport links should be protected and a presumption given in favour of consent for specialist retirement housing, including sheltered housing and Extra Care accommodation and across all tenures.

4. Clearly exempts specialist retirement housing from paying affordable housing contributions: ending current inconsistency in requirements across local authorities and ensuring this form of housing can be delivered. Research shows such contributions seriously constrain specialist retirement housing development due to its unique design and build features that make it more expensive and complex to develop.

5. Provides guidance for local authorities: to help categorise specialist retirement housing, including criteria such as housing which is age-restricted for occupation by older people and supported accommodation that provides on-site care and communal facilities.

6. Bring forward an amendment to categorise retirement housing within its own planning Use Class to differentiate this specialist form of housing from mainstream residential.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

As noted above we do not believe the Bill, as draft, will support the level of house building required to meet the needs of older people. Again, we recommend the following amendments to be made to the Bill:

1. Requires local authorities to prioritise specialist retirement housing: it should be regarded as important as the need for, or equivalent to, affordable housing.

2. Sets a clear national target for new build housing exclusively for older people: across a range of tenures over the next 10 years including Extra Care, sheltered and retirement. Delivery against these targets should then be monitored in yearly statements by the Scottish Government. Should NPF4 set regional housebuilding targets then within those targets a figure for older people's housing should be included.

3. Provides guidance to identify and protect suitable sites for older people's housing in local development plans: sites are in short supply but high demand for a wide range of commercial, leisure, and residential uses including self-build homes. In

particular, central brownfield sites between 0.25 to 0.5 hectares in size, close to shops, services, and transport links should be protected and a presumption given in favour of consent for specialist retirement housing, including sheltered housing and Extra Care accommodation and across all tenures.

4. Clearly exempts specialist retirement housing from paying affordable housing contributions: ending current inconsistency in requirements across local authorities and ensuring this form of housing can be delivered. Research shows such contributions seriously constrain specialist retirement housing development due to its unique design and build features that make it more expensive and complex to develop.

5. Provides guidance for local authorities: to help categorise specialist retirement housing, including criteria such as housing which is age-restricted for occupation by older people and supported accommodation that provides on-site care and communal facilities.

6. Bring forward an amendment to categorise retirement housing within its own planning Use Class to differentiate this specialist form of housing from mainstream residential.

Incorporating these asks will help to encourage a major programme of house building for older people in Scotland, which has been proven to provide the following benefits:

- Will reduce pressure on health and social care spending which is currently estimated to rise to nearly £8 billion by 2031 – around 10% of the total Scottish budget
- Enables older people to remain independent for longer, within their own homes, helping to meet Scottish Government targets
- Can avoid or delay a move to full-time residential care saving up to £30,000 per annum, or reduce hospital admissions saving over £3,800 per week
- Helps to promote wellbeing and reduce loneliness and isolation, improve security and companionship and create a better living environment for older people - 92% of residents are very happy or contented in retirement housing.¹²

We noted the recently published UK Government Housing White Paper which clearly emphasised the need for specialist retirement housing, and recommends a new statutory duty through the Neighbourhood Planning Bill to produce guidance for local planning authorities on how local development plans should meet the housing needs of older people. We believe this is a positive step forward. The Scottish Government has a unique opportunity to ensure Scottish policy makers go as far, or even much further to support the development of more specialist retirement housing.

¹² *Institute of Public Care, Oxford Brookes University, McCarthy & Stone, Local Area Economic Impact Assessment; Housing markets and independence in old age: expanding the opportunities*, Professor Michael Ball, May 2011, and a Better Life, Private Sheltered Housing and Independent Living for Older People, Opinion Research Bureau, 2008 and 'Fit for Living Network (2010) Position Statement, HACT'.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

It is hoped strong regional partnerships can be created at Strategic Level between Local Authorities to ensure some consistency in planning decision making and to enable cross boundary developments to be considered appropriately. Much will rely on the National Planning Framework to provide the structure for regions to form such partnerships.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

McCarthy & Stone recognises the importance of increasing local participation in the preparation of local development plans (LDPs), however Housing policy needs to recognise that different sections of the community have differing housing needs and we believe there is a need for increased emphasis in Community Plans of the housing needs of the elderly, as well as affordable housing.

As noted above the Independent Planning Review called for “*a proactive approach to expanding homes for the elderly*”; yet there is no note of this in the Bill. We believe LDPs must identify and set aside suitable land on which housing for the elderly can be built. Without active and ongoing support from planning authorities, it will be increasingly difficult for suitable retirement housing sites to be secured for development.

No targets exist for specialist retirement housing; an increasingly growing section of the population.

In order for the Scottish Government to deliver its aim of good quality places to live, it is our view that more attention needs to be given to assessing and delivering a range of housing to meet the needs of the entire community, including older people. Housing for older people should be given the same priority as affordable housing and other specialist forms.

Appropriate land must be set aside in LDP’s for specialist retirement housing. Councils should identify suitable sites for such housing – in increasingly short supply but high demand – within local plans. Developments must be located close to local shops, services and transport links in towns and town centres. Due to the economics of retirement house building – where the development has to be completed before any unit can be sold and where there is a greater degree of non-saleable space such as communal living space and managers accommodation – these sites are often lost to competing developers who can lodge significantly larger bids for other commercial, leisure or retail uses. These are not subject to the same affordable housing contributions or housing uses, including growing competition for self-build.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

We are supportive of SDZs and consider that sufficient parameters can be set to safeguard both the public and environmental interest. Successful schemes have been operated in Renfrew Town Centre and Hillington in Renfrewshire and it is understood development and investment has consequently increased in these areas. Greater support should be given to Local Authorities, who already have competing resource challenges, to promote these zones given the costs of setting up the legislative framework and legal costs associated.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

While we welcome the principle of communities in having a major say about how their community should develop we are still concerned that the time spent in developing local place plans may delay the development of an LDP. The scale of the task of producing place plans for Scotland is immense. In a city such as Edinburgh there may well be upwards of 50 recognisable and self-identifying communities. No doubt a minority of these communities will have the capacity to develop a local place plan themselves, but the majority of communities will need more than simply written guidance. Many communities will need greater –and ongoing– support.

Consequently there will be significant costs involved in helping communities prepare a local place plan. Given the ongoing reductions in local authority budgets here will this resource come from?

While the intent is to ensure that *“local place plans are used to promote appropriate development rather than as a vehicle to prevent it”* it should be recognised that experience following the introduction of the 2011 Localism Act in England is that the majority of place plans produced thus far have been shown to be broadly “anti-development”. In short local place plans should be a means of promoting development rather than a vehicle to prevent it.

The absence of a local place plan should not be allowed to delay the completion of an LDP.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

The level of increase in fines is likely to act as some additional deterrent to breaches in planning control however again the enforcement powers can only be exercised if there are resources within Local Authorities to carryout these functions. It is McCarthy & Stone’s experience that local council planning departments are

generally under resourced which impacts negatively on the processing time of applications from pre app through to issuing legal agreements.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

The Scottish Parliament should carefully consider whether an infrastructure levy similar to the Community Infrastructure Levy in England and Wales is the best mechanism for securing collective funding for strategic infrastructure.

As a developer in England and Wales, as well as Scotland, McCarthy & Stone has actively engaged with Local Planning Authorities who have prepared and implemented CIL and conversely those who have determined that CIL was not in their best interests.

It is our view that the cost of CIL has been absorbed by developers in the South East and other affluent parts of the country, however in lower value areas where viability is more marginal it has acted as a barrier to development. Many LPA's have chosen not to impede development and have forgone or delayed pursuing CIL on that basis. Affluent LPA's therefore receive additional funding to supplement existing infrastructure (often already of high quality) whereas deprived authorities with a greater need for investment do not. It is a flawed system.

McCarthy & Stone have actively engaged with Local Planning Authorities across England and Wales to ensure that the ability of specialist retirement housing to support CIL is tested rather than simply assumed. This has been a significant challenge and the company, in tandem with other specialist housing providers, has devoted significant resources and time to this endeavour. Currently in England and Wales testing the viability of specialist housing developments has become established with both viability consultants, LPA's and the Planning Inspectorate and it is now considered 'best practice'. This however was not always been the case and there are a significant number of older CIL Charging Schedules which have a disproportionate impact on the delivery of these forms of development as a result.

Should the Scottish Parliament deem it appropriate to pursue a CIL style tariff for new development then it should ensure that all forms of development remain viable and that there is no disproportionate impact on a particular sector or sectors.

Indeed, it is our view that the application of an infrastructure levy should be limited to only the most viable forms of development and that it should not disproportionately impact on wider local or national planning objectives.

Previously developed sites in urban areas are particularly susceptible to higher build costs, have higher land values due to existing uses on site and greater abnormal costs such as land contamination. In our experience in England and Wales the viability of previously developed, urban land is not tested as comprehensively as

greenfield urban extensions. This is because most LPA's focus on testing where the greatest quantum of development will be delivered.

The benefits of redeveloping previously developed land are well known and as such it is a key theme in the SPP. It is our view that any infrastructure levy should therefore be limited to large greenfield or strategic sites acting as an incentive to redevelop previously developed sites.

If used incorrectly such measures could be viewed as another tax on the development industry. Such contributions must be proportionate the development proposed and the need for such contributions robustly evidenced. With such critical shortfalls in housing provision a further tax on residential development may only serve to restrict housing supply and force both house and land prices higher.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes. Whilst there are some elected members with a robust workable knowledge of the planning system, it is indisputable that those involved in planning committee or local review bodies would benefit from training.

All newly elected councillors should be given mandatory training in the mechanics of the planning process and what factors should, and should not, be pertinent to decision making. Members who sit on Development Management Committees should undertake more detailed and ongoing training.

Planning Committee members should be given the opportunity to visit suitable specialist retirement housing developments. For example, we were happy to host a visit by the Edinburgh Council's Development Management Committee to our Lyle Court Assisted Living development in Barnton, Edinburgh. Assisted Living is a relatively new concept in Scotland and by visiting Lyle Court councillors gained a real understanding of the concept.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

The Scottish Planning Policy (June 2014) advises that *"As part of the HNDA, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites"* (para 132).

Despite this requirement to consider the housing needs of older people, it is our view that the overwhelming majority of Local Development Plans and Housing Need and Demand Assessments do not plan proactively to meet the diverse housing needs of older people.

As such, we believe the bill must be more prescriptive about the role planning authorities have in the delivery of specialist retirement housing accommodation. This will force Local Planning Authorities that were previously reluctant or reticent over older person's housing to consider this matter in more detail.

MCS welcome the appointment of a performance director, however, ultimately planning authorities require more funding to fully resource planning and recognise the economic benefits to enabling development within their respective areas.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high –performing planning system the Scottish Government wants? If not, what needs to change?

McCarthy and Stone is happy to pay for some ancillary services such as pre application discussions with Local Authorities but only if the financial outlay is proportionate to the service received. We have experience of paying £1000 plus and receiving a very good pre application services such as Highland Council and other areas where we pay the same but receive a very poor service which results in minimal advise and delays.

12. Are there any other comments you would like to make about the Bill?

McCarthy and Stone welcome the ambitions of the Planning Bill to speed up the planning process and facilitate more development however we are disappointed not to see more emphasis being given at a statutory level to support specialist housing for the elderly given the well documented need and would hope more detailed consideration to this aspect is encompassed within the next National Planning Framework if not this current Planning Bill.

Written Submission from RTPI Scotland

The Royal Town Planning Institute (RTPI) is the champion of planning and the planning profession. We work to promote the art and science of planning for the public benefit. We have around 2000 members in Scotland and a worldwide membership of over 25,000. We:

- support policy development to improve approaches to planning for the benefit of the public;
- maintain the professional standards of our members;
- support our members, and therefore the majority of the planning workforce, to have the skills and knowledge they need to deliver planning effectively;
- maintain high standards of planning education;
- develop and promote new thinking, ideas and approaches which can improve planning;
- support our membership to work with others who have a role in developing places in Scotland; and
- improve the understanding of planning and the planning system to policy makers, politicians, practitioners and the general public.

RTPI Scotland's members will in large part be responsible for the successful implementation of the Bill, once enacted. We would be pleased for a representative of the Institute to be invited to give oral evidence to the Committee, to provide further detail on the issues raised in this submission. All of RTPI Scotland's submissions regarding the review of the planning system can be viewed at:

<http://www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland/policy-and-research/planning-review/>.

Overview

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

It is not possible to answer this question without knowing what further changes to the planning system will be made following the Bill's enactment, in particular through secondary legislation and new policy and guidance. Furthermore, achieving this balance will depend on the adequate resourcing of the planning service across sectors and disciplines. RTPI Scotland welcomes the ambition for the planning system articulated by the Scottish Government, for supporting community participation, enabling economic growth, protecting the natural environment, and

tackling social inequalities. However, this ambition is for a service which in local authorities is facing a critical resource challenge.

This question also raises the issue of what the purpose of the planning system is, something not clarified by the Bill. The Scottish Government's [2009 Guide to the Planning System](#) states that *"the planning system balances competing demands to make sure that land is used and developed in the public's long-term interest..."* Meanwhile, the Town and Country Planning (Scotland) Act 1997 states that *"The Scottish Ministers must exercise [the functions of preparing and revising the National Planning Framework] with the objective of contributing to sustainable development."* Scotland is also a signatory of the Sustainable Development Goals, one of which is 'Sustainable Cities and Communities'. The planning system should be instrumental in delivering on Scotland's commitment to these global ambitions.

The planning system is able to have significant influence over the location and type of development, however it operates in a context that it cannot always control. For example development finance and land ownership issues, crucial to successful development outcomes, but outwith the control of the planning system. The Scottish Government has committed to review of Compulsory Purchase and Sales legislation - an important element of this context. RTPi Scotland understands that this reform, while closely related to, is outwith the scope of a Planning Bill. However we urge the Government to progress this agenda as quickly as possible.

Finally, between 2009 and 2016 local authorities on average lost 23% of planning staff, while over the same period planning service budgets were cut by an average of 32.5%. These figures illustrate the resource pressure that local authority planning services are experiencing: The ambition of the Scottish Government for planning is encouraging, but must be matched by real investment for aspirations for a more spatially aware, joined up approach to development and service delivery to be realised.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If no, what changes could be made to help further increase house building?

Taken together, some of the provisions in the Bill could help to support higher levels of housebuilding. These include:

- The strengthening of the National Planning Framework has the potential to give a stronger strategic steer to where and when new homes, and the infrastructure needed to support them, should be delivered. A thinkpiece published by RTPi Scotland in June 2017, [Delivering more homes](#), advocated that a stronger NPF includes aspirations for housing delivery across the country, alongside a number of actions at the national and regional level to ensure that these aspirations are achieved.

- RTPI Scotland believes that lengthening the local development plan cycle from five to ten years, in conjunction with proper resourcing, could give planners in local authorities the time they need to focus on proactive delivery and overcoming obstacles to delivery of allocated housing sites.
- The Bill rebrands local development plan action programmes as delivery programmes. We anticipate that regulations will prescribe in more detail how these updated tools will more effectively assist the delivery of allocated sites. *Delivering more homes* proposes a renewed format for housing focused delivery programmes, which combined with the longer plan cycle, could help ensure that planning consents for housing are built out as quickly as possible.

Achieving a step change in housing supply, and particularly affordable housing supply, will depend on a host of other changes that we expect to see emerge through secondary legislation, policy and guidance, and other Scottish Government workstreams. This includes exploring opportunities for alternative modes of housing delivery, such as self-build and co-housing. New housing is not delivered in isolation, and therefore addressing the pressing need for new infrastructure across Scotland will also be critical to the delivery of new homes that form part of the fabric of great places.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

No. RTPI Scotland supports the principle behind voluntary regional partnership working, and agrees that local authorities are best placed to decide the geography of such partnerships. However, we believe that without a statutory requirement for agreement on outcomes of cross-border issues, there is potential for deadlock. The English planning system has recently attempted a similar approach: statutory regional planning was removed by the Localism Act 2010, and replaced by a 'Duty to Cooperate'. The experience of this duty has been mixed. In some regions it has been successful: For example in Greater Manchester where, supported by other devolution measures, the ten constituent local authorities have gone as far as to produce a strategic plan. However, there are also examples where, particularly as a result of disagreements about housing land allocations, neighbouring authorities have been unable to reach agreement of the extent and form of growth in their areas.

RTPI Scotland would like to see the duty included in Section 1(6) of the Planning Bill go further, and require regional partnerships to agree strategic outcomes. This could be progressed through high-level regional spatial strategies, which in turn would form part of the National Planning Framework.

RTPI Scotland does not envision such regional spatial strategies being simply lighter touch versions of the existing SDPs. We would want to see them as stronger corporate documents, making spatial connections between different public policy ambitions: economic development, environmental protection and enhancement, public health, for example. In practice, this would require stronger links with policy tools such as City Region Deals and the National Transport Strategy.

4. Will the changes in the Bill to the content and process for producing Local development plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

The changes in the Bill are helpful, but to achieve a more delivery focused system will need to be supported by additional resource and guidance. RTPI Scotland is also not convinced that the measures included in the Bill will ensure that local development plans (LDPs) are always a central part of local authority corporate strategy.

The Bill's Financial Memorandum anticipates a notional saving of £21.42m to £31.5m as a result of the changes proposed for LDPs, but also states that this saving is expected in turn to be absorbed by new requirements to be made of local authorities through regulations. It is critical that this saving is in practice ring-fenced for use to implement both the requirements of any new regulations, and a new way of working which focuses local authority planners on delivery.

In addition to adequate resourcing for the changes to the LDP preparation process proposed, RTPI Scotland believes that the reforms should go further with regard to ensuring that LDPs central to local authority corporate strategy. We have proposed the introduction of Chief Planning Officers in all local authorities: This role could be established in legislation to ensure expertise about place and spatial planning at senior management level, and in turn that the spatial consequences of corporate service delivery and investment are considered as part of the decision making process. A thinkpiece published by RTPI Scotland [A statutory Chief Planning Officer in local authorities](#), explores this proposal in more detail.

The Chief Planning Officer would have a role in ensuring alignment and coordination across all local authority strategies, but particularly relevant to the goals of the Planning Bill would be ensuring alignment between community planning outputs and development planning. RTPI Scotland believes that more clarity is needed with regard to how the proposed changes to LDPs, the introduction of local place plans, and the strengthened link between community planning and spatial planning will all interact. The total of these interventions needs to be a system that communities find it easier to engage with and that responds to their needs.

RTPI Scotland is concerned by the narrow scope of the new evidence report to be introduced to the LDP process. To ensure that all stakeholders are engaged with the development planning process right from the beginning is it imperative that they are able to input to the evidence report. This role is not clear from the proposal as introduced by Section 16A of the Bill. The RTPI Scotland thinkpiece [A new development plans process](#) outlined a proposed gatecheck process that was streamlined, but that would give opportunities for stakeholders outwith the planning service to engage. The evidence report will be important in shaping significant decisions about the broad extent and direction of development, and therefore its transparency will be instrumental in building trust in the planning system.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

RTPI Scotland believes that SDZs identified and progressed through the LDP process could achieve this balance. The plan-led approach to development, and in particular LDP procedure, provides the checks and balances necessary to ensure that the right development happens in the right place. SDZ status could therefore be applied to a site that has been scrutinised and subsequently allocated in the LDP, as a tool for focusing efforts on delivery.

RTPI Scotland has concerns about the powers contained in the Bill as introduced for third parties to request the making of an SDZ, and for Ministers to make an SDZ without restriction, because we believe it could undermine this plan-led system. We do not object in principle to third parties being able to request the making of SDZs, or to Ministers advancing an SDZ. To ensure that local democratic process is not undermined however we believe this should be restricted to sites allocated in the LDP or indicated in the NPF.

Finally, making SDZs, and processing requests to make SDZs, will have resource implications for local authority planning services. For SDZs to deliver good development that balances all interests it is important that local authorities are resourced to ensure that they fulfil other policy ambitions such as the delivery of high quality design, green space, and community infrastructure.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local place plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

The Bill looks to introduce new avenues for community involvement in the planning process. RTPI Scotland strongly supports frontloading of the planning process so that people are able to influence decisions about the future of their places from the outset, and before decisions about direction of travel begin to be made. In the proposals made however, including the introduction of local place plans, there is the potential for duplication of engagement processes leading to confusion for communities and ineffective use of local authority resources. Securing positive outcomes for places begins with public services working their engagement around community input based on the whole place not around an individual service. At this stage it is not clear how the Scottish Government envisages local place plans complementing existing tools.

RTPI Scotland's membership also has serious concerns that without significant new resource local authorities will not be able to support better community involvement in planning, leading to further frustration and public mistrust in the planning system. There are particular concerns about capacity to support the production of local place plans: A comparable cost is that of a charrette, which are funded across Scotland in part by the Government's Making Places fund. The estimated cost of delivery of a charrette averages between £30000 and £40000. The Financial Memorandum estimates preparation of around 92 local place plans per year, which gives an estimated annual cost of £3.68m. The memorandum also assumes that grants may come available from Scottish Government, local authorities, local business or the third sector. RTPI Scotland remains concerned that if local place plans are introduced without the necessary dedicated support for implementation, many communities will continue to be excluded from participation in decision making.

Some local place plans may be self-funded in the majority by communities themselves. While not objecting to this in principle this does raise some issues: A local authority will be required to consider the local place plan and have regard to it in the preparation of their LDP. A plan prepared without the involvement of the local authority in a stakeholder capacity is less likely to align with that authority's strategic priorities, and therefore it may be difficult for the authority to adopt relevant elements of the local place plan in the LDP. There will also likely be many communities across Scotland who may wish to prepare a local place plan but will not have the resources to be able to self-fund it.

RTPI Scotland suggests that given realistic constraints on resources, new funding to support local place plan preparation should be targeted in two ways: towards communities identified as priority areas in a Local Outcome Improvement Plan, and towards communities likely to be affected by major allocations in an LDP. More detail is available in the RTPI Scotland thinkpiece [*Making local place plans work: Collaboration rather than conflict.*](#)

RTPI Scotland does not support introducing changes to planning appeals. We believe that meaningful community and other stakeholder participation in decisions about development should happen as part of the plan-led process, including through properly resourced local place plans where appropriate. The Scottish Household Survey 2016 found that just over three in ten adults in the 10% most deprived areas of Scotland rated their neighbourhood as a good or very good place to live, compared to almost eight in ten of those living in the 10% least deprived areas. Inequality of place is an urgent challenge in Scotland, and we want to see new avenues for community participation that target reducing this inequality.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how could these provisions be improved?

RTPI Scotland supports the higher penalties proposed for breaches of planning control.

8. Is the proposed infrastructure levy the best way to secure investment in new infrastructure from developers, and how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons to be learned from the Infrastructure Levy as it operates in England?

RTPI Scotland consistently hears from its members in the public and private sectors that funding for and the delivery of infrastructure is one of the most significant barriers to the delivery of development. The scale of the issue demands an ambitious response, and RTPI Scotland is concerned that the amount of funding anticipated to be raised by the Infrastructure Levy would not be sufficient to overcome this challenge. Nonetheless, the Levy could be used bridge the funding of strategic infrastructure priorities. To be effective, the Levy would have to be carefully targeted, for which reason in the thinkpiece [Making an infrastructure first approach a reality](#) RTPI Scotland proposes the appointment of an infrastructure task force sat within Scottish Government, and leading on horizon scanning and delivery support for infrastructure. The regulations used to introduce the Levy would also need to ensure that it would not place a financial requirement on developers in addition to funds already collected through section 75 agreements. Rather, the Levy and section 75 agreements should be designed to be used complementarily.

The challenge of infrastructure provision, and the effect it is having on the ability of all within the development sector to deliver high quality new homes and places, has led to more fundamental questions about the development finance equation. RTPI Scotland supports further research into the potential of capturing the land value that is created in the market when public decisions about land use or investment in

infrastructure is made. We look forward to working with the Land Commission, Scottish Government and other stakeholders to advance ideas about how this could be achieved.

With regard to CIL, the RTPI's members working in England and Wales have reported mixed experiences with implementing the levy. In particular, this includes:

- CIL has been in part successful in making developer contributions fairer, faster and more transparent.
- CIL works well in areas with high land values, but is not viable in others.
- Requiring local authorities to adopt CIL undermines efforts to use the most appropriate mechanism for securing contributions: sometimes, a section 106 contribution (the English and Welsh mechanism for securing planning obligations) is a more appropriate means of mitigating the impact of development.
- The CIL regulations have not always been well interpreted. For example, there are exemptions in the regulations for small developments, which can create big gap in potential funds coming forward. Conversely exemption can be made for large sites where it is deemed bespoke negotiations through a section 106 contribution would be more fruitful for both parties. Whether these powers are being used as effectively as they could be remains to be seen.
- CIL is for infrastructure, but this definition has in many cases been so expanded that the total amount of funding available is less than could be. For example, a proportion of CIL funds are given to neighbourhood forums to assist in the preparation of neighbourhood plans.
- A serious unintended consequence of CIL is that it has undermined the delivery of affordable housing. Affordable housing is excluded from the scope of CIL and can still be agreed as a section 106 contribution. However, CIL takes priority over such contributions, and so subsidy for affordable housing is often lost when developer contributions negotiated downwards to ensure developer viability.
- Nonetheless, while CIL is a very small part of the infrastructure delivery funding total, it is still important.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision-making? If not, why not?

Yes. Planning is a democratic process charged with making decisions in the public interest. Achieving the public interest is complex and requires taking into account a wide range of sometimes conflicting issues. Navigating these issues more frequently than not requires technical understanding; providing councillors with training in the wider purpose and context of development planning and development management could therefore assist councillors as they seek to make important decisions on complex issues. It will be important to ensure that the content of training is viewed as independent and robust; the Planning Skills Coordinator provided for in the Bill could have a role in ensuring this, as could continued collaboration with RTPI Scotland and

other stakeholders should as Heads of Planning Scotland and the Improvement Service.

10. Will the proposals in the Bill aimed at monitoring the performance of planning authorities help drive performance improvements?

As with other proposals included in the Bill it is difficult to assess their potential impact without knowing the detail of complementary measures to be introduced through secondary legislation and policy and guidance.

RTPI Scotland is not opposed to the principle of the proposal to introduce a performance coordinator. However, we believe that this role should take a positive approach to working alongside planners across sectors and specialisms to improve performance throughout the planning system, not just in local authorities as is currently implied. For this reason we believe that the post should be independent of the Scottish Government, possibly taking the form of a Commissioner.

The measures included in the Bill to enable Ministers to direct the implementation of recommendations for improvement in local authority planning services also provokes the question of how performance will be measured; what will constitute 'poor' performance; and, what level of 'poor' performance will justify intervention. RTPI Scotland agrees with the Scottish Government that the planning system should work efficiently, and deliver timely decision-making and certainty. Equally if not more important however, as reflected by discussions earlier in the planning review, is the quality of decision making. The effectiveness of the performance coordinator will in part rest on to what extent the role supports all planners to develop the skills, behaviours and knowledge needed to deliver great places across Scotland.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish government wants? If not, what needs to change?

This additional flexibility is welcome, however the scale of the challenge faced by local authority planning services, as outlined under question 1, requires a more dramatic shift in resourcing.

12. Are there any other comments you would like to make about the Bill?

There is still a great deal of uncertainty about the transition arrangements associated with the Bill, and details on when and how its various provisions will be implemented would be welcome.

I trust that you will find these comments helpful.

Yours sincerely,

Craig McLaren
Director

Written Submission from Malcolm Fraser

Aims and Tools: while the ambition – to achieve or return-to a “Plan-led system” from the current one, led by opportunistic, market Speculation, with Planning at best a brake but often a displacement activity – is laudable, the tools for making any substantial progress towards this are absent. The following tools are available:

1. Housing and Infrastructure: there is nothing in the Bill to challenge the current privatised model, where land speculation forces the release of land for housing with huge sums going to the speculators and landowners, with funding for infrastructure therefore squeezed, strangling delivery, raising prices and causing land-banking. These tools are proposed:

1.1 Land Value Capture: infrastructure funding is recognised as a key barrier to creating new communities and will remain so until the wealth generated by residential land designation is directed away from land speculation and towards funding the public services (Schools, health services, transport infrastructure etc) that new communities require.

<https://www.localgov.co.uk/UK-missing-out-on-185bn-due-to-mechanism-for-capturing-landvalue/42896>

Proposal: when industrial or agricultural land is newly-designated for housing the huge uplift in value currently goes to the landowner and their agents and advisors. Instead these windfalls should be harvested and invested in infrastructure, as has been the case in the past and is, today, in successful European and Asian economies.

Policy: reform of the Land Compensation (Scotland) Act 1963 so that Local Authorities can buy redesignated land at existing use value (or, maybe, a modest multiple, say x1.2 or x1.5, if some order of landowner profit is still desired), with the consequent major rise in value borrowed-against to pay for the infrastructure ready for developers to build homes. The result would remove the volume housebuilders’ major block on development, allowing early, public-led infrastructure progress without the current, contested drip of “Section 75s” and similar Infrastructure alternatives.

Outline: <http://allofusfirst.org/tasks/render/file/?fileID=5FEADA10-D411-3CE4-E6CED0096D144CA2> and <https://www.localgov.co.uk/UK-missing-out-on-185bn-due-to-mechanism-for-capturing-land-value/42896>

1.2 Compulsory Sales Orders for Stalled Sites: many well-located sites with extant Planning Permissions and huge potential to supply new homes and communities lie undeveloped, having been traded speculatively up to a level where a dip in the market means development is not economic until house prices jump again.

Proposal and Policy: leverage is required to reduce the values of such land-banked sites to developable levels so: introduce Compulsory Sales Orders for undeveloped

and/or land-banked sites with the Local Authority compelling the sites to a public auction which would establish a lower, developable market value with consequent immediate economic activity.

Outline: <http://eprints.gla.ac.uk/111504/1/111504.pdf>

(It is noted that both 1.1 and 1.2 are being considered under Land Reform legislation; but it is not right that National Policy develops in silos, and the Planning Bill should note, recognise and support initiatives that may well be led elsewhere but have the ability to enact major and positive change through Planning.)

1.3 Diversification of Supply: we need public rental, as funded by national investment through the new National Investment Bank and partnerships between a national Investment Company and Local Authorities, to provide more homes, to complement the volume housebuilder/mortgage/debt combination that it is clear will not fulfil our needs. We should also diversify the ways we build, to expand the market and routes into the market, such as co-housing, self-build housing, intergenerational, sheltered and extra care housing and other new forms of communities. Those who would take the lead for such development would be the people who would eventually occupy them, ensuring a level of commitment, vision and drive for innovation and quality lacking in the private developer model. It has been noted at 1.1 that Land Value Capture gives Local Authorities the financial levers to enable such initiatives; but, in any case, L.A.s should seek to identify, encourage and enable all such groups and set-aside land for them.

Example: Collective Self-build is an innovative, sharing form of commissioning and developing with lower debt/borrowing costs – conventional housebuilding carries the developer's borrowing costs plus a householder mortgage while self-build only needs the mortgage. It empowers local groups to obtain land and commission design, resulting in more innovative architectural solutions than the market currently delivers.

Pioneering Edinburgh example: <http://www.self-build.co.uk/blog/planning-breaking-ground>

Right to Build Toolkit: <http://righttobuildtoolkit.org.uk/case-studies/#>.

Demonstration Projects through the Planning and Architecture Division.

2. The Appeal System: it is unarguable that the current right of Appeal, as extended to developers but not communities, is inequitable; but it is also unarguable that Appeal processes greatly slow the system, only enrich lawyers and consultants and, almost inevitably, damage the quality of building and placemaking that result – all these being things that the Bill seeks to help, not hinder. The simple, radical answer is to level the playingfield by removing the right for developers and thus *for all*, thus focussing minds on a leaner system which gets things right upstream.

3. Planning by Communities: there is talk of communities having the right to produce their own plans. It is noted that such things already exist, including the Government's favoured Charette model, but that, having won a community's input and raised their expectations the results of these are often set-aside by Planners,

granting permission to proposals which ignore or pay lip-service to them. It is essential that such bottom-up planning is treated with respect as a “Material Issue”.

Final Word: the Purpose of Planning

Given the existential emergencies of climate change, resource depletion and the like, the opportunity should have been taken to place the built environment as part of a continuum with the natural, whose wellbeing we share. The UN’s Sustainable Development Goals (SDGs), which the First Minister has committed Scotland to achieving, state the need to “Make cities and human settlements safe, inclusive, resilient and sustainable”, and we might take the opportunity to place this at our masthead.

Malcolm Fraser
Consultant Architect

Written Submission from Professor Cliff Hague

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment.

The Bill is a significant missed opportunity. The fact that this first question is posed this way implies that the main aim of the system is “balance” between development, environment and community views. This elides the fact that “balance” will always be in the “eye of the beholder”, and so condemns the planning system to another decade of the kind of skirmishes which have blighted it in recent years. This terminology is stale, and the answer to the question as posed must be “no”.

The First Minister was quick to declare that Scotland would adopt the UN’s Sustainable Development Goals (see <https://news.gov.scot/news/leading-the-way-in-tackling-inequality>), so why has there been no reference to the SDGs and particularly Goal 11? Targets 11.3 and 11.4 of the SDGs should be central to Scotland’s planning system: “By 2030, enhance inclusive and sustainable urbanization and **capacity for participatory, integrated and sustainable human settlement planning** and management in all countries” and “Strengthen efforts to protect and safeguard the world’s cultural and natural heritage“. Similarly, the Bill shows no awareness of the UN’s New Urban Agenda (2016) and the key role that it assigns to reform of urban and territorial planning to make it a powerful tool for integration and inclusion. These global commitments which the Scottish Government is bound to go well beyond the idea of “balance”, and point to a much more proactive role of urban and territorial planning to lead change within a framework of human rights including social and economic rights.

Reform of planning presented the Scottish Government with an opportunity to play a global role in showing how to make our places “safe, inclusive, resilient and sustainable” in line with SDG11, Instead of advancing the visibility and reputation of Scotland internationally, the Bill is parochial and lacks ambition.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

The Bill will disappoint in this respect. Quite simply, housing provision has been substantially contracted out to volume housebuilders, and their business decisions now determine the level of housebuilding. Yes awards of planning permission are a factor in these decisions, but only one amongst many factors. Others include investor confidence, interest rates, consumer confidence and the state of the national economy, government subsidies to house buyers, supply of building labour

and materials, and landowner decisions on land release. Nothing in the Bill seems likely to lead to housebuilders' land banks and sites with long standing permissions being brought expeditiously to development.

“To increase house building” again makes presumptions about what a planning system should do. What kind of house building? Is it solely a matter of quantity? What about real affordability and quality? What about maximising the use of existing properties? To increase quality and affordability Scotland should look to what has been achieved in many north European countries, e.g. Denmark, Germany, Netherlands, Sweden, Norway. As a generalisation the plans are able to assemble development land at a fair price, masterplan the site and then pass on the development task to housing associations or private developers under contract.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

No. A statutory plan is being replaced by voluntary partnerships: it takes a leap of faith to interpret that as a “robust structure to maintain planning at a regional level”. Again the timing of the proposal comes when the importance of functional regions and the need for what the UN and the Europeans call “territorial planning” is widely recognised. Improving regional planning could be achieved by being more flexible about boundaries and “fuzzy” cross-boundary issues, and by creating again the kind of Research and Intelligence teams served Scotland’s Regional Councils 1975-96, a period when Scotland’s regional planning was internationally respected. Regional plans can play a key role in integrating infrastructure investment and tackling spatial inequalities. Such plans could enrich the dialogue in the preparation and delivery of the NPF, and obviate the risk that endemic in the Bill’s proposals that the NPF will get shrunken in scope and bogged down in regional detail.

The present proposals could see a coalition of development interests agreeing on a few major “regional” projects, along the lines of the emerging City Deals. Such practice does not amount to regional planning for the public good.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

One weakness in the community planning process is that it lacks a spatial dimension. If LDPs are to be aligned with community plans, the process should work in both directions. As to meeting the needs of developers and communities, it is

difficult to see how the proposals in the Bill will resolve the endemic tensions between the two. There needs to be connections to community empowerment legislation and enhanced support for communities to become developers.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

The idea of having zones where action will be focused is a good one, but if the answer to the question were “yes”, then surely there would be a case for making the whole of Scotland a “Simplified Planning Zone”. Simplifying the planning system could make it more equitable and expeditious, and less reliant on the time consuming appeals system. However, the SDZ proposal does not deliver such change and again misses the point that the role of the planning system is more multi-faceted than just regulating development. What about “Special Place Zones” where action is to be concentrated, which would encompass innovative carbon-neutral developments, or conservation-led regeneration, or experimental housing types / tenures? In other words use the planning system to promote innovation that contributes to the SDGs, whereas what is proposed seems just a way of making it easier to deliver mediocre development.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

I thought at first that the LPPs were a clone of the English Neighbourhood Plans, but now it appears that they do not even go so far, since they will not be part of the LDP. In these circumstances why should people make the effort to prepare a LPP? The LDP will have to align with the Community Plan and with the NPF and Scottish Planning Policy – there is enough top-down weight there to crush local creativity. Lest there be any doubt, the resources committed to supporting LPPs seem unlikely to be sufficient for them to do a good job. Investing in Technical Aid centres in at least some selected areas, maybe the “Special Place Zones”, might generate some real co-production, and again would put Scottish planning ahead, rather than offering a diluted version of practice from England.

The main point of weakness (and significant delay) in the planning system is in handling appeals, especially major ones where advocates have to find mutually convenient dates in their diaries. It is here that the system is at its most inequitable. Despite the government’s resistance to calls for Equal Rights of Appeal, something could be done to make the system more simple, fair and fast. In Scandinavia in

general any right of appeal is to the local council who took the initial decision, with only something like judicial review available after that. It is regrettable that we have reached the stage of a Bill without such alternatives having been fully explored: despite i.e. being a plan-led system, with participation “front-loaded”, the decision can come at the last stage, appeal, and contradict the plan. Such arrangements destroy public trust.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

Recovery of expenses may provide some incentive to planning authorities to take enforcement action, but while their budgets are so stretched and enforcement is discretionary, I cannot see much change. This is one area that has drained public trust from the planning system.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

With so many public services now privatised and so operated first and foremost for shareholder benefit, reliance on the Levy or any other means of securing private funds for public infrastructure is problematic. A system of contracts based on an agreed regional scale plan and the LDP would be a better option.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

In principle the idea is sound, but it needs much more detail. As there are situations where all councillors (and the Minister) may be involved in a planning matter, then do these individuals also need training. The training should be delivered and examined by an independent source so as to avoid socialising the members into the practices of a particular authority. Assessment should go beyond a multi-choice tick box exercise, and learning outcomes need to be transparent and used to structure the assessment.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

We need to escape from the mindset that equates paying fees for an application with being a “customer”, expecting fast service. Monitoring and performance are very important, but the indicators are what matter most. What indicators for example do we have for conservation of the built and natural environment, or for creating more gender-inclusive environments?

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high-performing planning system the Scottish Government wants? If not, what needs to change?

As implied in the answer to Q.10, the charging of fees has distorted perceptions about the nature and purpose of the planning system, which needs to be a public service working for the public good. Similarly, a “high performing planning system” should not be conceived on the model of fast food. What, for example, of the issues raised in the equalities impact assessment of the bill? Performance should be about delivering on the SDGs and the New Urban Agenda: that would bring far more respect to the Scottish Government than speeding up the turn-over of planning applications.

12. Are there any other comments you would like to make about the Bill?

No.

Written Submission from Clydeplan

Question 3

Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

1. Introduction

- 1.1 Clydeplan is the operating name for the Strategic Development Planning Authority for the Glasgow city region, Scotland's only metropolitan city region. It covers the eight local authorities of East Dunbartonshire, East Renfrewshire, Glasgow City, Inverclyde, North Lanarkshire, Renfrewshire, South Lanarkshire and West Dunbartonshire which represents one third of Scotland population and a third of its GVA.
- 1.2 Clydeplan would wish to respond to Question 3 as set out by the Local Government and Communities Committee.
- 1.3 Whilst Clydeplan wishes to continue to engage positively with the review of the Scottish planning system, it cannot comment on the Bill without firstly setting out the reasons why it disagrees with Section 2, the proposal to remove the statutory basis for regional land use planning. This is then followed by comment on the improvements required to support regional land use planning and related activities.

2. Planning (Scotland) Bill Section 2

- 2.1 The preference of Clydeplan is that a statutory form of spatial planning for Scotland's city regions is retained and therefore Clydeplan does not agree with Section 2 of the proposed Planning (Scotland) Bill which seeks to remove the requirement to prepare a Strategic Development Plan along with its related governance processes.
- 2.2 For over 70 years strategic planning has been central to the regeneration and economic revitalisation of the Glasgow city region through periods of significant structural economic change. The two Strategic Development Plans which have been developed and prepared by Clydeplan have been delivered on time and on budget. Both Strategic Development Plans have been robustly scrutinised through an independent examination process before final approval by Scottish Ministers. As such they have formed a credible and effective component of the development planning system, guiding and steering Local Development Plans and decision making which reflects the success of Clydeplan's joint working ethos and the commitment of the constituent local authorities and wider stakeholders.
- 2.3 Clydeplan and its joint working process across its eight local authorities can therefore be seen as an exemplar for Scotland in how local authorities can

effectively work together on strategic planning issues in support of delivering inclusive economic growth. This successful model should be enhanced as part of the Bill not potentially undermined. There could be a case for the Committee to make specific requirements for partnership working for both the Glasgow and Edinburgh city regions given their wider significance to the future economic growth of Scotland.

- 2.4 The Scottish Government's review of Strategic Development Plans in Scotland in 2014, by Kevin Murray Associates and the University of Glasgow, recognised that *"...the (Strategic Development Plan) system is still bedding in; it is not 'broken', nor is its potential yet fully optimised. A great amount has been achieved, often within very limited resources. However, much more could be achieved in terms of substance and outcomes, if some of the processes and practices could be made more effective"*. The report sets out suggestions for improving and strengthening Strategic Development Plans rather than removing them from the Development Plan hierarchy altogether.
- 2.5 In England the duty to cooperate between authorities has not been considered a sufficiently effective tool for addressing cross boundary regional issues and new measures are now being developed to enhance those duties. Meanwhile in Wales, in July 2015 the Planning (Wales) Act established a tier of regional planning making provision for the production of Strategic Development Plans, to tackle larger-than-local cross-boundary issues, such as housing supply and areas for economic growth and regeneration) for Cardiff, Swansea and the A55 corridor. The approach currently being taken by the Welsh Government is that based on the model of the Strategic Development Plan processes that currently exists in Scotland.
- 2.6 To remove Strategic Development Plans in Scotland would run counter to the prevailing best practice in planning internationally, particularly in Europe, where there has been a shift to planning at the scale of integrated functional regions reflecting housing markets, travel to work and economic catchments areas, in pursuit of the ambition to delivering sustainable economic growth.
- 2.7 Removing the statutory regional planning function from the existing local authority Joint Committee arrangements will place the responsibility for the identification allocation of regional uses and activities primarily in the hands of the lead Minister which may be perceived as Scottish Government centralisation and undermine the collaborative localised partnerships that have been working successfully up until now.

3. Improving Regional Planning

- 3.1 The Independent Panel undertaking the review of planning recommended that Strategic Development Planning is "repurposed", and whilst this is supported, the more substantive point is that the all levels of the development planning system and related activities require to be "repurposed", be it national, regional and local. To simply delete the existing tier of regional planning with little justification, without any clearly defined alternative and without considering the

potential for adapting and improving on what already exists, seems ill considered.

- 3.2 An alternative approach would be to enhance and build upon the existing Strategic Development Plan processes taking advantage of their established governance and joint working structures. These existing structures and the role of the organisation, could be adapted to enable a greater focus on delivery and infrastructure to be developed.
- 3.3 The review of Strategic Development Planning undertaken in 2014, was a comprehensive and specific review undertaken by Kevin Murray Associates and the University of Glasgow with detailed and considered conclusions around how strategic planning could be improved. This work is commended to the scrutiny process and elements of the conclusions of that research are reflected in the following comments on how regional planning could be improved.

4. Retaining and Improving Existing Arrangements

- 4.1 It is agreed that change and improvement at all tiers of development planning is required, particularly to focus on delivery. This could, in part, be achieved by retaining and building upon the existing statutory Strategic Development Plan processes.
- 4.2 Alternative arrangements that have not been explored include moving to a 10 year preparation cycle to align with Local Development Plan and National Planning Framework preparation. This would have the benefit of both retaining the established joint working structures and practices in support of the preparation of the Strategic Development Plan and enhancing them around a focus on delivery.
- 4.3 Potential other improvements to existing regional planning arrangements, including the duties, powers and resources required are covered within the following.

5. Improving Regional Collaboration

- 5.1 The Bill proposes a new flexible duty for regional collaboration by two or more planning authorities to assist Scottish Ministers in preparing the National Planning Framework. This regional collaboration between the local authorities and the National Planning Framework currently exists within the existing established Strategic Development Plan processes.
- 5.2 If it is intended that regional collaboration goes beyond just what is proposed in terms of the Planning (Scotland) Bill into areas such as transport, education and skills and enterprise the new regional partnerships will require a clarity around their purpose, role and responsibilities, governance, accountability, and resourcing to ensure effective activities and democratic accountability. The experience, skills and resources of regional bodies such as Clydeplan with their established joint working processes around strategic planning should be seen

as asset to any future regional partnership and this should be supported by the Planning (Scotland) Bill.

- 5.3 In this context there is the potential for a wide range of partners and partnerships. To ensure an effective role in supporting strategy development, delivery at a city region level and the development of an enhanced National Planning Framework, any form of regional partnership collaboration will require to be established with the following:
- a clear statutory duty placed upon local authorities to work together to consider matters they deem to be relevant in support of the Purpose of the Scottish Government and the National Planning Framework;
 - a formal duty to co-operate on other public bodies in support of the work of the regional partnership;
 - a clearly defined geography;
 - a clear role and remit; and,
 - a single governance structure with associated supporting dedicated resources.
- 5.4 The above are characteristics of regional partnerships that are currently established in statute including regional transport partnerships and marine planning partnerships. The Policy Memorandum states that strategic planning is essential and that removal of the mandatory detailed processes “*will leave planning better placed to actively engage with its wider context*”. However with no clarity around how that is to be achieved, and given the resource constrained times in which public services operate, some statutory prescription along with the ability to develop locally distinctive regional arrangements, would be more likely to result in the development of effective regional partnerships.
- 5.5 An appropriate duty might be a requirement on the local authorities to submit a joint proposal to establish a regional partnership along with a clear geography, structure and remit to be considered and endorsed by Scottish Ministers.

6. Aligning with Wider Policy Objectives

- 6.1 The approach to regional working should be framed under a number of general duties and powers relevant to spatial planning including:
- contributing to the achievement of the National Outcomes as set out by the Scottish Government;
 - creating well-designed and sustainable places;
 - contributing to inclusive economic development;
 - addressing climate change duties and act in a manner that contributes to achievement of the carbon emissions targets;
 - securing environmental protection and management;
 - reducing inequality; and,
 - improving health and well-being.

6.2 The above duties and powers would reflect the Scottish government national outcomes and in particular consideration should be given to framing the Planning Bill under the delivery of the national outcomes, as set out in the Community Empowerment (Scotland) Act 2015, in order to encourage and support organisational alignment between planning and community planning. Indeed a key recommendation of the Kevin Murray Review was to align and integrate the Strategic Development Plan strategy and project components with the work of the respective Community Planning Partnerships and Single Outcome Agreements.

7. Improving Regional Planning Activities

7.1 Regional planning can add value through effective joint working and managing cross boundary issues, by setting out a spatial development strategy which supports inclusive economic growth whilst mitigating against adverse environmental impacts and ensuring the efficient use and development of infrastructure.

7.2 The range of activities that should be set out as specific to the regional role include:

- development of a regional land use spatial strategy which sets out regional priorities by addressing strategic planning issues in respect of housing, transport, flood risk management, climate change, and biodiversity and supporting the development of priorities for the National Planning Framework;
- ensuring alignment of regional strategies including economic, transport and land use strategies;
- supporting housing delivery;
- supporting inclusive economic growth;
- identifying strategic infrastructure interventions;
- preparing delivery plans; and,
- any other activities considered relevant to the planning of development in city regions.

7.3 The above activities should be delivery focussed, however, the extent to which the regional partnerships can have a direct influence on delivery will depend on their duties, powers and importantly resources.

7.4 There are therefore a number of areas where it is considered that regional planning requires to be enhanced in support of the collaborative approach envisaged by the Planning (Scotland) Bill, namely:

- streamlining the approach to housing assessment;
- integration of the National Planning Framework/Strategic Development Plan and National Transport Strategy/Regional Transport Strategy into a single national/regional strategy;
- integration of regional land use and transport planning which together should become the land use expression of city region economic strategies;

- development of an effective approach to delivery at the regional scale, including importantly infrastructure delivery, which will involve resourcing (ideally through direct funding), as well as duties and/or powers to influence the activities of infrastructure providers as required;
- building greater capacity, awareness and more effective behaviours in strategic planning particularly at the local authority political and corporate level as well as amongst professional leaders and the wider stakeholder community; and,
- boosting the existing skilled regional planning cohort which has seen the pool of skilled regional planning practitioners significantly diminished since the inception of the independent review panel process began over 2 years ago.

7.5 Additionally in support of any change to the planning system other public bodies and the Key Agencies will also require to have a duty to assist in any new process.

8 Resourcing Regional Planning

8.1 Previously the Strategic Development Plan Authorities have been resourced to prepare a Plan which of course does not in itself result in the focus on delivery and infrastructure sought by the planning review. For more effective delivery focussed regional planning, consideration must be given to the duties, powers and resources required.

8.2 The level of human resources available to the four SDPA's has significantly reduced since the commencement of the Planning Review, from 15 professional planners to a resource today of 7. Budgets are related directly to the salaries and related resources required to support the key activity of preparing the Strategic Development Plan itself. The current Strategic Development Plan process has no duties, powers or resources for direct delivery activities. The Kevin Murray Associates Review in 2014 concluded that *"Without the necessary resourcing, we expect that SDPAs will find it difficult to produce plans that will be properly fit for purpose."*, and they recommended that the Scottish Government should consider the scope to provide an extra level of resource.

8.3 The skills required are also an issue for national and local development planning, as the agenda requires a movement away from plan making, thus freeing up time and resources to focus on delivery and infrastructure activities. Whilst this is wholly supported, there is an emerging requirement for the development of behaviours and activities within multi-disciplinary teams that many development planning planners currently do not have. This therefore requires further consideration if the outcome of delivery orientated development plans and activities is to be realised.

9. Regional Partnerships Approach

9.1 Paragraph 36 of the Policy Memorandum to the Planning (Scotland) Bill states that robust regional and strategic planning is needed across the country and

that removing the mandatory detailed processes will ensure time and cost savings for those authorities involved in the production and delivery of Strategic Development Plans and leave planning better placed to actively engage with its wider context.

- 9.2 In this context although it is not entirely clear at this stage it could reasonably be concluded that what is intended is that the regional planning role becomes a function of the emerging regional partnerships and City Deals currently being considered around the country.
- 9.3 However, the governance arrangements and activities that are emerging from these non-statutory partnerships are at a very embryonic stage in most cases. It could therefore take some time before these arrangements mature sufficiently to enable them to develop and fulfil an effective regional partnership role particularly in terms of identifying and agreeing regional spatial priorities. In the experience of Clydeplan, joint working arrangements take significant time, resource and goodwill to function effectively. Given the nature of the new approach being advocated this may significantly impact on the timeline for NPF4 which is due to be adopted in 2020.
- 9.4 Given this context it is difficult to see how the removal of the statutory regional tier of planning will assist the process of formation of effective regional partnerships. Indeed it is considered that the existing Strategic Development Planning Authorities for the four city regions could form the core of regional partnerships for land use planning rather than be disbanded. It would therefore seem more appropriate that consideration is given to utilising these existing arrangements to build upon and reinforce the emerging city region partnerships.
- 9.5 Given the now very limited pool of strategic planning experience that currently exists within the four Strategic Development Planning Authorities' dedicated teams, cost savings would likely be negligible. Indeed the proposed model for regional collaboration in terms of strategic planning would still require strategic planning expertise to contribute to both the collaborative work with Scottish Government on the National Planning Framework but also in terms of regional planning considerations within any regional partnership model.

10. Conclusion

- 10.1 Recognising the critical role city regions play in delivering inclusive economic growth by considering important cross boundary issues such as housing and transport and by creating high quality places where people wish to live, work, play and invest strategic land use planning has an important role in supporting the Purpose of the Scottish Government.
- 10.2 Clydeplan considers that the joint working model that currently exists in relation to Strategic Development Plans in support of the delivery of Scotland's development planning system at the regional scale is not broken. An opportunity exists through the new Planning (Scotland) Bill to enhance this model with additional duties, powers and resources, rather than remove it from the Development Plan hierarchy altogether.

- 10.3 Should the current model be replaced, as is proposed, then it is critical that whatever it is replaced by, recognises the important role strategic planning has to play and this role should be firmly embedded in the new Planning (Scotland) Bill as a statutory function.
- 10.4 Consequently, for the reasons set out in this paper Clydeplan considers, given its long standing and successful history of strategic planning in the West of Scotland, that what is being proposed in the Planning (Scotland) Bill is not sufficiently robust to maintain effective land use planning at the regional level.
- 10.5 We commend the suggestions contained in this submission to the Local Government and Communities Committee for its consideration and would be happy to provide further evidence if required.