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?

Angus Council believes that the current planning system has the ability to secure appropriate development with the views of communities and protection of the built and natural environment. The measures set out in the Bill seek to refine and ensure that this happens in practice rather than redesign the whole system.

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?

In responses submitted throughout the Planning Review process, Angus Council has consistently asserted that the planning system is not the primary factor for the lack of housing delivery in recent years. A range of factors have contributed to a reduction in house building activity, stemming largely from the impacts of the economic recession, continued restriction on development finance, lack of construction labour, reduction in the number of small and medium housebuilding and in some cases, the reluctance of landowners and developers to release land or commence development until local market conditions improve. This is particularly pertinent in low build volume areas such as Angus where economic conditions and market demand discourage landowners and developers from opening up sites.

Planning authorities have influence and control over the amount, location and effectiveness of land available for housing development but much less influence over delivery of houses. While the provisions contained in the Bill are likely to support the identification of a suitable supply of effective housing land, it is not clear how the planning system can be used to address issues relating to market conditions and viability and assist the delivery of increased levels of house building.

Angus Council is actively engaging with landowners/developers to identify impediments to development, anticipated delivery rates and timescales and wherever possible working with landowners/developers to overcome any barriers to housing delivery. This ongoing dialogue suggests that market demand and certainty of sales are affecting the ability to deliver additional housing, not availability of land through the planning system.

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?
While Angus Council has previously agreed that Strategic Development Plans should be replaced by improved regional partnership working, the provisions set out in the Bill do little to indicate how this will be delivered or the range and scope of matters which have cross boundary implications where regional partnership working will be required.

While collaborative working among the TAYplan authorities continues through the Tay Cities Partnership, Angus Council is concerned that the City Region focus is currently primarily economic, missing the opportunity that Planning can set a clear focus the overall development of the area. The model is also by definition focussed on the Tay Cities of Dundee and Perth. It is important that the form and function of regional partnerships also address issues affecting more rural areas like Angus and its relationship to the cities.

Angus Council concur with the assertion in the Planning Bill that strategic and spatial planning is “an essential element of the overall planning system”. Land use planning should continue to have a strong role at a regional scale and there are opportunities to add real value through an outcome focussed approach. The current Strategic Development Plan arrangements in TAYplan area lacked the autonomy and coordination with Transportation and Economic Development strategies to fully achieve this and the resource to provide the infrastructure investment. At the regional level, planning could establish a strategic framework at a wider geography by drawing these together. This may be difficult to achieve without a statutory basis for joint working.

While it is accepted that different partnership models may emerge around the country there needs to be clear direction on the matters to be addressed by regional partnerships with a focus on cross boundary collaboration, infrastructure and delivery. The Planning Bill provisions give no clear direction on how this might be resourced or how it can be ensured that authorities will work together.

Arrangements for collaborative working in Regional Partnerships should be aligned with Scottish Government aspirations expressed through an enhanced National Planning Framework or Scottish Planning Policy proposed by the Planning Bill. To be effective Regional Partnerships must have a clear focus and must be supported by financial resources and mechanisms to ensure delivery with Planning at the core of these 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?

Angus Council supports the move towards a plan review cycle of 10 years, with the scope to update within the period. This allows resources to focus on delivery rather than plan preparation processes. The removal of the Main Issues Report and the introduction of the evidence base Gatecheck is also welcomed. The Bill does not appear to account for instances where new or emerging evidence is produced during plan preparation. Issues may change and evolve even within a two year plan...
preparation time period. Further thought needs to be given to subsequent processes in relation to the draft plan and examination where representations seek to revisit already agreed evidence.

Concerns remain about the role of Supplementary Guidance. Whilst the enhanced national Planning role will allow the LDPs to focus on local place making and delivery, the 10 year review cycle emphasises the need for additional guidance for explanatory purposes and local matters. Procedures therefore need to be in place to ensure that local advice can be produced, kept up to date and given sufficient weight in decision making.

The Bill seeks to ensure that the Local Development Plan and associated Delivery Programme are corporate documents that are signed off by the Chief Executive. The Bill also requires the Local Development Plan to take into account the LOIP and any Local Place Plans. Whilst these measures may ensure corporate buy-in and community representation, they do not guarantee such change, repositioning and co-creation.

The success of the measures set out in the Bill will depend on the culture change needed to deliver them. This cannot be legislated. Extensive buy in is required which means commitment by local authorities, but also the development industry, central government and service providers. Public engagement will only be achieved through trust in the system and a belief that it takes them into account.

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

SDZ’s may offer potential benefits but there may be tension with the desire to improve place making and to involve communities in decision making as they may be seen to remove the ability to revisit decisions that communities feel should be made on a case by case basis. It is assumed that any existing safeguards such as Conservation Areas, designated sites, environmental health standards and access management would take precedence in decision making.

There are potentially significant resource implications associated with undertaking surveys and assessments necessary to designate and control a site. It is difficult to see how costs associated with that could be recovered through discretionary charging. The benefits of SDZ’s will need to be further explored and communicated. If there is no delay in the processing of planning applications, it may be that the significant resource taken to designate SDZ would not expedite development or add value.

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?
Angus Council welcome the aspiration to increase community involvement in planning. The package of reforms could increase community involvement in planning, but they would not guarantee this and it still requires the resource to be available within local authorities to support this. The ability of Local Place Plans to influence local development plans will depend on the timing of their production. There is a significant risk that the introduction of Local Place Plans could serve to increase confusion about the policy landscape at the local level (especially where Locality Plans already exist). A key element of the Planning Bill is to place the focus on delivery and this same aspiration needs to be placed on Local Place Plans if there is to be a clear linkage between the two. This will also ensure that Local Place Plans are aligned with community capacity and resources to deliver.

The level of resource needed to produce a Local Place Plan will determine not only the number of Plans produced, but also the quality and the engagement of all parts of a community in the preparation of plans and their deliverability.

To make participation work, a range of issues other than land use planning should be considered and the principles and purpose of the planning review should be widely disseminated. Spatial and community planning have made great progress in Angus in co-ordinating our roles but other agencies need to be involved to deliver an integrated local response – both within the Council and external partners.

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?**

Fines in relation to breach of planning control require successful prosecution. Angus Council’s experience has been that the Procurator Fiscal may be reluctant to pursue prosecution of planning cases. In this respect, an increase in the level of fine alone is unlikely to promote better compliance with planning control.

Angus Council would suggest that consideration is given to the removal of any defence against prosecution for a land owner who is in breach of planning control; this would involve removal of S136(3) of the 1997 Act. There are appeal rights in relation to enforcement notices and those allow for relevant matters to be considered by an independent party. The existing defence provided by S136(3) could be pleaded as mitigation. This ‘strict liability’ may make prosecution more likely and thus increase the effectiveness of increased fines. Consideration should also be given to the penalty of imprisonment for breach of planning control in the most serious cases. Access to ‘environmental’ procurator fiscals may assist in prosecuting offences.

It is understood that a centrally administered planning enforcement fund has been introduced in England. Such a fund, which would support planning authorities in pursuing direct action, should be considered in Scotland.

Statutory increased fees for retrospective planning applications are supported and would bring planning fee procedures in line with those applied in relation to retrospective building warrant applications. This should also be linked with the ability for a planning authority to decline to accept a retrospective application where an enforcement notice has been served.
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?

Angus Council would be concerned that the wide ranging definitions of “infrastructure” included in Section 29 of the Bill could relate to connections which would normally form part of normal site development costs and/or strategic infrastructure currently the responsibility of public and private infrastructure providers. There is a lack of clarity about the ‘additional’ nature of the funds raised through a Levy, and it should not be seen as a means to remedy historic underinvestment.

Imposition of the burden of raising infrastructure funding on the planning system is likely to lead to further delay and uncertainly in bringing forward new development, not least due to the resource implications for local authority planning services. Through the preparation of local development plans (informed by evidence of local circumstances, understanding of capacity to accommodate new development and local need and demand) the planning system is well positioned to inform regional and national infrastructure investment strategies. The challenge of establishing the infrastructure requirements in an area to inform the establishment of the Levy will also require the alignment of infrastructure priorities and programmes among the variety of implementing organisations and additional capital funding and flexibility to support implementation.

There are also questions over whether the levy would equally apply to public sector funded development projects and the allocation of funding to cover those costs. Any differentiation in application of the Levy which places the requirement solely on the private sector may also disincentivise private sector investment decisions.

A Levy may be more appropriate in some parts of the country than others. The resource implications, as well as development margins, of implementing and collecting an Infrastructure Levy for local authorities such as Angus where development demand and value is relatively low would require to be carefully considered against the potential ‘value’ of the additional investment made possible as a result and the ability to deliver without additional funding. The opportunity for Authorities to ‘opt out’ may impact on the economic attractiveness and further stifle development where a Levy is applied, with the potential for a reduction in economic opportunity and quality of life.

An alternative means of capturing uplift in land value to support investment in national and regional infrastructure could perhaps operate through appropriate clauses in land sales agreements and collected through taxation measures. Section 75 agreements would remain as an important means of mitigating the impact of specific developments on the local area and delivering community benefits. Communities are often frustrated by the impacts of development, in particular the lack of potential to improve the quality of existing provision for the benefit of all residents. The levy does not address how increased flexibility in the use of
contributions might link up better with community planning to improve an overall place.

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?

Angus Council would support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making. This would bring planning training in line with current arrangement for training for councillors on Licensing Boards.

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

The requirement for authorities to produce a yearly Performance Report is supported as this is something that authorities currently do. The statutory requirement should be accompanied by clear reporting requirements.

The additional proposals for appointment of an individual and additional assessments are perhaps more likely to divert resources from doing day-to-day work. Other changes that make the system more efficient and ensure that it is adequately resourced are more likely to make a positive difference.

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?

Angus Council supports the introduction of a system of discretionary charging for some planning services but also supports a national scale of fees for planning applications. A national fee scale for applications is consistent with the approach in relation to other development consents such as building warrant applications. However with a move towards additional proactive planning and co-creation with communities it is unlikely that additional options will help to fund these in the light of resource reductions in local government.

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

Angus Council’s other comments on the Bill relate to the Financial Memorandum. The assumptions set out in the Memorandum are based on very general estimates and attempt to give some certainty as to the costs of the provisions of the Bill, when there is a significant amount of detail still to emerge around the proposals.

The conclusions set out in the Financial Memorandum in relation to the resource required from Local authorities to support Local Place Plans, the saving associated with the removal of Supplementary Guidance, the resource required to support
revised Regional working arrangements, and the resource required to introduce any Infrastructure Levy appear to significantly underestimate the investment that local authorities may have to make.

The savings envisaged by the Financial Memorandum give some hope to local authorities that Planning Departments could be self-funded in the future, and further savings could be taken from these areas. In actual fact, the strategic and forward planning work of the local authority, as well as the proactive work undertaken by planning officers may never be able to operate through full cost recovery. Under-resourcing planning departments moving forward could significantly undermine both the aspiration and delivery of the proposed Bil as well as the wider programme of reforms to the planning system as a whole, which respond to the independent review of planning. This could ultimately impact on the role that planning should play in strategic and locality planning and placemaking.