The Committee will meet at 10.00 am in Committee Room 1 to consider the following agenda items:

1. **Inquiry into Cost of Local Authority Single Status Agreement:** The Committee will take evidence from—
   - Tom McCabe MSP, Minister for Finance and Public Service Reform;
   - David Henderson, Head of Local Government Finance and Local Funding Division; and
   - Graham Owenson, Team Leader, Local Government Expenditure and Grant Distribution Division.

2. **Subordinate legislation:** The Committee will consider the following affirmative instrument—

   Draft Budget (Scotland) Act 2005 Amendment (No.2) Order 2006

   and will take evidence from—

   - Tom McCabe MSP, Minister for Finance and Public Service Reform;
   - John Williams, Finance Expenditure Policy Division, Scottish Executive; and

3. **Subordinate legislation:** Tom McCabe MSP, Minister for Finance and Public Service Reform to move motion S2M-3910—

   That the Finance Committee recommends that the draft Budget (Scotland) Act 2005 Amendment (No.2) Order 2006 be approved.

4. **Planning Etc. (Scotland) Bill:** The Committee will take evidence on the Financial Memorandum from—

   - James Fowlie, Policy Manager and Team Leader, Environment and Regeneration, CoSLA;
   - Alan Logan, Head of Finance, West Lothian Council and CIPFA advisor to CoSLA; and
   - Ian Snodgrass, Chief Executive, North Ayrshire Council and SOLACE advisor to CoSLA.
5. **Item in Private**: The Committee will decide whether to consider its draft report on the Financial Memorandum of the Bankruptcy and Diligence etc. (Scotland) Bill in private at its next meeting.

Susan Duffy  
Clerk to the Committee  
Room T3.60  
Extn 85215
The papers for this meeting are:

**Agenda item 1**

PRIVATE PAPER

**Agenda Items 2 and 3**

Paper from the Clerk

Submission from the Scottish Executive

The Draft Budget (Scotland) Act 2005 Amendment (No. 2) Order 2006

PRIVATE PAPER

**Agenda Item 4**

Submissions from

- CoSLA;
- Cairngorms National Park Authority;
- Scottish Natural Heritage;
- Scottish Council for Development and Industry;
- SEPA;
- Scottish Enterprise; and
- Scottish Water

*Resources for Planning:* Main findings of research on the adequacy of staff and financial resources currently available to local authority planning departments.

*Planning etc. (Scotland) Bill* and associated documents available online (previously circulated to members in hard copy only; electronic versions available via Parliament website)

SPICe Briefings (available via Parliament website)

**SB 06-01 Planning etc (Scotland) Bill: Enforcement**
**SB 06-02 Planning etc (Scotland) Bill: Strategic Development Plans**
**SB 06-03 Planning etc (Scotland) Bill: National Planning Framework**
**SB 06-04 Planning etc (Scotland) Bill: Tree Preservation Orders**
**SB 06-05 Planning etc (Scotland) Bill: Development Management**
**SB 06-08 Planning etc (Scotland) Bill: Local Development Plans**
PRIVATE PAPER
Finance Committee

5th Meeting 2006 – Tuesday 21 February 2006

Procedure for Considering Subordinate Legislation

Introduction

1. The Finance Committee may consider subordinate legislation which seeks to amend Budget Acts (referred to as ‘budget revisions’). These budget revisions request parliamentary authorisation for a number of in-year changes to the allocations as set out in the Budget. For these items, the Minister or Deputy Minister responsible for the instrument gives evidence to the Committee, normally accompanied by officials from the Scottish Executive’s Finance and Central Services Department. Members may find this briefing note on the procedure for the consideration of subordinate legislation helpful.

2. Members are also invited to note the comments of the Subordinate Legislation Committee on this instrument (attached at Annex A).

Background

3. When passing legislation, the Parliament accepts the principles of a bill but often leaves much of the detail to be filled in by subordinate (or secondary) legislation via Scottish Statutory Instruments (SSIs) at a later date. The nature and extent of the powers which are delegated to Ministers are set out in the parent Act.

4. After a SSI has been laid before the Parliament, the Parliament has 40 days to report on it. The SSI is referred to the Subordinate Legislation Committee first, for consideration of its technical and legal aspects, and then to a nominated lead committee (this is the committee within whose remit the subject matter falls) to consider the policy issues.

5. SSIs are usually considered under either affirmative or negative procedures. The draft order before the Committee is an affirmative instrument and thus requires the approval of the Parliament by motion before it can come into force. Negative instruments, on the other hand, automatically become law unless a member proposes a motion for annulment.

Procedure

6. It is the role of the lead committee to scrutinise the draft order and decide whether to recommend its approval to the Parliament. The Minister or Deputy Minister responsible for the instrument will speak to and move the motion calling on the Committee to recommend that the order be approved. The motion recommending approval of this motion is listed below. The Committee may then question the Minister and the debate on whether to recommend

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1 For further information on the procedure for examining subordinate legislation, Members are advised to consult Chapter 10 of Standing Orders.
approval of the instrument must last no longer than 90 minutes (Rule 10.6.3). At the conclusion of the debate, the question will be put to committee members that they recommend to the Parliament that the SSI be approved.

7. The Committee will then report its decision to the Parliament. If it recommends the approval of the instrument, the Parliamentary Bureau shall, by motion, propose that the instrument be approved by the Parliament.

**Motion**

S2M-3910 Mr Tom McCabe: The Draft Budget (Scotland) Act 2005 Amendment (No.2) Order 2006—That the Finance Committee recommends that the Draft Budget (Scotland) Act 2005 Amendment (No.2) Order 2006 be approved.

Supported by: George Lyon
Subordinate Legislation Committee report on the instrument

8. The Subordinate Legislation raised points with the Executive in relation to the instrument. The SLC’s comments on the instrument and the relevant extract of the Executive’s response is detailed below.

Extract of SLC report

9. The Subordinate Legislation Committee noted that this Order was one of two orders amending the Budget (Scotland) Act 2005 subject to Parliamentary scrutiny at the same time and asked the Executive to clarify why it had not been possible to combine the amendments into a single instrument.

10. The Executive has indicated that the overlap is the result of a delay in the laying of the Autumn Budget Revision. The Executive has also provided an explanation as to why it was not possible to wait until the Spring Budget Revision to bring forward the budget changes.

11. The Committee notes the explanation provided but considers that there could have been better coordination of the two instruments and therefore reports this Order to the lead Committee on the grounds of failure to follow proper legislative practice. The attention of the lead Committee and Parliament is also drawn to the Executive’s response (detailed below).

Extract of Scottish Executive response

12. It is usual for Departments to have two opportunities each year to amend the Budget Act to take account of movements to budgets in year. These are known as the Autumn and Spring Budget Revisions. This year the Autumn Budget was unfortunately delayed because of a knock on effect from HM Treasury’s change to their financial systems. This meant that the Autumn Budget Revision was laid in December instead of November. Due to the timing of this (Christmas recess further delayed progress), the SSI will not be made until February 2006 and this has led to an overlap with the laying of the Spring Budget Revision.

13. It was not possible to wait until the Spring Revision to put through all of the budget changes as Departments increasing their cash authorisation were unable to wait until March/April for the authority to make certain payments and the Spring Budget Revision could not be laid any later than end January if it is to take effect within this financial year.
Finance Committee

5th Meeting 2006 – Tuesday 21 February 2006

A Brief Guide to the 2005-06 Spring Budget Revision from the Scottish Executive

1. **Total increase to voted provision resulting from SBR changes is £113,979,000.** This is equivalent to an increase of 0.4% on the budget approved at ABR as indicated in the attached summary table.

2. **Total increase made up of the following 5 subheads:-**
   - Additional Funding (£53,173,000) - largely made up from buyout of Highland & Islands Airports (£20m), RSG (£12.3m), Napier (£10.2m), Scottish Prison Service capital charges (£2m) and European Structural Funds (£8.7m);
   - Take up of EYF (£5.811,000);
   - Net Whitehall Transfers (£57,395,000) – due to NHS Pensions revised AME estimates (£28.1m). Also includes additional AME funding for CAP Market Support (£20.8m), transfer from DoH for the net costs of Out of Area Treatment (£4.4m) and a transfer from Dept. of Transport for Rail Services (£2.2m);
   - Net Transfers within Scottish Block (£8,778,000); due to Scottish Water accounting adjustment (£103m), increased income from National Insurance contributions (-£97m) and transfer of Legal Aid capital charges to Police capital charges (£3m) [NDPB capital charges not shown in budget document].
   - Transfers to/from CUP (-£11,178,000).

3. **Significant revisions include:-**

   **Environment & Rural Affairs Department**
   - Additional £21m (AME) to cover increases in CAP Market Support following revised estimates of need; and
   - Adjustment to Scottish Water figures £103m (to align budget with reporting of the Executive’s accounts agreed with Audit Scotland, repayments of loans to National Loans Fund and Public Works Loan Board excluded [£51m] and capital charges included [£52m]).

   **Development Department**
   - Transfers to CUP amounting to £25m (from Affordable Housing Investment Programme (£12m), Modernising Private Sector (£4m), Community Regeneration Fund (£3m) and other smaller transfers noted on pages 23 -25) partly offset by £11.9m transfer from CUP to Supporting People programme and £2m to Central Heating Initiative.
Education
- £20m of School Buildings budget transferred to CUP for spend in future years.

Enterprise & Lifelong Learning
- Transfer from Central Reserve to European Structural Funds (£8.7m) to meet increased demand; and
- Transfer to ETLLD CUP amounting to £100m from various programmes for spend in future years (e.g. SAAS (£19.9m), Capital Grants to Further Education Colleges (£16.7m), Highland & Islands Enterprise (£5m), Regional Selective Assistance (£4m), and from Transport programmes Mobility & Integrated Transport Fund (£23.2m), Rail & Strategy Investment (£6.7m) and Smartcards Applications (£4m)).

Transport
- Transfer of £20m from central reserve to Highland & Islands Airport Limited for buyout; and
- Transfers to CUP noted above.

Health
- Transfer of £49m from Health Improvement to Health Boards for local projects;
- Drawdown of £97.9m from CUP for NHS Boards;
- Income from National Insurance contributions (outside DEL) of £97.4m; and
- Transfer from Department of Health for the net costs of Out of Area Treatment (OATS).

Justice
- Transfer of £10.2m from central reserve to Scottish Prison Service for Napier related costs.

Administration
- Drawdown of £5.5m from CUP for Scottish Executive staff costs; and
- Transfer of £2.2m from FCSD for managing and expanding eProcurement Scotland services.

Finance & Central Services
- Transfer of £12.3m from central reserve for Revenue Support Grant to rectify an error in the 2005 Local Government Order which resulted in a lower distribution to councils than was due;
- Transfer from central reserve of £111.7m to Revenue Support Grant to fund shortfall in non-domestic rates income; and
- Drawdown of £18.5m from CUP for a range of programmes including G8 funding, Cities Growth Fund and Improvement Service.

NHS & Teachers’ Pensions
- Increase in estimated (AME) requirements for NHS pensions expenditure of £28m.
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Finance Committee

5th Meeting 2006 – Tuesday 21 February 2006

Scrutiny of Financial Memorandum – Evidence on the Planning etc (Scotland) Bill

1. The Planning Etc. (Scotland) Bill (“the Bill”) was introduced to parliament on 20 December 2005. The Communities Committee has been designated the lead committee for the Bill at Stage 1.

2. The Finance Committee agreed at its meeting on 24 January to adopt a level 3 approach to its scrutiny of the bill. Specifically, the Committee agreed to issue its standard questionnaire to potentially affected organisations and take oral evidence from COSLA followed by evidence from Executive officials.

3. The evidence session on 21 February will consist of one panel of representatives from CoSLA. The Committee will then take evidence from Executive officials on 28 February.

4. The following responses to the questionnaire have been received so far and these are attached:

   - CoSLA
   - Cairngorms National Park Authority
   - Scottish Natural Heritage
   - Scottish Council for Development and Industry
   - SEPA
   - Scottish Enterprise
   - Scottish Water

Roz Wheeler
Senior Assistant Clerk
SUBMISSION FROM COSLA

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

COSLA has responded to many of the consultation papers leading up to the Bill, including the submission of a response to the White Paper on Planning.  COSLA has cautiously welcomed the Bill, as many of our member councils believe that the current planning legislation is no longer capable of meeting the needs of Scotland’s community, in terms of development.  We do not accept everything in the Bill proposals and will challenge those issues that we believe will be detrimental to local decision-making elsewhere in the Parliamentary process.  However, one of the most pressing issues is the lack of resources presently available to many authorities to deliver the current planning system, far less the White Paper’s proposals. A key resource issue is that local authorities are finding it increasingly difficult to fund the recruitment and retention of professional planners. This, in turn, can have a negative impact on performance.

COSLA agrees that there are not enough resources presently to allow the planning service to perform to the standards demanded by the Executive and supports the Executive’s position, in principle, that a significant increase in resources will be needed to undertake the culture change sought in this Bill. We reflect our concerns on this in our answers to the following questions.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

COSLA’s comments have been reflected to a certain extent.  COSLA is aware that the Executive has undertaken significant study into this issue, following the results of the establishment survey carried out by the Scottish Society of Directors of Planning in 2003.  COSLA was also engaged in the Executive’s work on resources as well as the further questionnaire to local authorities carried out at the end of 2005.  However we believe, that other council costs need to be taken into account.  COSLA is currently examining the cost implications for other council services that provide necessary support to the planning system currently.  It is likely that such support will need to continue.  Further funding will add value to the planning service, but it should be noted that other council services are underfunded as well.  Additional funding for the planning service should not be at the expense of other local government services.

3. Did you have sufficient time to contribute to the consultation exercise?

In gathering comments from our member councils, COSLA, as is our practice, has to build in a time factor to deal with differing local authority committee cycles, where individual council responses are politically ratified. That said, we believe sufficient time was available in this instance.  In terms of the Bill itself, many of the proposals are of a technical nature, the analysis of which has not been assisted by the short time scale in
which the parliamentary process is conducted. However, COSLA is currently undertaking further analysis with the assistance of the Scottish Society of Directors of Planning and Directors of Finance.

We do express our concerns that as this Bill is effectively an amendment to the existing legislation, rather than a new Bill, it makes it difficult to make comparisons with the existing legislation, particularly in regard to the technical proposals mentioned.

Costs

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

COSLA itself is not directly affected by the financial implications of the Bill. However, representing the interests of our member councils, we believe that, in line with the various studies and reports published in recent months, the local authority planning service in Scotland has been under funded for some years. The position taken by the Financial Memorandum could be broadly viewed as reasonable, in recognising the shift in funding away from the planning service. However, to reiterate our concerns expressed above, COSLA must remind the Committee that local government has been dealing with a number of other huge priorities over a number of years and what we will not accept is the funding of the planning system, to the detriment of other services.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

Again, COSLA would not be directly affected, but we would assert that our member councils cannot begin to achieve the culture change proposed by the Planning Etc. (Scotland) Bill, unless the resources identified in the Financial Memorandum, at the very least, are made available to them. Local authorities have broadly welcomed the Bill proposals and recognise the need to improve the quality, efficiency and effectiveness of the service. Particularly welcomed are the proposed enforcement powers. However, there are other aspects of the Bill that come at a cost, regardless of the supposition that efficiencies can be achieved by certain proposals, such as the removal of a tier of development planning from all but city/region areas. It has to be remembered that preparation of development and local plans is not funded from fees accrued by the planning application process. Fees only aim to cover the costs of development control, or development management as is now proposed. It is arguable yet that full cost recovery actually happens.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
In principle, the margins of uncertainty seem reasonable. However, there are no defined timescales cited in the Financial Memorandum over which costs to local authorities would be expected to arise. There is a reference to a “transition period”, but this is not clearly defined. The transition phase to adjust to the new legislation and accompanying regulations and guidance will almost certainly be different in each local authority. Local circumstances, including the capacity of understaffed planning teams to respond to legislative change will determine the timescale over which that change may be achieved. This should be recognised as an additional cost.

**Wider Issues**

7. *If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

It seems reasonable to focus the Committee’s attention on a range of existing legislation and regulation that has association with the planning function in local authorities. These have cost implications, which will continue into any new planning legislation. For example, the Environmental Assessment (Scotland) Act is a significant cost burden in terms of data gathering and analysis as well as public consultation. The drafting of a development plan will have to take account of this legislation and should a Strategic Environmental Assessment be required, which for almost every development plan, will be the case, the costs in the short to medium term are already significant. COSLA is not clear that these costs are taken into consideration in this Financial Memorandum.

Other Executive policy areas are dependant upon the planning system to support their agenda. For example, planners are obliged to take account of the impact of waste landfill sites, windfarms and other renewable energy structures and telecommunications masts, which may require specialist skills not always available. All of this comes at a cost and although these initiatives have progressed, there has been no supporting growth in resources to the planning service to deliver the necessary functions. For example, several authorities, in response to the latest questionnaire, indicate resource problems in dealing generally with environmental impact assessments and sustainability/biodiversity issues.

It has to be said that for many other council services and interests, such as education, social work, housing, roads and transport, tourism and leisure services, the planning service has a pivotal role. The demands on the planning service extend beyond professional planners to the administrative and technical support and other related back office activities. Again, the cost implications of such support need to be recognised and factored into funding.
8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

A considerable amount of subordinate legislation, regulation and guidance is anticipated in connection with the Bill. It is only to be expected that associated future costs will follow, especially as new pressures emerge on the planning process. COSLA cannot however, provide any quantified costs for such issues. The difficulty in doing so arises again from limited understanding of the costs currently felt by councils in undertaking compliance with existing subordinate legislation, regulation and guidance. Some of the studies carried out for and on behalf of the Scottish Executive will focus on costs to councils in regard to handling of specific categories of planning applications, such as minerals, listed buildings and conservation area consents, telecommunications development and hazardous substances consents. Councils, in responding to the Scottish Executive questionnaire issued in late 2005 have provided information on costs associated with these specific issues.

The proposals concerning neighbour notifications have been identified as an issue of concern for a number of local authorities. We acknowledge that the Executive see this new duty as funded through the application fee structure. But disparities will exist in terms of geographic issues in rural authorities, as well as density issues in urban authorities. A number of councils have already undertaken costing exercises on this matter, confirming that disparity does exist. What COSLA would find unacceptable, would be the introduction of a flat rate element into the fee structure to deal with neighbourhood notification. A flat rate would not deal with expenditure disparities.

But there are many other issues that cannot be costed similarly. Nor can COSLA predict at this time, future costs falling to local authorities linked to related European and domestic legislative proposals that may impact on the delivery of the planning function. A key example of this in terms of the current planning system was the impact of the EU Strategic Environmental Assessment Directive and the related Scottish legislation. There was no means to identify in advance of the domestic legislation what the financial burden would be on local authorities and over what timescales it would have the greatest impact. As indicated above, the impact on development planning has been significant in terms of cost as well as the need to factor in additional time resources, leading to the potential for slowing down the development planning process, rather than speeding it up, as sought by Ministers.

COSLA doubts that this will have the same impact in the longer term, in a financial context, but it is a key example of lack of recognition of the impact of such legislative changes on local authorities' ability to deliver an efficient and effective service. COSLA welcomes the principles of Strategic Environmental Assessment, but it should be a lesson learned in assuming that councils would be able to bear the cost without further resources being made available.
SUBMISSION FROM CAIRNGORMS NATIONAL PARK AUTHORITY

Consultation
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?
   
   Yes we did respond to the White Paper. We made general comments on resource implications, regarding for example administrative costs for neighbour notification.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?
   
   No, there is only reference to resource implications for local authorities: not CNPA which is a NDPB.

3. Did you have sufficient time to contribute to the consultation exercise?
   
   Yes thank you.

Costs
4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

   No. CNPA cannot raise additional income from Council Tax base or from windfall (unbudgeted) planning fee income. As NDPB we are funded by the Executive. Higher fees will not cover cost of neighbour notification as we only receive 50% of fee from local authority. Additionally the proposals do not identify how neighbour notification is dealt with for re-notifications after “call-in” & rectification of any erroneous initial notifications by LA pre-“call in”.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

   If Executive undertake to adjust our budget to reflect cost of additional responsibilities we will be content from financial perspective.

6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

   Do not think so as the full implications have not been comprehensively assessed and worked through the system – figures are purely rough estimates at this point in time and not based on reality of working with the new system.
Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

See below.

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

To take the last point first – the answer is no. The Bill will give rise to a variety of secondary legislation and costs cannot even be estimated until the detail of that is available e.g. changes to the General Permitted Development and Use Classes Orders.
SUBMISSION FROM SCOTTISH NATURAL HERITAGE

Thank you for your letter of 25th January addressed to John Markland, seeking SNH’s views on the Financial Memorandum that accompanies the above Bill.

The Planning Bill is a complex piece of legislation and much detail of the proposed arrangements has yet to be defined through secondary legislation. It is therefore difficult to determine the financial impact of the proposals in any detail at this stage. Against this background, however, we have some general comments on the Financial Memorandum.

Importance of adequate funding

We would emphasise the importance of adequate resourcing in order to support all the bodies which will be involved in the implementation of the new arrangements. This is particularly true of the Executive itself, and we welcome the intention to increase the staff complement in some key areas (including a small dedicated team to lead on preparation of the National Planning Framework, as indicated in para. 218). Planning authorities are also central to the success of the proposed reforms. Although the provision of funding for local authorities is not primarily a matter for SNH, discussion through the Planning Finance Working Party (para. 244) will be of particular importance in clarifying the need for additional support and refining the estimates presented in the Financial Memorandum.

SNH input to development plans and development management

The most direct implications of the proposals for SNH arise from the new duties on key agencies in relation to the development plan process and development management, which are not directly addressed by the Memorandum. SNH already directs considerable resources into consultation during development plan preparation, and it is difficult to judge whether these will need to increase as a result of these proposals. It seems likely that the formal requirement to engage in preparation of the main issues report, proposed plan and action programme on a five year cycle will be offset to some degree by the relatively concise, focused nature of these documents, and these duties may only represent a modest increase in workload. SNH also engages extensively with developers in relation to particular proposals, and our role in relation to development management will not be entirely new. The balance of our involvement may nonetheless change under the new regime, particularly in relation to pre-determination hearings, which could result in significant time commitments for staff. At this stage, the net implications for SNH therefore appear fairly modest. They will, however, arise at a time when the calls on the time of our staff from other new procedures, such as SEA and those introduced under the Nature Conservation (Scotland) Act and the Water Framework Directive, will also be increasing. It will, moreover, only be possible to assess the probable impact properly when we
have seen the detail of the secondary legislation and the procedural guidance which will flow from the Bill.

Proposals for National Scenic Areas

The Committee will be aware that the Executive has recently issued a consultation paper on *Enhancing Our Care of Scotland's Landscapes*. SNH strongly supports this initiative, which seeks views on proposals for a new statutory basis for National Scenic Areas, for possible introduction to the Planning Bill at Stage 2. Key to fulfilling the new statutory purpose and aim is the preparation of a Management Strategy for each NSA. The paper includes a preliminary estimate of the likely costs associated with this process (a total of approx. £1.98m for strategy preparation, £0.85m annual support costs and some additional costs for specific projects arising from the strategies). While these costs are relatively modest in the context of the wider planning reforms, it will be important to ensure that they are provided for adequately, either through SNH grant or directly through the Scottish Executive. There is an important issue of principle here, as NSAs represent a national resource and should be funded at national level so that the onus does not fall entirely on the ten local authorities concerned. At a more practical level, there is no current intention to place Management Strategies on a statutory footing, and the success of this voluntary approach will be closely dependent on adequate financial support. SNH will be required to be adequately resourced if we are to meet local authority demands through our grants programme.

Wider public engagement

It will be important to ensure that all interested parties, including community groups and voluntary bodies, are able to engage fully with the planning system. This objective is one of the central planks of the proposed reforms, and we would sound a note of caution in relation to the view expressed in the Memorandum that “the load on individuals should not…increase” (para. 279). The proposed ‘front-loading’ of public engagement should, if achieved in practice, result in a shift from reactive objection to more ‘strategic’ input earlier in the planning process. This will require effective participation in development planning on a regular five year cycle, along with pre-application consultations and pre-determination hearings, and may well require greater time input from individuals. This in turn implies a need for additional financial commitments to promote awareness of the new system among local communities, and to increase their capacity to contribute effectively.

I hope that these comments are helpful, but please do not hesitate to contact my colleague Mark Wrightham (01463 667922; mark.wrightham@snh.gov.uk) if you would like to discuss any of this in more detail.

Yours sincerely,

John Thomson
Director of Strategy and Operations – West
SUBMISSION FROM SCOTTISH COUNCIL FOR DEVELOPMENT AND INDUSTRY

QUESTIONNAIRE

This questionnaire is being sent to those organisations that have an interest in, or which may be affected by, the Financial Memorandum for the Planning Etc. (Scotland) Bill. In addition to the questions below, please add any other comments you may have which would assist the Committee’s scrutiny.

Consultation

Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

SCDI has been involved in the consultation for the Bill. SCDI has no comment on the financial assumptions made in the Bill but does believe that significant extra resources are required to ensure the planning system works as efficiently and effectively as it should. This underlying pressure on the planning system will be increased by a number of the changes proposed in the Bill.

Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Yes. Paragraph 265 of the Financial Memorandum states that, “Undoubtedly, however, there is a case for improving resources available to the planning service.”

Paragraph 267 states that, “We have to accept as a starting point that the planning system at present is under-resourced and under-performing.” It continues, “the reform proposals, particularly when transitional costs are taken into account, seem likely in the early years to generate more costs than savings.”

Did you have sufficient time to contribute to the consultation exercise?

Yes.

Costs

If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

The Bill has no financial implications for SCDI.

Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?
N/A

*Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?*

SCDI has no comment to make on this issue.

**Wider Issues**

*If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?*

SCDI agrees with the Financial Memorandum that states in paragraph 269 that the costs on business and others of the Bill are difficult to reliably estimate due to a lack of specific detail as to how the new systems will operate. SCDI has no evidence to suggest that the estimates given in the Financial Memorandum are inaccurate, but also has no information with which to measure their accuracy.

*Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?*

SCDI believes that it is likely that there will be future costs associated with the Bill when further details are produced through secondary legislation. However, SCDI has no information as to the level of these costs.
SUBMISSION FROM SCOTTISH ENVIRONMENTAL PROTECTION AGENCY

1. Background – SEPA’s role in the Planning System

1.1 Influencing the planning system is one of the key non-regulatory ways in which SEPA can achieve its six environmental outcomes\(^1\) and provide for effective protection of Scotland’s environment. SEPA is currently a statutory consultee for certain types of development and the Agency works closely with all planning authorities across Scotland on both strategic, development planning and development management matters.

1.2 Most of SEPA’s outcomes and objectives require to be taken forward proactively by the planning process, particularly in relation to taking forward sustainable development. For example, to achieve SEPA’s waste outcome, the National Waste Strategy sets out a need for Scotland to move from a situation where it landfills over 90% of its waste (in 2002), to one where waste is managed more sustainably through reduction, reuse and recovery with only 30% landfilled by 2020. Clearly to make such a transition requires an effective and fit for purpose planning system that can provide the spatial framework for delivery of the network of waste infrastructure facilities to achieve this objective.

1.3 Earlier reviews of SEPA’s work in this area, principally the 2002/3 Policy and Financial Management Review (PFMR) undertaken by the Scottish Executive, recommended an enhanced input to planning processes. The Board and Management of SEPA readily endorsed this view and directed resources to this area as a result.

1.4 Accordingly, SEPA allocates significant resources for engaging with the planning system at all its levels, from influencing Scottish planning policy and advice, to working with Planning Authorities in the preparation of Development Plans and engaging with planners and developers to facilitate the determination of planning applications. To do this work, SEPA has 24 dedicated planning staff responsible for planning liaison work at both national and local level. Further support is provided by specialist staff within SEPA such as hydrologists and ecologists. SEPA typically provides input to 8500 planning applications per year and to the preparation of every development plan in Scotland. SEPA is also committed to following up its representations on development plans and planning applications and frequently gives evidence to planning inquiries and hearings.

2 Responses to Questionnaire

Q1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

The Bill has come forward following very extensive consultation on both its principles and on some of the detail which may follow. SEPA has played an active part in contributing to all of the consultations to date. SEPA made some reference to the resource implications of specific proposals.

Q2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

The Financial Memorandum does not detail resource implications for SEPA or other key agencies, so have not been reflected at this stage.

Q3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

Q4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Q5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

SEPA already puts considerable resources into engaging with the planning system and, therefore, any significant alterations to that system such as those proposed by the Bill will have resource implications for the Agency. Proposals such as statutory pre-application discussions, good neighbour agreements, pre-determination hearings and the duty to cooperate in a wider range of development planning activities will all have implications.

As noted above, the Financial Memorandum does not detail resource implications for SEPA. Therefore there is some uncertainty about the implications for the Agency as no research has been undertaken to evaluate potential costs. This uncertainty is increased by the fact that some of the resource implications of the Bill will not be known until further detail is provided. For example, a statutory duty will be placed upon key agencies (which we expect will include SEPA), but it is unclear at this stage what that duty will entail in detail. We would expect resource implications to be assessed as further details are brought forward in subordinate legislation and guidance.
It is the case, though, that SEPA will need to embrace the culture of change that the Planning Bill is seeking to sweep in, and, just like planning authorities, SEPA will need to change its own processes and realign its resources to where they can best contribute to making the planning system the driver for sustainable development that it could and should be. Accordingly, while the Bill will impact on the Agency’s activities considerably and while reserving judgement on some of the detail to emerge in subordinate legislation, SEPA will seek to manage this through re-prioritisation or resources in line with the Bill and through development of effective and efficient new procedures.

Q6. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

Q7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

Q8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

As noted above, there is uncertainty regarding the resource implications of some of the detailed arrangements that will emerge in subordinate legislation and in guidance. This has not been estimated at this stage but, as the Financial Memorandum indicates, as each new regulation is drafted it will be accompanied by a Regulatory Impact Assessment. We would expect these to consider fully the costs to key agencies such as SEPA and, where appropriate, for additional resources to be made available to meet new duties which will have identifiable additional resource implications.
SUBMISSION FROM SCOTTISH ENTERPRISE

Scottish Enterprise (SE) welcomes this opportunity to comment on the Financial Memorandum for the Planning Etc (Scotland) Bill. SE has been a keen contributor to the entire consultation process and has commented on all aspects of the Bill, in both written form and through direct evidence to the Parliament’s Communities Committee. In terms of this response, SE would like to reiterate two main points:

- The White Paper introduces many new responsibilities, monitoring and reporting regimes, appeal processes and public consultation requirements without identifying how these will be resourced. There are significant resource implications for Local Authorities who are already struggling to provide sufficient Planning Staff with the relevant skills. Without adequate resourcing the proposed changes to the Planning system will not work, introducing lack of clarity and continued delay. In addition there are likely to be increased costs associated with extra public consultation, planning fees and new appeal arrangements which will impact directly on those seeking approval for development. However the Network would caution that fees remain competitive and do not become a potential disincentive to invest.

- SE is supportive of the statutory requirement on Local Enterprise Companies to engage in the deliberations of Local Development Plans and agrees that it should ensure better co-ordination of spending and policy decisions. However the Network is conscious of potential resourcing issues and would welcome further discussions as to the applicability of Network staff benefiting from the Executive’s planned expenditure on training needs and skills gaps, as outlined in the White Paper. Apart from a need to update the skills set of existing staff, the Network does not envisage that the proposed Bill would have any further direct cost implications, as it is merely formalising existing activities and relationships.

SE continues to support the Executive’s ambition of modernising the Planning Process and believes that Scotland’s competitiveness is dependent on a Planning System that has clarity of purpose, is inclusive of all relevant perspectives and is responsive of the needs of the development sector.

Yours Sincerely,

Allan McQuade
Director, Property, Locations and Place
SUBMISSION FROM SCOTTISH WATER

Scottish Water welcomes the opportunity to respond to the Planning etc. (Scotland) Bill – Financial Memorandum.

Scottish Water is particularly interested in this paper due to our major involvement in three distinct areas relating to planning.

- Scottish Water is a major applicant in the planning process. The organisation made around 270 applications in 2005/06.
- Scottish Water is also a statutory consultee in the planning process. We receive and manage 16,000 development control applications each year.
- Scottish Water is a major provider of infrastructure which enables new house building and commercial developments.

We are pleased to offer Scottish Water’s response to the questions posed regarding the Financial Memorandum.

Consultation

1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?


   - Scottish Water identified that it needed greater clarity on the Planning etc (Scotland) Bill February 2006 such that it could seek to redress any necessary funding deficit through formal economic regulatory mechanisms with the Water Industry Commission. Areas of financial concern in this consultation included planning fees associated with applications from Scottish Water, anticipated increases in costs associated with the proposed appeals process and greater clarity on the use of planning agreements with developers and how this may affect project timescales and costs. It was difficult to provide any meaningful detailed budgetary costs that would impact Scottish Water within our response to the consultation due to the level of uncertainty at that stage.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

   - Scottish Water identified areas of financial concern as highlighted above and these would appear to be reflected within the Financial Memorandum. However it is important to note there was, and still is,
insufficient information available to fully quantify the financial impact of the Bill.

3. Did you have sufficient time to contribute to the consultation exercise?
   - Yes

**Costs**

4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.
   - Scottish Water is not currently funded in the regulatory period 2006-10 for the implications arising from the Bill. Scottish Water believes that the Bill may have significant financial implications for our organisation, however there remains a high level uncertainty around the requirements of the Bill and it is difficult to determine where the balance of savings or costs lie for Scottish Water.

   - For example, we believe the proposed Strategic Development Plan approvals provide an opportunity for savings together with the long term benefits of E-Planning. In contrast, additional resources will be required to support regular 5 yearly reviews of Statutory Action Plans and Local Development Plans. It is also a concern that the proposed Appeals process could increase costs incurred in the delivery of projects.

   - It is important to note that Scottish Water’s investment programme which covers the regulatory period 2006 – 2010, also makes no allowance for the impact that the Planning etc (Scotland) Bill will have on Scottish Water and therefore any additional funding that may be required will be over and above the regulatory settlement determined by the Water Industry Commission for 2006 to 2010.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?
   - As stated in the answer in question 4, Scottish Water is not currently funded for the additional financial costs associated with the Bill. Scottish Water has recently accepted the Water Industry Commission’s Determination of Charges for 2006-2010 and there is no funding within the regulatory settlement for the costs and duties highlighted in the Bill.

   - Scottish Water is aware that the Scottish Executive has recently intimated that grants may be available to partially off-set initial setup costs. However, we are further concerned that financing some of
the additional set-up and on-going running costs associated with
the Bill will only be possible by passing these costs, which are not
directly related to quality and efficiency, directly onto Scottish Water
customers.

6. Does the Financial Memorandum accurately reflect the margins of
uncertainty associated with the estimates and the timescales over
which such costs would be expected to arise?

- Scottish Water believes the Financial Memorandum is unclear as to
  when these costs may impact and as previously indicated projecting
  accurate costs at this stage is not a practicable option due to the
  need for further guidance and clarification.

Wider Issues

7. If the Bill is part of a wider policy initiative, do you believe that these
associated costs are accurately reflected in the Financial
Memorandum?

- Please refer to the answer provided to Question 6 above.

8. Do you believe that there may be future costs associated with the Bill,
for example through subordinate legislation or more developed
guidance? If so, is it possible to quantify these costs?

- Scottish Water believes that there may be future costs associated
  with the Bill as more guidance becomes available. Scottish Water
  believes that it is only when more detail regarding the Bill has been
  developed, that a more accurate costing of the impact on Scottish
  Water can be produced.

- Particularly, Scottish Water welcomes further consultation on the
  future fee structure attached to Planning Applications.

- Scottish Water will continue to support the delivery and
  implementation of the Planning etc (Scotland) Bill through
  participation in working groups.