Scottish Executive Response to the Royal Commission on Environmental Pollution's Twenty-third Report

Environmental Planning

July 2003
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Introduction

The Royal Commission on Environmental Pollution's Twenty-Third report "Environmental Planning" was presented to the Westminster Parliament in March 2002 and laid before the Scottish Parliament by the Scottish Executive in May 2002.

The Scottish Executive is grateful to the Commission for their report and for reminding us of the importance of protecting and enhancing the environment. The land use planning system and the environmental protection regimes have achieved an immense amount, though we cannot stand still and we will continue to take appropriate action on a range of fronts to ensure sustainable development.

The Government and the devolved administrations have today laid before the relevant Parliaments an overarching response to the Commission’s Twenty-Third Report summarising the position in the UK as a whole. Individual “daughter” responses, which show the detailed position in each administration, are also being provided to the Commission. This is the Executive’s formal detailed response to the Commission.

STRENGTHENING PUBLIC CONFIDENCE

Recommendation 1

We recommend that the demonstrable capacity of public participation to improve plans and policies should be fostered by improving existing procedures and developing new deliberative processes.

The Scottish Executive wholeheartedly agrees that public participation plays a crucial role in improving public policy. The broader and deeper that involvement is, the greater the potential gains that can be accrued. We recognise that not everyone with a view has the time or inclination to respond to consultation papers. Where required, we need to be more pro-active and creative in our efforts in seeking the wider public’s views. That is something we are taking forward. For example, as well as issuing a joint consultation paper with the UK Government and the other devolved administrations on “Managing Radioactive Waste Safely” we have recently conducted a major research exercise to assess the level of public awareness about and interest in engaging the public in decision making on radioactive waste management issues in Scotland. This included conducting focus groups (including one specifically with 14-17 year old youths) and a telephone survey.

In November 2001 the Executive published the consultation paper "Getting Involved in Planning". The paper looked at the effectiveness of existing arrangements for people to have their say in land-use planning matters and considered the scope for improvements, through promoting best practice, by highlighting the benefits of new technology and by considering changes to legislation. It also contained proposals for the introduction of local planning forums and a national consultative group to help promote best practice. The responses to this consultation paper and the accompanying research commissioned by the Executive have informed Ministers’ consideration of how to take forward the Executive’s commitment to enhance public involvement. The Executive’s proposals are set out in “Your Place, Your Plan”, a White Paper on public involvement in planning published in March 2003.
The Water Environment and Water Services (Scotland) Act 2003 establishes a new regime for the management of Scotland’s water environment. Building opportunities for effective public participation into that system is at the heart of the legislation.

**Recommendation 2**

We recommend that the legislation on development control, conservation areas, scheduled monuments, listed buildings and control of advertisements should be consolidated and a single consent procedure introduced, provided this can be achieved without any weakening of the present safeguards.

The Executive recognises the apparent complexity of the current arrangements and the attractiveness of more streamlined arrangements. However, while not ruling out the possibility of examining options relating to combining these consent procedures, the Executive does not underestimate the difficulties likely to be encountered. The Executive is aware that research in this field is currently being funded by ODPM - we await publication of their findings with interest.

**Recommendation 3**

We recommend that pollution control authorisation and planning permission for industrial plants should be obtained through a single open process involving a common environmental statement (see 7.27-7.28 below) and, where appropriate, a joint public inquiry.

The Executive acknowledges that there have been concerns expressed about the interaction between the regimes for pollution control authorisation and for planning permission. We have gathered evidence on this issue as part of the Policy and Financial Management Review of the Scottish Environment Protection Agency. The Scottish Executive, in guidance to planning authorities (Planning Advice Note 51, 1997), has advised that as a matter of good practice, land use planning applications that give rise to environment protection considerations should be considered in parallel with the licence application or authorisation. The tendency, however, is for the two processes to take place sequentially with SEPA considering the detailed environment protection implications of proposals for which land use consent has already been obtained from the planning authority. The Scottish Executive, in consultation with SEPA and other interested parties, is undertaking a review to establish the scope for improving interaction between the statutory land use planning system and environment protection consenting regime.

**Recommendation 4**

We emphasise that there should be no reduction in the obligations on planning authorities to consult the agencies responsible for pollution control, flood defence, conservation of species and habitats, countryside and the built heritage.

The Executive shares the Commission’s view on the importance of consultation in the planning process. Indeed, through the work we are doing on local planning with Highland Council and South Lanarkshire Council and on the development of city region plans, we will consider how the arrangements for consultation on environmental and other issues might be strengthened.
Recommendation 5

There will be some types of case in certain areas where the relevant specialist agency can provide the planning authority with standing advice in advance, and so dispense with the need for consultation on individual cases and we recommend that more effort be devoted to identifying such categories of cases.

We agree there may be some types of case that could be better handled through the provision of standing advice from the relevant special agency. Such arrangements may streamline the process and reduce the burden of consultation on the agencies. We will consider further whether changes to planning legislation are required to allow specialist agencies the opportunity to give advice in this manner. We do not, however, believe that standing advice would obviate the need for consultation on individual cases. It may not be clear to the planning authority that some aspect of an application would give the agency cause to amend or supplant its standing advice. Specialist agencies therefore need an opportunity to consider the appropriateness of the standing advice on the merits of each case.

Recommendation 6

We recommend the establishment of Environmental Tribunals to handle appeals under environmental legislation other than the town and country planning system, including those now handled by planning inspectors.

The Executive considers that the current arrangements, whereby Scottish Ministers determine environmental appeals, are generally robust, cost effective and meet ECHR requirements. Should individuals have concerns about the way a particular appeal has been handled, recourse to Judicial Review is available. We are not aware of any significant demand to replace the existing arrangements of written submissions, Public Local Inquiries or hearings, with Environmental Tribunals. The variations between appeal provisions in environmental legislation are acknowledged. However, to test the effectiveness of the current arrangements for determining environmental appeals we are undertaking a review of these and will, as part of the review, include consideration of the Commission’s recommendation that Environmental Tribunals be established.

Recommendation 7

We recommend that third parties should have a right of appeal against decisions on planning applications in certain circumstances, and that similar rights of appeal for third parties should be introduced for other forms of environmental regulation.

Some groups and individuals have identified the lack of a third party right of appeal in the planning system as an imbalance and suggest that a right of appeal should be extended to all in the interests of fairness, but this view is not shared by everyone.

There needs to be an appropriate balance between the interests of people, businesses and organisations proposing developments, and the interests of individuals and communities whose quality of life will be most affected by planning decisions. Planning needs to be demonstrably transparent, objective and fair if public confidence in planning decisions is to be maintained.
The Scottish Ministers recognise that this is a topical subject that involves strongly held views. It is also a complex issue with potentially significant implications for the planning system and beyond. The Scottish Ministers therefore intend to issue a consultation paper during 2003 on new rights of appeal in planning cases where the local authority involved has an interest, where the application is contrary to the local plan, when planning officers have recommended rejection or where an Environmental Impact Assessment is needed.

We have no plans at present to introduce third party rights of appeal for other forms of environmental regulation. However, we are currently conducting a review of environmental appeals and will take into account relevant feedback arising from the consultation on third party planning appeals.

**Recommendation 8**

We recommend that the public planning register should contain, not only all section 106 agreements entered into, but also the heads of agreement between the local planning authority and the developer which provide the basis for negotiating the detailed terms. Local authorities should also be encouraged to consult the public on the terms of such agreements.

In July 2000 the Executive commissioned research into the Use and Effectiveness of Planning Agreements (section 75 of the Town & Country Planning (Scotland) Act 1997). The research report was published in 2001. In November 2001 we published a consultation paper “Getting Involved in Planning”. One of the proposals considered that there was a strong case, subject to commercial confidentiality where appropriate, for more information on planning agreements entered into by the planning authority to be publicly available, and that details should be included in the planning register. The White Paper Your Place, Your Plan published in March 2003 recognised that there was strong support across all stakeholder groups with almost universal agreement that more information should be made available. However, there were differing views on how much detail should be included in the register.

In addition, the Scottish Executive in association with the Royal Town Planning Institute in Scotland and the Royal Institute of Chartered Surveyors in Scotland and Homes for Scotland organised a seminar in January 2003 on the subject of planning agreements and developer contributions. A number of issues came up at this seminar, including the registration of planning agreements. This and other issues relating to planning agreements will be considered in the context of a forthcoming Planning Bill.

**Recommendation 9**

Planning authorities must be properly resourced for their tasks so that they will not have the incentive to accept forms of funding which could prejudice their decisions.

Local authorities receive funding from the Executive each year to assist with their expenditure but it is for authorities to determine how they will allocate their money to each department. The Scottish Executive is, however, taking steps to assist planning authorities.

In 1997, the Scottish Executive Planning Audit Unit (PAU) was established to assess local authorities' practices in processing planning applications and to provide advice on how improvements could be made. The remit of the PAU was extended in 1999 to cover
development planning. The Planning Audit Unit has carried out 16 development control audits since 1997. It has also conducted 2 development planning audits and 7 combined development control/development planning audits. From the work of the PAU (and from the results of consultation carried out in 1999 on "Land Use Planning Under a Scottish Parliament"), it is clear that there is considerable scope for planning authorities to be more efficient by more effective management and improved processes and procedures. Planning fees are reviewed annually and the policy is to achieve 100% recovery of costs associated with processing planning applications from initial registration to decision stage. Evidence suggests that this policy is currently being achieved. The Executive also intends to examine wider resource and fee issues in greater detail in the coming year, such as considering whether authorities should be specifically funded for monitoring and enforcing mineral permissions.

**Recommendation 10**

*Para 5.60*

We recommend that, where a local authority might have a conflict of interest in relation to a planning matter it is considering, there should be a statutory requirement for it to make a formal public declaration of the nature and extent of its interest before taking a decision. We further recommend that the decision whether to grant planning permission for any development above a specified size promoted by a local authority or affecting local authority which is also the planning authority or affecting its land should be taken by an inspector appointed by the Secretary of State.

In Scotland, development by a planning authority must go through the procedures set out in the Town and Country Planning (Development by Planning Authorities) (Scotland) Regulations 1981, rather than the usual planning application process. This is usually referred to as the Notice of Intention to Develop procedure (NID). In addition to the publicity and consultation procedures associated with a planning application, the 1981 Regulations require the planning authority to advertise their intention to carry out a development, where and when the plans can be viewed and that 21 days will be allowed for the submission of representations. If the proposal attracts one or more objections or is covered by a direction restricting the grant of planning permission for that particular development or class of development, then it must be notified to the Scottish Ministers. This allows the Scottish Ministers to consider whether a formal planning application should be requested from the planning authority for their determination. Such an application would be considered by a Reporter appointed by the Scottish Ministers.

Additionally, where a planning authority, in considering a planning application (as distinct from a NID), wish to grant planning permission for development in which they have a financial interest or which is to be located on land wholly or partly in their ownership or in which they have an interest and the development is contrary to the approved or adopted local plan for the area or has been the subject of a substantial body of objections, then they must notify the application to the Scottish Ministers. This allows the Scottish Ministers to consider whether there are any planning grounds which would warrant call-in of the application for their determination. A planning application may also be notified if it meets any of the other criteria which the Scottish Ministers have directed constitutes cases which they wish to consider for possible call-in. These criteria cover a number of areas from significant departures from the structure plan, natural or built heritage, trunk road issues, to opencast coal and retail development. When a case is called-in it is considered by a Reporter appointed by Scottish Ministers.
In considering whether to call-in a notified application or, in the case of a NID, for a formal planning application, the Scottish Ministers consider any relevant planning grounds and would only intervene where issues of national importance, or at least beyond local importance, were involved.

If the Scottish Ministers do not intervene in a NID or notified application then the case is cleared back to the planning authority. In the case of a NID, planning permission is deemed to be granted by the Scottish Ministers, and in the case of a notified application, the planning authority can proceed to determine the application as it sees fit.

To improve transparency, in *Your Place, Your Plan* we said that we would discuss with local authorities the production of a schedule to the development plan which shows the ownership of land allocated for development.

**ACCESS TO ENVIRONMENTAL INFORMATION**

*Recommendation 11*  
*Para 6.15*

We urge the government and the devolved administrations to review all categories of data withheld on grounds of commercial confidentiality, to see which can be safely released. In particular, we recommend that Agricultural Departments place agricultural returns in the public domain.

Under section 23 of the Freedom of Information (Scotland) Act 2002 all Scottish public authorities will have to prepare, publish and maintain a publication scheme which will detail all of the information which they publish or intend to publish. The scheme will set out the classes of information to be published, how that information will be made available, and whether or not it will be subject to a charge. In drawing up their publication schemes each public authority will need to review the information that it holds and ascertain which material can be published. If information is not covered by a public authority’s publication scheme it will be subject to the general right of access to information provided by section 1 of the Freedom of Information (Scotland) Act 2002 and, unless exempt, made available.

Returns from individual farmers to Agricultural Departments when claiming under the EU Agricultural Subsidy schemes and making Agricultural Census returns are subject to data protection constraints which preclude placing the detail in the public domain. Aggregate information would, however, be made available.

In view of this the Executive does not consider that a review of data as recommended at paragraph 6.15 will be necessary.

*Recommendation 12*  
*Para 6.20*

We recommend that data which have been gathered in the public name and for the public good should be available electronically at no cost for public use.

We agree that electronic systems provide a good new way of making data available. The Scottish Executive is increasingly making such data available electronically and no charges are made for this. Returns from individual farmers to Agricultural Departments when claiming under the EU Agricultural Subsidy schemes and making Agricultural Census returns...
are subject to data protection constraints which preclude placing the detail in the public domain. Aggregate information would, however, be made available.

This is a developing area and it is not yet clear that it would beneficial for all data available to be provided electronically. There may be significant cost implications in this approach.

Recommendation 13

We recommend that the government adjust the financial model for public bodies holding and developing essential data sets (such as the Natural Environment Research Council and the Ordnance Survey) and replace income from sales of environmental information with direct grants. Consideration should be given to retaining a market element by relating the level of grant to the public use made of a body’s data sets.

The Executive recognises that responsibility for management of OS and NERC rests with UK ministries, and it will be for them to effect changes. However, as a major user of OS map-based information, for example, we would agree that simple arrangements which made datasets freely available to government and its agencies would be helpful and preferable. We have evidence of the costs of OS data limiting the use of GIS tools in Scotland, at least in some of the smaller agencies and probably more widely, which cannot be to the benefit of e-government initiatives. The change would also reduce the level of resources applied to negotiation and management of contracts and Service Level Agreements with data providers. We know that ODPM is considering the merits of such arrangements for OS data, but it may well be the case that other major, established datasets held by NERC bodies and other research institutes should be made available on a similar basis. We would not expect this to extend to research data related to individual research projects, and discussions would be necessary to determine the datasets which might be covered in this way.

Recommendation 14

We recommend that the government fund a feasibility study on the use of Grid technology in [environmental information and] planning.

The Scottish Executive has been taking an increasingly active leading role on the application of Information Communications Technologies (ICT) to land use planning. It has extended and improved dramatically its web pages of Scottish Executive activities on planning. It also chairs regular meetings of the E-planning Group which consists of representatives from planning authorities interested in ICT. An expert group has been assembled to advise on the possible extension of the Planning Portal, being developed by the Planning Inspectorate in England, to Scotland.

The Scottish Executive has been using GIS for a decade and has a centralised team of experts which support a network of GIS nodes throughout the organisation. Planning Division is one of the GIS nodes. We have access to a wide range of datasets, including land use statistical data and all environmental designations in Scotland. In addition to map production, GIS is used for spatial analysis to inform policy and casework and for mapping environmental constraints. We are also aware through our E-planning Group that GIS is used within planning authorities for not only map production but spatial analysis, mapping environmental constraints and in the preparation of proposals maps for development plans. Increasingly,
geographic information is being made available to the citizen through local authority internet sites.

We are not aware of planning authorities being unduly limited by the speed of data transfer and insufficient computing power, and communication between relevant individuals and organisations is facilitated satisfactorily through e-mail. At the moment we therefore do not feel there is a pressing need for the use of Grid technology.

**Recommendation 15**

We recommend the establishment of a virtual centre for environmental data, in order to overcome the barriers to presenting coherent and consistent environmental information in electronic form.

We continuously seek improvements in our electronic delivery systems. The level of information available on the web will increase dramatically in the coming years with the launch by the Scottish Environment Protection Agency of a GIS-based comprehensive online pollution inventory. As part of the Agency's Policy and Financial Management Review we are also examining the capacity for SEPA to further increase the amount of information it makes available on the web.

The Scottish Executive website has a comprehensive list of links to other websites containing statistics on the Scottish environment and related information. However, we do recognise that Scottish public bodies holding environmental datasets could do more to better signpost the availability of information held by other bodies, and we will be actively encouraging them, in cases where this does not already happen, to provide web links to each others datasets.

The Scottish Executive has reviewed public access to environmental information. Our plan is to rely less on paper based information and to increase the amount made available electronically. As part of this approach our website will provide links to other sources of data held by other Executive agencies. No charge is made for such access. However where information is not available electronically we believe that it is appropriate to make a charge in respect of the costs incurred in meeting the request.

**Recommendation 16**

All relevant public sector bodies would be under a statutory obligation to give free access to their information.

We agree that Scottish public sector bodies should not charge for access to electronic environmental datasets published on the web. However, we do not consider that the case for introducing legislation to effect free access has been made.
Where compliance with a numerical standard is the goal, the body setting the standard should give clear guidance on the appropriate methodologies for modelling and measurement.

We agree that there is a need for such guidance. We encourage Scottish regulatory bodies to provide it either directly or by referring to guidance issued by others.

We recommend that consideration be given to introducing a mandatory preliminary stage in environmental impact assessment in which the planning authority will prescribe the scope of a particular assessment after public consultation.

We note the Commission's finding that the current scoping arrangements are working reasonably well. The requirement that planning authorities must consult the consultation bodies before issuing a scoping opinion ensures that their opinion is based on an extensive breadth of environmental expertise. Our advice on scoping (contained in Planning Advice Note 58) already encourages "early involvement of all parties" and includes an example of a scoping exercise which included community councils. We also note that applicants and planning authorities are not precluded from engaging in public consultation if, in the circumstances of a particular application, they feel that it would be worthwhile to do so. Indeed, from the Commission's own findings, it appears that planning authorities do indeed consult publicly in 40% of cases. We believe that it would be unreasonable to require planning authorities to engage the public in all instances even where it might be reasonable to assume that the public are unlikely to be able to add anything to the assessment of what issues should be addressed in an environmental statement.

Regardless of any opportunity to comment on the scoping exercise, the public do have a statutory opportunity to influence the content of an environmental statement when it is put out for consultation. The public can supply their views and the determining authority must consider whether these indicate a gap in the environmental information which the developer should be obliged to remedy.

We recommend that a counterpart of the Dutch Environmental Impact Assessment Commission should be established in the UK to provide a rigorous independent check on the assessment process. The commission could also carry out evaluations of a sample of statements and issue guidance on best practice.

In Scotland, as in the rest of the UK, the requirements of the EIA Directive have largely been incorporated into law by integrating them into existing consent procedures rather than by establishing a new, parallel procedure. Ad hoc research contracts have been let from time to time to monitor the quality of environmental assessments. Such research has shown that the quality of environmental assessments has improved over time. It is also true that even where environmental assessments are not wholly adequate when submitted, the overall assessment
process ensures that the planning authority has the means to be fully aware of the potential impact of the proposed development on the environment. This statutory process includes consultation with environmental bodies and the public. It would also be open to a planning authority to commission an independent review of an environmental statement. The need for further research is being considered.

The Executive does not propose to establish such a Commission.

**Recommendation 20**

We recommend that human health issues be incorporated explicitly in the environmental impact assessment process.

We recognise the Commission’s concerns in this regard. While the existing Scottish EIA Regulations and planning guidance refer to these issues, in terms of effects on population, there is scope to make the role of EIA more explicit.

An environmental assessment is most valuable when it gives emphasis to the main or significant environmental effects, be they the health of the population, water quality or whatever. In many cases only a few of the effects will be significant and require examination in any depth. Other impacts will be of little or no significance. In recognition of this, the Environmental Impact Assessment (Scotland) Regulations 1999 which implement the EIA Directive allow some flexibility in the contents of environmental statements. However, the statement has to contain "the data required to identify and assess the main effects", and it is for the applicant (usually with expert advice), the statutory consultees (including the Scottish Ministers), the general public as consultees and the competent authority to identify the most relevant issues.

The Regulations provide a list of the aspects likely to be significantly affected which includes "population (our emphasis), fauna, flora, soil, water, air. ............" and this has to be interpreted in the light of preamble to the EIA Directive which says the assessment has to "take account of concerns to protect human health...." Every environmental statement then has to include such of the information in the list as is reasonably required to assess the effects. We believe these provisions give competent authorities adequate force to require of an applicant as much information as they think they need about the effects of a proposed development on human health.

To reinforce the point that health may be a consideration and point planners to sources of expert help our best practice guidance (PAN 58) says that as part of the EIA process the planning authority case officer "will identify those issues on which advice from specialists within the council (e.g. archaeology, ecology, landscape, design, environmental health) has to be sought. ......exceptionally the planning authority will have to consider the appointment of its own consultant on a specialised topic." We do, however, accept the Commission’s concern and will ensure, when this guidance is next reviewed, that the role of EIA in considering human health issues is made more explicit.
We recommend that the government, if it wishes to retain sustainability appraisal, strengthen the environmental component so that it will satisfy the legal requirements of the European Directive on strategic environmental assessment. We do not consider that sustainability appraisal as currently undertaken is adequate for this purpose.

The Scottish Executive has announced that it intends to legislate to introduce strategic environmental assessment to ensure that the full environmental impacts of all new strategies, programmes and plans developed by the public sector are properly considered. This legislation will include implementation of the Directive on Strategic Environmental Assessment. In drawing it up we will take account of the Commission's concerns.

**PROVIDING THE RIGHT FRAMEWORK**

We recommend that a comprehensive and definitive statement of priority objectives for the environment be produced now for each part of the UK, and widely publicised.

The Scottish Executive has already produced a number of its strategies for the environment e.g. on climate change, air quality, and waste and work is in progress to formulate our strategy for biodiversity. Together these strategies and other policy statements and initiatives provide a wide-ranging programme of action on the environment in Scotland. This is bolstered by the environmental priorities set out by the Executive in its publication Programme for Government. We are considering the preparation of a document which sets out the priorities and common themes in our environment policies.

Wherever possible, this statement must include a quantified target or targets for movement towards the objective by a specified date.

The Scottish Executive's work on the environment already contains a large number of targets and the scope and ambition of such targets are kept under regular review. We have recently set a target for electricity generation to be sourced from renewables by 2020. We published sustainable development indicators in April 2002 and we shall review the indicators and associated targets this year.

We recommend that the initial statements of priority environmental objectives should be reviewed at an early date through a process of extensive consultation and debate about environmental priorities.

Increased consultation and public debate are features of the new arrangements for devolved government in Scotland. All our environmental strategies have been subject to detailed consultation and are kept under review. We do not see the need for additional consultation on these matters.
It will be necessary to produce a statement of priority environmental objectives for the UK as a whole, as well as for each component part.

Environment policy in Scotland is a devolved matter for the Scottish Parliament and the Scottish Executive. The Executive’s approach is to set priorities in the light of Scottish circumstances. We shall continue to work with the other administrations where cross-border or UK-wide co-operation makes sense.

We recommend the statements of priority objectives should be prepared on the basis that sustainable development is achievable only if the environment is safeguarded and enhanced.

The drive for sustainable development arises from the concern that current patterns of development are placing excessive strain on the ecosystem of the earth. The environmental effects of the overuse of resources are already evident in the worrying developments in climate change. Concern for the environment is therefore at the heart of our work. We aim to achieve economic success and social progress without damaging the environment.

It is essential that each objective is underpinned by a soundly based program for achieving it.

We agree that any statement of priority environmental objectives should be underpinned by soundly based programmes. Our approach is that our environmental policies should be informed by the best scientific advice and we are spending increasing amounts on such research. In the light of this and the fact that many environmental problems have complex and multiple causes, we stress the importance of reviewing such programmes in the light of improved knowledge and the experience on implementation on the ground.

We recommend that the town and country planning system should be given a statutory purpose, and that an appropriate purpose would be ‘to facilitate the achievement of legitimate economic and social goals whilst ensuring that the quality of the environment is safeguarded and wherever appropriate enhanced’.

This matter will be given consideration as we develop our proposals for a Planning Bill in Scotland.
We repeat the recommendation made by the Commission in 1996 that the diverse legislation the Environment Agencies inherited should be reviewed to give it coherence and relate it to consistent general principles, and the necessary changes should be enacted at the earliest practicable opportunity.

Following the Commission’s earlier recommendation, the UK Government announced in 1998 a review of legislation relating to SEPA and the Environment Agency. Although, following devolution, legislation underpinning the operation of SEPA’s regulatory responsibilities no longer formed part of the UK Government review, we have been following the review’s progress with interest. Separately, we have been reviewing the prospects for streamlining SEPA’s permitting and monitoring processes as part of the Policy and Financial Management Review (PFMR) of the Agency. Our conclusion is that the desired objectives should be pursued initially through operational adjustments rather than changes to legislation. Nonetheless, opportunities for streamlining will be sought as legislation is progressively amended and updated. We have already rationalised Scottish legislation on water quality that stretches back over half a century. The Water Environment and Water Services (Scotland) Act 2003 will provide a coherent framework for the protection of Scotland’s water environment.

We recommend that town and country planning legislation should stipulate key aspects of the environment and natural resources as material considerations that should be taken into account in considering planning applications.

Legislation already stipulates that the policies and general proposals in structure and local plans must include measures for the conservation of the natural beauty and amenity of the land, and the improvement of the physical environment. Given that applications must be considered, in the first instance, against the development plan, this should ensure that such matters are duly considered. Additionally, Scottish Planning Policy 1: The Planning System gives clear guidance about material considerations (paras 50-52), including that although it is initially for the decision-maker to consider whether a consideration is material, it is ultimately a matter for the courts to decide. National Planning Policy Guidelines (NPPGs)/Scottish Planning Policies (SPPs), which set policy for the environment and natural resources, are themselves material considerations. We therefore believe it is unnecessary to stipulate in legislation key aspects of the environment and natural resources as material considerations.

We recommend that planning policy guidance for England (the PPG series) should be condensed into a single document updated at frequent intervals, both on the Internet and in paper form; that consideration be given to a similar rationalisation of planning policy guidance for Scotland; and that the National Assembly ensure that the guidance documents for Wales sets out clear policies and is regularly updated.

We consulted on bringing the NPPG series into a single document in the consultation paper “Land Use Planning Under a Scottish Parliament”. The majority view was against consolidating the NPPGs into a single document. The views expressed were that it would be
cumbersome, confusing and difficult to update. We do not therefore accept this recommendation.

We do want to rationalise NPPGs where possible and as part of the response to the Review of Strategic Planning in June 2002, Scottish Ministers indicated the existing NPPGs will be reviewed, with some being combined, and renamed as Scottish Planning Policies. The response included an indicative programme for review. The aim is to make the documents more concise and the policy content more explicit.

**Recommendation 32**

We emphasise that proposals for major infrastructure projects should always be put forward within the framework of carefully considered national policies, which should always be adopted after wide public consultation, and take full account of environmental considerations including the statement of environmental objectives we have recommended.

We undertake consultation on draft policies and full account is taken of the relevant environmental issues.

We believe that the development of the National Waste Strategy: Scotland is an exemplar of good practice. The key to its successful development was the involvement of a wide range of stakeholders at each stage in the process, from inception to completion. Stakeholders helped shape the draft strategy that then went out for extensive public consultation. They were also closely involved in its implementation through membership of 11 local groups charged with establishing the best practicable environmental option for dealing with waste in their respective areas. Planning authorities are now required to translate the needs identified by the Area Waste Plans into indicative land use requirements in their development plans. A similarly conclusive approach is being taken to the preparation of the national planning framework.

The river basin planning process to be introduced by the Water Environment and Water Services (Scotland) Act 2003 is another example of the approach the Commission commends. It will involve all interested parties in putting together the river basin plan - likely to be at a pan-Scotland scale - and any subsequent developments that impact on the water environment will require to be considered in the light of the plan.

**Recommendation 33**

The national need for additional infrastructure should be probed in an open and participatory process, which where practicable should engage local communities which may be affected.

The procedures being adopted for the preparation of the national planning framework provide for stakeholder participation and open debate about national infrastructure requirements.
The issues involved in framing a national policy underlying major infrastructure projects may be better handled by a body which combines inquisitorial and adversarial elements, as a planning inquiry commission would.

This recommendation seems to be aimed more at the consideration of proposals for major infrastructure projects than at the development of national policy itself. We believe that the existing inquiry system is best placed to handle proposals for major infrastructure projects. We shall shortly be issuing a consultation paper on further modernisation of the public local inquiry system.

There must continue to be open hearings at which local people and others can express views about the local impacts of a proposed major infrastructure project and challenge claims by the developer.

There is no intention to withdraw the opportunity for public views to be expressed in relation to proposals for major infrastructure projects, including, if necessary, at public local inquiry.

We recommend that, if under the government's proposals for major projects the inspector conducting the local inquiry concludes that the local impacts of a proposed project would be unacceptable, he should be permitted to recommend that the approval in principle should be reconsidered.

This recommendation relates to a consultation exercise undertaken by ODPM which did not apply in Scotland and on which ODPM has commented separately.

We recommend that targets set for developing renewable energy at regional and local levels should have a firm and consistent basis in terms of the capacity for developing each of the main types of renewable energy without damage to the environment.

A number of studies have been undertaken in specific areas of Scotland about the economic impact of renewables developments. The Executive will commission work over the next 6 months to determine the impact on Scotland as a whole.

We strongly support giving greater prominence to energy issues in regional planning guidance.

A number of studies have been undertaken in specific areas of Scotland about the economic impact of renewables developments. The Executive will commission work over the next 6 months to determine the impact on Scotland as a whole.
Recommendation 40

Mechanisms are needed to ensure that legitimate societal needs can be met in the face of preferences opposing the developments implied by those needs. The town and country planning system is intended to be such a mechanism but such developments must be essential parts of comprehensive and generally accepted policies, they must stem from transparent assessments of needs and environmental capacity, and there must be more imagination in countering any adverse effects on particular areas.

Through development plans, the planning system guides the future development and the use of land in cities, towns and rural areas in the long term public interest. Its primary purpose is to set the framework for promoting sustainable development, including regeneration and the reuse of existing land, buildings and infrastructure, while at the same time maintaining and enhancing the quality of the natural heritage and built environment. EIA provides that mitigation measures are considered for a wide range of projects with significant environmental effects.

We therefore consider that the present arrangements meet this recommendation.

SAFEGUARDING TOWN, COUNTRY AND COAST

Recommendation 41

We recommend that the overall policy objective for contaminated land should be to identify and seek to bring about the combination of remediation and subsequent use that represents the best practicable environmental option for each site.

We are happy to embrace the Commission’s proposed overall policy objective. It sits well with the Executive’s own goals, which are to identify and remove unacceptable risks to human health and the environment, to seek to bring damaged land back into beneficial use and to seek to ensure that the cost burdens faced by individuals, companies and society as a whole are proportionate, manageable and economically sustainable.

The overall policy objective is set out in statutory guidance, issued to local authorities, contained in SEERAD circular 1/2000. We have outlined the role that the planning system plays in addressing problems of historical contamination in Planning Advice Note 33, which was last revised in 2000. A key objective of the planning system with regard to contaminated land is to ensure that land is made suitable for any new use as planning permission is given for that new use. Through guidance we also encourage planning authorities to pursue policies aimed at the re-use of previously developed sites.

Recommendation 42

We recommend that the government and the devolved administrations set target dates for local authorities to complete their inspection of contaminated land, and provide the necessary finance for them to do so.

While we understand the desire to set firm target dates, we have reluctantly come to the view that it is not possible in this particular case. This is due to lack of information on the extent and nature of contaminated sites in each local authority area on which to base a target. Since
the scale of the potential contaminated land problem varies significantly in different parts of the country, it would be inappropriate to impose a uniform deadline throughout Scotland.

Many local authorities in Scotland have made significant progress in carrying out initial first stage inspections, which are aimed at identifying all potentially contaminated sites within their respective areas. We have made available resources totalling £24.4 million over the years 1999-2004 to enable local authorities to carry out this work. A further £14 million will be made available in the financial years 2004-2005 and 2005-2006 to facilitate further site investigation and remediation work.

Recommenation 43

We recommend that, once a clearer picture emerges of the extent of the problem posed by contaminated land and the possible uses for remediated sites, the government and the devolved administrations should set targets for the total area to be brought back into beneficial use over ten years and should plan to provide the necessary finance. They should also report on the feasibility of the 2030 goal for dealing with contaminated land proposed by the Urban Task Force.

As the Commission acknowledges, it is not possible to set meaningful targets at this stage as too little is known about the true extent of contaminated land. In view of the inadequacy of the current information we have also concluded that it would be ultimately unfruitful to attempt to predict the total area that could be brought back into beneficial use over ten years if we want there to be any significant degree of accuracy.

We do, nevertheless, plan to set targets and develop performance indicators to assess overall progress in identifying and remediating contaminated land once more reliable information is available. We will consider at that stage the appropriateness of the suggested ten-year target.

The Urban Task Force report only considered English cities. However the Scottish Cities Report recognises the problems associated with derelict and vacant land in urban areas and gives a high priority to addressing these issues. The Scottish Executive budget document “Building a Better Scotland” identifies a target of 100ha to be cleaned up over the spending review period (2003-04 to 2005-06). We do not consider that it is feasible to set a 2030 goal for dealing with all contaminated land, as proposed in the Urban Task Force report, until we know the full extent of the problem.

Recommenation 44

We urge the government to put in place mechanisms to replace the Partnership Investment Programme for land remediation.

While the Partnership Investment Programme did not apply in Scotland, we identify in our response to the recommendation immediately below sources of funding in Scotland for land remediation.
Government should inject more public finance into site investigations and remediation not covered by the statutory regime for contaminated land, and develop means of recovering at least a proportion of the cost of these investigations from any subsequent commercial scheme.

Within our budgetary constraints our immediate priority has to be those contaminated sites where there is a risk to human health and the environment, and which therefore fall within the statutory regime set out in Part IIA of the Environmental Protection Act 1990.

In addition the Scottish Cities Review has identified vacant and derelict land in Glasgow, North Lanarkshire and Dundee as a particular problem deserving higher priority on social, environmental and economic grounds and where public sector intervention is required to correct market failure. Additional expenditure (£8 million in 2004-05 and £12 million in 2005-06) was allocated in the 2002 Spending Review for spend on decontamination, bringing land back into productive use and greening in these three areas. This initiative will encompass vacant and derelict sites that do not necessarily come within the terms of the statutory definition for contaminated land.

For other developable sites with lower levels of contamination not covered by the statutory regime, we consider that site investigation and remediation are properly matters best left to the owner and prospective developer. The costs of investigations and remediation for sites not covered by the statutory regime for contaminated land should be of a correspondingly lower magnitude. Further, we have no evidence to suggest that the costs will not be reflected in the market value of the land. It is through the planning system that the need for remediation of such sites will be addressed, alongside other planning matters, when plans come forward for their development.

While we remain to be convinced that public funding is the most effective means to address any market failure other than in the specific areas covered by the Cities Review initiative, we acknowledge that support from the public sector may be necessary in the case of low value sites where, in terms of commercial viability, remediation costs may inhibit redevelopment. In Scotland, financial support for remediation of contaminated sites is available to the private sector from a number of sources. These include the local enterprise company network, Communities Scotland (GRO Grants), and local authorities. In this way we encourage a partnership approach where responsibility is distributed amongst various agencies.

Recommendation 46

There should be a single web portal that would allow local authorities, developers, their professional advisers and the public to access information on contaminated land throughout the UK, and through which all relevant public documents, including research findings, would be freely available. This should also include the public registers maintained by local authorities.

We agree with the general thrust of this recommendation. Links between the Scottish Environment Protection Agency (SEPA) website and those of local authorities are planned. While there will also be links to the Environment Agency website, we do not consider that a case for an UK-wide portal has been made.
SEPA has developed procedures to make available on its website the information on contaminated land that it will gather and collate from local authorities. This will include links to relevant pages of individual local authority websites to enable enquirers to access information on contaminated land at a more local level.

**Recommendation 47**

We recommend that the government and the devolved administrations review the respective roles of the town and country planning system and the building regulations in order to design and implement an effective system for achieving substantially better environmental performance in new or refurbished buildings.

Scottish Planning Policy (SPP) 3 Planning for Housing recognises the role of energy efficiency in new housing, whilst acknowledging the Planning System and Building Standards have a distinct, but complementary, role in achieving this aim. Additionally, the Building Regulations system in Scotland is undergoing a process of modernisation and reform. The Building (Scotland) Act 2003 permits the making of building regulations to further the achievement of sustainable development: this is a new power.

**Recommendation 48**

We recommend that the government and devolved administrations include in their guidance to planning authorities targets for the maximum distance any urban household should be from a green space of specified size open to the public.

Current national planning policy requires local authorities, through their development plans, to assess provision for sporting and physical recreational facilities, including parks, open space, pitches and playing fields. Planning Advice Note 65: Planning and Open Space further emphasises the need for local authorities to plan for open space, particularly greenspace, in terms of quality, quantity and accessibility and to move away from simple standards. In the Partnership for a better Scotland published in May 2003, the Executive set out a commitment to review planning guidance to set strong minimum standards for the inclusion of public open space in new developments. Subject to the Executive’s priorities, the review of national planning policy on open space will be undertaken in 2005.

**Recommendation 49**

We consider production subsidies to agriculture should be phased out as soon as possible. While they remain part of the Common Agricultural Policy (CAP), we recommend that farmers receiving such subsidies should be required to maintain a defined level of environmental protection on the land they manage. We urge the government to take full advantage of the existing scope for cross-compliance under the CAP to support the protection and enhancement of the environment, and to seek to widen the scope for cross-compliance as part of the reform of the CAP.

The agreement on reform of the CAP, reached in June 2003, introduces decoupling of subsidies from production. The Executive welcomes this radical change and recognises the benefits it will bring to farmers and the environment, as well as consumers. The Executive will need to consider the decoupling options available in the reform package before reaching final decisions on a way forward. This will be done in consultation with a wide
range of stakeholders. The modulation arrangements provide for a gradual reduction of direct subsidies to farmers, with the money being transferred for spending on rural development.

The Executive supports the strengthening of cross-compliance conditions within the reformed CAP. Full receipt of the new single farm payment will be dependent on farmers meeting legal standards on environmental protection as well as food safety, animal and plant health, and animal health and welfare. Farmers will also need to maintain their land in good agricultural and environmental condition and there is flexibility for the UK, and Scotland, to define this in an appropriate way, taking account of principles set at EU level.

**Recommendation 50**

We believe there is justification for the state to continue payments to rural land managers, including arable and livestock farmers, for achieving well defined, measurable environmental and social objectives. We recommend that the Department for Environment, Food and Rural Affairs and the devolved administrations launch a wide debate on rationalising the support for owners and managers of rural land through the introduction of schemes that serve environmental and, where appropriate, other objectives.

One of the actions stemming from the publication of *A Forward Strategy for Scottish Agriculture* in June 2001 was the development of a system of Land Management Contracts, which are designed to pay farm businesses for the economic, social and environmental benefits needed by their area. Development of such a scheme is being taken forward in conjunction with a Working Group that includes representatives of a range of stakeholder organisations. The European Commission's proposals for CAP Reform have highlighted the debate about funding for land managers, and the outcome of these proposals will influence the final shape of the Land Management Contract scheme.

**Recommendation 51**

We recommend the withdrawal of the permitted development rights that currently apply to building conversions and the construction of new buildings, roads and vehicle tracks when these activities are associated with agriculture or forestry.

At present the permitted development rights (PDR) for the erection of a new building or the significant alteration or significant extension of an existing building for an agricultural or forestry related use are subject to a prior notification (also known as prior approval) procedure. This procedure allows planning authorities to prevent a developer exercising these particular PDR. In areas designated as National Scenic Areas an application for planning permission is required for the erection for agricultural or forestry purpose of buildings and structures over 12 metres high, the construction of vehicle tracks for agriculture or forestry purposes (except forestry tracks which are part of an approved afforestation scheme). The Conservation (Habitats &c.) Regulations 1994 also contain controls on the exercise of PDR, not directly connected with the management of the site, which may have a significant effect on Special Protection Areas and Special Areas of Conservation. Forest roads are already subject to Environmental Impact Assessment where they are likely to have a significant effect on the environment. These provisions largely implement the intent of the recommendation already.
We recommend that the impact of new planning guidance on rural diversification is monitored for its effectiveness in protecting the environment and to ensure that it does not block beneficial diversification projects. We also recommend that information is collected on the rate at which diversification is proceeding in rural areas, the quantity and type of employment created and maintained, and the overall environmental impact of diversification including its effect on travel patterns.

National Planning Policy Guidance 15 Rural Development makes clear the Executive’s backing for appropriate rural diversification. Part of the reasoning given for the recent decision to remove special national protection from prime agricultural land further underscored this position. A major research project evaluating the effectiveness of the current Guidance was published on 17 June 2003 and a review of the Guidance has started. The rate and nature of diversification will require particular attention.

We call on DEFRA and the devolved administrations to ensure that the rural environment enjoys the best possible protection under the EIA Directive. In particular, they should not hesitate to refuse consent to schemes that would cause significant environmental damage, nor miss such schemes at the initial screening stage. Screening should be carried out by staff with appropriate environmental training using rigorous criteria.

In operating the Scottish EIA Regulations relating to uncultivated land and semi natural areas the Scottish Executive will ensure that, as required by the Directive, significant environmental damage to such areas is avoided in consultation as appropriate with statutory consultees (ie Scottish Natural Heritage, the Scottish Environment Protection Agency as well as Historic Scotland)

We recommend that local planning authorities should be added to the list of statutory consultees for environmental impact assessment of intensive agriculture.

In consulting about the Scottish EIA Uncultivated Land etc Regulations in 2001 there was no significant call to include planning authorities as statutory consultees. The screening and consent process does not however exclude input by organisations such as planning authorities who will be asked to comment on cases where they are likely to have an interest.
Recommendation 55

We recommend that there should be a thorough review of controls on environmental impacts of agriculture. This should include measures for protecting the conservation value of the countryside and for controlling agricultural pollution. We further recommend that the specialist environmental agencies should co-operate to conduct an independent assessment of the efficacy of the new EIA regulations and the other measures mentioned above in five years’ time. (9.53)

The impact which environmental issues will have on farming and food processing business over the next 5-10 years formed the main focus of the Custodian’s of Change report which was published in summer 2002. The report identified diffuse pollution to water; biodiversity and habitat protection; and landscape change as primary issues for the next five to ten years for Scottish agriculture. In response to the report it was agreed by the Scottish Executive that these areas would be pursued within the Executive’s overall aim to develop policies to deliver sustainable land management, founded upon the principles of sustainable rural development. A strategic approach around five key objectives has been developed in answering the issues raised in the report. The Executive’s response to the report does not respond to the specific recommendations and this will be done later as issues develop.

When the EIA Regulations were introduced in early 2002, SEERAD indicated that they would review the regulations in the latter part of 2003. When this process commences statutory environmental agencies and other interested organisations will be consulted on the operation of the regulations since their introduction. The results of the review will inform future scrutiny needs for the EIA uncultivated land legislation.

Recommendation 56

We recommend that in future each agricultural holding in the UK receiving public subsidy should be required to prepare a farm plan containing actions to improve the environment which can be readily monitored; and that, to simplify the existing arrangements, all bodies giving grants, exercising regulatory functions or requiring certification of environmental performance should accept the plan as meeting their requirements for information.

Environmental plans are already required in respect of payments which are specifically related to environmental protection or improvement but to extend this unilaterally to other forms of support is inconsistent with existing EU legislation on the other support schemes and would also place an unfair burden on Scottish/UK farmers.

If the outcome of the discussions on CAP Reform are favourable to the introduction of Land Management Contracts [see the response to Recommendation 50], all producers who wish to participate in the scheme will be required to produce a whole farm plan that will include environmental, as well as socio-economic, elements. The nature and scope of the plan will depend upon the complexity of the contract that is being entered into.
We recommend that DEFRA move swiftly to bring forward proposals for legislation for a farm plan scheme, following wide consultation, and produce guidance on the format and content of such plans with an emphasis on securing environmental protection and simplifying current administrative procedures. The Rural Payments Agency and its counterparts should have responsibility for all grant payments made pursuant to the plan, including payments made in respect of management of SSSIs or for farm woodland or afforestation schemes.

It is not permissible to take unilateral action, such as requiring whole farm plans, in relation to certain farm support schemes. However, the European Commission’s proposals for decoupling agricultural subsidies from production and linking support to cross-compliance measures include provision for a farm advisory service. The proposal for a system of Land Management Contracts [see Recommendations 50 and 56] encompasses the preparation of whole farm plans for individual producers. However, the Executive is concerned to ensure that the new system is cost-effective and not bureaucratic and burdensome.

We therefore recommend that DEFRA and the devolved administrations take the lead in ensuring that sponsor bodies co-operate to make data from the second round of shoreline management plans for the UK publicly available in their entirety through a central point.

Although the Scottish Executive is sympathetic to the desire that coastal data should be publicly available, there are very few shoreline management plans either in existence or in preparation in Scotland.

We recommend that planning protection is extended below the high water mark and to the sea-bed.

The Executive has, through the Water Environment and Water Services (Scotland) Act 2003, introduced powers which, when commenced, provide for statutory planning controls to be extended to marine fish farms, up to the three-mile limit. This fulfils a longstanding Ministerial commitment. The extension of planning controls applies only in respect of marine fish farming. The Scottish Executive’s view is that extension to cover other offshore developments is not necessary as there are other statutory consent regimes in place (e.g. Electricity Act 1989).

We recommend that allocations for development should not be made until it has been established that water supply and sewerage can be provided in an environmentally sustainable manner.

Work is underway by Scottish Water to clarify the issues in areas where water services may act as a constraint on development. SEPA has responsibility for controlling discharge of
water to water courses. Surface water draining now routinely considers sustainable urban drainage systems and SUDs are being established regularly in Scotland.

**Recommendation 61**  
Para 9.70

**We recommend that all relevant planning guidance contain comprehensive advice on the risks of inland and coastal flooding under current conditions and following a period of climate change. We further recommend that the Environment Agency should be made a statutory consultee on flooding issues.**

National Planning Policy Guideline (NPPG7) *Planning and Flooding* sets out the Executive’s planning policy for ensuring that the risks of inland and coastal flooding are properly taken into account in the planning of new developments. Draft revised guidance (SPP 7) was issued for consultation in March. Indicative flood risk maps have been provided to planning authorities by SEPA and alongside other sources of information help with the initial assessment of flood risk potential. Other SPPs/NPPGs, for example Housing and Coastal Planning also refer to flooding as appropriate but it is not necessary to duplicate the comprehensive guidance of NPPG7. Practitioners are well aware of the canon of 19 NPPGs. Climate change and the uncertainties it brings to assessing flood risk is addressed in NPPG7.

In the period since its publication the Executive has commissioned various research studies into the impacts of climate change predictions, including flooding issues. These have been taken into account in the draft SPP 7 and it is intended that the associated Planning Advice Note will address the matter in more detail. Additionally, the Scottish Environment Protection Agency’s *Guidance on Requirements for Flood Risk Assessment* factors climate change into the calculations on the probability of flooding. The agency is a statutory consultee for planning applications which would increase the number of buildings at risk of flooding. If SEPA objects but the planning authority still wish to give planning permission, the application has to be notified to the Scottish Ministers who may then decide to call it in. Concerning the question of material considerations, the NPPG says “The susceptibility of land to flooding is a material consideration…….”

**Recommendation 62**  
Para 9.74

**We recommend that climate change, its effect on natural resources and the managed environment, the scope for adaptation and the scope for reducing emissions of greenhouse gases is specifically taken into account in spatial strategies, and that planning departments receive guidance and training in dealing with climate change issues.**

The spatial implications of climate change will be addressed in the national planning framework.

Appropriate references to climate change are already included in planning guidance and subsequent reviews will provide opportunities to keep them up to date. The recent report from UKCIP “Climate adaptation: Risk, uncertainty and decision-making” will provide more specific information and guidance to planning authorities. The provision of training courses is a matter for the planning schools and other providers.
INTEGRATED SPATIAL STRATEGIES

Recommendations 63, 64, 65, 66, 68 & 70

We recommend that the use of land for agriculture, forestry and countryside recreation should be issues covered in all spatial planning in future.

We recommend the introduction of integrated spatial strategies which take account of all spatially related activities and all spatially related aspects of environmental capacity. They should be four-dimensional, covering the atmosphere and groundwater as well as the land surface, and looking at least 25 years ahead.

An integrated spatial strategy must specify exactly what contributions are expected from local development plans and from the activities of other public bodies.

To ensure that all the relevant bodies contribute fully to preparation of the integrated spatial strategy, and are committed to its implementation, it should have a firm statutory basis, and the lead body should be clearly designated. All other public bodies should be placed under a duty to co-operate in its preparation and comply with it where it affects their activities.

It should be a statutory requirement that local plans or local development frameworks must comply with the integrated spatial strategy. Wherever appropriate, the policies and targets in the integrated spatial strategy should also be reflected in the community strategy or plan.

We recommend that the strategic development plans the Scottish Executive has proposed for the conurbations centred on Glasgow, Edinburgh, Aberdeen and Dundee should take the form of the integrated spatial strategies we have recommended, and that consideration should be given to introducing integrated spatial planning in the remainder of Scotland.

The Scottish Executive shares the Commission’s concern to ensure that the spatial distribution of activities safeguards sustainability by protecting and enhancing the environment. For projects likely to have significant environmental effects this is accomplished in part by the requirement for EIA. The introduction of Strategic Environmental Assessment will strengthen the way environmental information is brought into spatial decision making. As the Commission knows, the SEA Directive concerns plans and programmes in 11 sectors: town and country planning or land use, agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications and tourism.

Where we do not agree fully with the Commission is on the extent to which a single all-embracing mechanism is needed to plan and deliver on the environment. In coming to that view we have been mindful of the value of having one body responsible for both the preparation of a plan AND its implementation. We understand that the Commission’s proposal would retain the existing consent and authorisation systems and not seek to replace them with a new integrated Spatial Permission or some other such instrument. To go forward with an integrated spatial strategy would therefore separate plan making from
implementation. This, we believe, could potentially have an adverse effect on the environment.

We believe that spatially related activities will be properly addressed under the proposals for Scottish Planning Policies (SPPs), a national planning framework and 4 city region plans which emerged from the Review of Strategic Planning. Crown development and that authorised under other procedures already involves planning authorities and, if appropriate, the Scottish Ministers in their planning capacity. These spatial planning documents already influence other Executive policies. The key spatial planning issues raised by mineral working will be considered as part of any future review of national minerals planning guidance. This should better enable a framework to be set which provides long-term, sustainable solutions, which balance economic, social and environmental priorities with the many local impacts that quarrying raises. Forestry is dealt with by indicative forestry strategies in structure plans. We do not think agriculture could sensibly be regulated through an integrated spatial strategy.

The Water Environment and Water Services (Scotland) Act 2003, which implements the Water Framework Directive, ensures that surface waters and groundwaters will be managed together. It also provides for control of land-based impacts on the water environment.

The national planning framework will provide a national spatial context for the preparation of development plans and other policy development. It will focus on a limited number of key issues which have a spatial dimension at the national level and where planning has an important role to play in delivering sustainable solutions. The framework is being prepared by the Scottish Executive with extensive stakeholder involvement.

Recommendation 67
Para 10.70

We consider there should continue to be rights to object and provision for a public inquiry into a draft local plan or local development framework, on the ground that this kind of public challenge is fundamental to the purpose of the town and country planning system.

The Executive does not propose changing the rights to object and the provision for an inquiry into local plans.