

Planning Performance and Fees Consultation – Analysis of Responses

July 2021

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Executive Summary

Introduction

1. Optimal Economics has been appointed by the Scottish Government – Local Government and Communities Directorate - Planning and Architecture Division (PAD) to undertake an analysis of the responses to the public consultation on Planning Performance and Fees.
2. The aim of the consultation was to obtain the views and opinions of stakeholders on a new approach to how the performance of planning authorities is measured, the role of the National Planning Improvement Co-ordinator (NPIC) and the new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive or reduce planning fees in certain circumstances.
3. The consultation was broadly divided into two parts. The first part covered planning performance and the role and responsibilities of the NPIC. The second part of the consultation was focused on fees and was split into four main sections – planning fees, other fees, discretionary charging and other issues. There was a further section at the end of the consultation with questions on impact assessments.

Approach

4. The analysis was undertaken in three main stages:
 - Stage 1 was a validation of responses to determine that they are relevant to planning performance and fees; whether there were any duplicate responses or campaign responses and the development of a typology to reflect the respondent and their relationship to the planning system and its processes.
 - Stage 2 was focused on establishing an appropriate coding framework for the analysis of open-ended questions. Main themes were identified with a further detailed coding of each main theme undertaken to allow responses to be grouped to reflect key issues/views by the typology developed in Stage 1.
 - Stage 3 was the analysis of all questions and reporting of results which took account of client feedback at all stages of the reporting process.

5. All responses to the “open” questions have been given an equal weighting, allowing every idea presented to be considered equally. Where possible a number of simple bands have been used to provide an indication of the frequency of an idea, although it is noted that this treats the response from an individual with the same weight as the response from a professional body which may have many members. Nevertheless, the following bands have been used:
- Few: up to 3 responses.
 - Several: 4 to 10 responses.
 - Many: over 10 responses.

Overview of Responses

6. The consultation received a total of 109 responses which are shown below by group.

Summary of the Number of Responses by Group		
	Number	%
Business	29	27
Civil Society	28	26
Development Industry	12	11
Policy and Planning	40	37
Total	109	100

General Issues

7. A number of recurring issues emerged throughout the consultation which are summarised below.
8. The issues of planning performance and fees are intrinsically linked and while there was general support for increasing fees, there was also a recognition that any increase in fees would need to be accompanied by a tangible improvement in the service provided by planning authorities. Linked to the need to improve performance was the suggestion that authorities should have the option to ringfence any funding from increased fees.
9. There was support for moving to full cost recovery, whereby those using the planning system, pay for the full cost of the process. However, this requires clear information on the processing costs of applications and concerns were raised that there was insufficient evidence in the consultation on how the proposed fees had been calculated and whether the fees cover the cost of processing the application.

10. Reference was made to the 2019 Scottish Government goal of reaching net zero greenhouse gas emissions by 2045. From the business perspective, there is a need to ensure that the proposed fees do not adversely affect the delivery of a low carbon economy. Civil society also questioned whether fees were sufficiently high to reflect the adverse effects of some activities in contributing to climate change.

Planning Performance

11. There were three 'closed' questions on planning performance which are summarised in the table below.

Summary of Responses to Planning Performance Questions			
	Yes	No	Not Answered
Should a vision for planning in Scotland be set out?	79	3	27
Do you agree with the proposed vision?	40	37	32
Is the proposed approach to content of reports correct?	49	24	36

12. While there was considerable support for a vision for the planning service in Scotland, there was only marginal support for the vision proposed in the consultation. There was concern that the proposed vision lacked ambition and did not reflect the importance of planning in delivering the development and land uses that are needed to ensure Scotland can flourish. The proposed vision is too focused on process and not enough on the outcomes to which it contributes.
13. There was support for the content of the Planning Performance Reports (PPR) which are proposed to take account of the outcomes in the National Performance Framework and include chapters on customer service, engagement, case studies, improvements and outcomes. The importance of identifying measurable outcomes was acknowledged as was the need to learn from past experience.
14. Many suggestions were made about the statistics which should be included in the PPRs with the key indicators for measuring the success of the system and authorities identified as outcomes, timely decision making, customer satisfaction and engagement.
15. In terms of measuring the outcomes from planning for placemaking, sustainable development and quality of decisions, concerns were raised about the definition of the terms, the subjective nature of the outcomes and the fact that the true impact is not immediately ascertainable.

National Planning Improvement Coordinator

16. There was support for the NPIC as shown in the table below.

Summary of Responses to NPIC Question			
	Yes	No	Not Answered
Do you agree with the proposed responsibilities of the NPIC?	56	7	46

17. The consultation identified the need for the NPIC to promote improvements and share best practice across authorities. Policy and planning respondents felt the NPIC should identify obstacles to improving performance and share good practice. Civil society believed this should be a nationwide role, improving consistency across planning authorities while the business and development industry groups felt that the current forum for performance discussions was not conducive to improved performance.
18. Many respondents from all groups identified the need for the NPIC to develop communications/relationships with key stakeholders, including agencies, development industry, infrastructure providers, local authorities, agents and community groups and that digital tools could assist with this.
19. All groups except policy and planning referred to the need for the NPIC to have powers to implement change and drive improvement. The need for the role to address issues within the planning system as a whole and to strengthen the ability of the system to deliver on Scotland's priorities was identified by all groups except development industry.
20. In terms of the skills and attributes of the NPIC, all groups identified that the NPIC should have significant experience of the statutory planning system including from the user's perspective. The post should also be independent from political parties, government departments and other users of the planning system.

Planning Fees

21. The table below provides a summary of the responses to the closed questions on the proposed fees and method for calculating fees for the different fee categories. In terms of the open questions, very detailed points were made for all categories of fees with a summary of the main themes provided below.

22. For all categories of development, the majority of respondents answering the question agreed with the proposed fees with the exception of Category 20 – peat. The overall support masks different trends within the major groups with civil society and policy and planning respondents tending to support the proposed fees and business and development industry respondents showing less support.
23. In terms of the proposed method, most respondents answering the question supported the proposals for all categories of development except Category 1 – residential development. As with the proposed fees, civil society and policy and planning respondents tended to support the proposed method while business and development industry respondents showed less support.
24. **Fee Rates:** there was concern the proposed increases (particularly when expressed in percentage terms) were too high at the lower end of the scale (e.g. Category 6) and sometimes too high at the higher end of the scale (e.g. Category 9). There was inconsistency in the base fees applied per 0.1ha across many categories (e.g. Categories 15 and 16) and the suggestion that there should be a better alignment of base fee rates between non-housing categories. There was also inconsistency between flat rates applied to different categories (e.g. Categories 18 and 25). Maximum fees charged in some categories were felt by policy and planning respondents to be too low given the potential issues that arise in determining these applications (e.g. Category 12), but business respondents felt that the maximum fee charged in some categories was not justified in terms of the hours required to process the application (e.g. Category 11). The requirement for a maximum fee was also questioned by policy and planning respondents (e.g. Category 17).
25. **Methodology:** In some categories the methodology was felt to be too complicated with different fee rates and many thresholds (Category 6). Clarity is also required over the rationale for selecting specific approaches to the fee calculation e.g. the use of floorspace for Category 13. There was also concern about the inconsistency of approach to different categories (e.g. Categories 15 and 16). It was also suggested that where fees are charged on site area, it may promote potentially negative behaviour such as minimising red line boundaries to the detriment of environmental initiatives. Also, in some categories, a reduction in fee is proposed at the lower end of the scale which is not consistent with a move towards cost recovery.
26. **Definition:** all groups raised issues around the definition of the fee categories and what activities will be covered by specific categories. For example, if tourism should be included in Category 7. Guidance should be prepared to ensure there is no misinterpretation of the categories.
27. **PPP:** for categories where the fee for PPP was proposed as 50% of the detailed application fee, there was little general support for this. It was felt that both PPP and detailed applications require a full assessment of the suitability of the proposals, therefore charging half the fee for PPP does not reflect the level of assessment required.

Summary of Responses to Planning Fees Questions				
		Yes	No	Not Answered
Category 1: Residential Development	Fee	28	25	56
	Methodology	23	29	57
Category 2: Extensions and Alterations	Fee	27	17	65
	Methodology	22	21	66
Category 6: Retail and Leisure	Fee	29	14	66
	Methodology	22	17	70
Category 7: Business and Commercial	Fee	26	17	66
	Methodology	23	18	68
Category 8: Agricultural Buildings	Fee	21	17	71
	Methodology	20	15	74
Category 9: Glasshouses	Fee	18	14	77
	Methodology	17	15	77
Category 10: Polytunnels	Fee	21	10	78
	Methodology	20	9	80
Category 11: Wind Farms and Access Tracks	Fee	28	18	63
	Methodology – Site Area	30	12	67
Category 12: Hydro	Fee	27	9	73
	Methodology	24	11	74
Category 13: Other Generation Projects	Fee	25	12	72
	Solar Farms Separate	25	13	71
	Energy Storage Separate	21	15	73
	Heat Networks Separate	19	15	75
Category 14: Exploratory Drilling Oil & Gas	Fee	25	11	73
	Methodology	23	11	75
Category 15: Fish Farming	Fee	23	9	77
	Methodology	20	10	79
Category 16: Shellfish Farming	Fee	24	6	79
	Methodology	24	6	79
Category 17: Plant and Machinery	Fee	31	6	72
	Methodology	28	4	77
Category 18: Access, Car Parks for Existing Uses	Fee	27	12	70
	Methodology	24	12	73

Summary of Responses to Planning Fees Questions (cont.)				
		Yes	No	Not Answered
Category 19: Winning & Working Minerals	Fee	24	14	71
	Methodology	24	14	71
Category 20: Peat	Fee	15	16	78
	Methodology	17	14	78
Category 21: Other Operations	Fee	25	10	74
	Methodology	27	6	76
Categories 22 & 23: Waste Disposal & Mineral Stock	Fee	22	9	78
	Methodology	22	8	79
Category 24: Conversion of Flats & Houses	Fee	32	5	72
	Methodology	28	9	72
Category 25: Change of Use Buildings	Fee	31	10	68
	Methodology	25	12	72
Category 26: Change of Use Land	Fee	31	10	68
	Methodology	26	12	71

Other Fees

28. Other fees cover a wide range of different fees with the results of the closed questions shown in the table below. Of the respondents answering the questions, there was clear support for all the proposals except for reduced fees for applications in conservation areas which have arisen because of the restriction on permitted development rights. Opposition to the reduction was driven by policy and planning respondents who highlighted the need to recover additional costs with these applications e.g. advertising costs. Support for the reduction in fees was to ensure that properties are properly maintained.
29. The current fee structure for Approval of Matters Specified in Conditions (AMSC) is complicated with many suggestions proposed on how the fee should be calculated. There was support for the resetting of the fee calculator if a Section 42 application is granted, primarily from civil society and policy and planning respondents.

Summary of Responses to Other Fees Questions			
	Yes	No	Not Answered
Should granting a Section 42 lead to fee calculator being reset?	20	13	76
Should a reduced fee be payable for applications in conservation areas because permitted development rights for dwellings are restricted?	18	27	64
Is a fee for applying for listed building consent appropriate?	34	13	62
Should the fees for hazardous substances consent be increased	30	3	76
Are the proposed fees for CLUDS appropriate?	30	4	75
Are the proposed fees for advertisement appropriate?	29	4	76
Are the proposed fees for prior approval appropriate?	29	6	74
Are the proposed fees for alternative schemes appropriate?	26	5	78

30. For cross-boundary applications, there was majority support for splitting the fee as per how the development is split across boundaries as it would provide a more equitable distribution of the fee given that both authorities have to undertake assessment.
31. For all other categories of other fees there was considerable support for the fees proposed.

Discretionary Charging

32. The Planning Act 2019 contained provisions which enable the extension of the scope of services planning authorities can charge for in carrying out their functions. The table below shows respondents views on different aspects of discretionary charging.
33. There was general support for most categories of discretionary charging except for charging for entering a processing agreement and an enhanced project management service. There are some concerns that introducing fees for discretionary services, such as processing agreements, may discourage applicants from using these services.

34. Although there was support for charging for appeals to DPEA, there was no support for the fee being refunded in the event of a successful appeal. In the case of appeals to DPEA, business and development industry respondents are more likely to express concern that a fee would damage the impartiality of the system, whereas civil society and policy and planning respondents are more likely to find a full or partial cost recovery fee acceptable.
35. There is a general feeling across the respondents that fees for discretionary services should be related to the service level provided and should correlate with the scale and complexity of the proposal and the planning effort provided to the applicant.
36. There are differing views on how the actual fees should be set, with policy and planning and civil society respondents tending to favour local planning authority discretion in setting fees, with business and development industry respondents more likely to favour a national approach. There is some support across all respondent categories for any discretionary charges to be included in the overall planning fee.

Summary of Responses to Discretionary Charging Questions			
	Yes	No	Not Answered
Should the range of services an authority can charge for be set out?	59	9	41
Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?	40	29	40
Should there be an additional charge for entering into a processing agreement?	19	47	43
Should authorities be able to charge for carrying out the monitoring of conditions?	43	24	42
Should a fee for monitoring be limited to certain types of monitoring?	31	28	50
Should a fee be payable for the discharge of conditions?	41	33	35
Should planning authorities be able to charge for the drafting of planning agreements?	36	25	48
Should an authority be able to charge for development within a Masterplan Consent Area (MCA)?	42	6	61
Should the fee or an upper limit for MCA development be set in the regulations?	19	14	76
Should authorities be able to offer and charge for an enhanced project management service?	29	31	49
Should authorities be allowed to charge for adding names to the register of interested people for self-build projects?	20	17	72
Should there be a restriction on the amount charge for inclusion in the register for self-build?	18	13	78
Should fees be charged for appeals to DPEA?	45	27	37
Should the fee be refunded in the event of a successful appeal?	17	37	55
Should the maximum reduction allowed for reduced/waived fees be set out in the regulations?	21	16	72

Other Issues

37. The consultation sought views on a range of other issues including retrospective applications, incentives, environmental impact assessment (EIA), hybrid applications and Scottish Government services. The table below shows respondents views on these other issues.

38. There was support for the proposals relating to retrospective applications, a single fee to including advertising and charging for PPP at half the standard rate. There was no support for the use of incentives, applying a fee for paper applications not submitted through ePlanning, a supplementary fee for an EIA and a service charge for applications submitted through eDevelopment.
39. Retrospective application surcharges at 100% tended to be supported by civil society and policy and planning respondents as a means of encouraging proper applications. Business and development industry respondents tended to feel the surcharge would be punitive and discourage submission.

Summary of Responses to Questions on Other Issues			
	Yes	No	Not Answered
Should the surcharge for retrospective applications be set at 100%	32	26	51
Should authorities need to clearly set out the reasons why the surcharge has been applied or not in each individual case?	38	18	53
Is the use of discounts, rebates or other incentives a useful tool in delivering a more efficient service?	21	27	61
Is it appropriate to apply an increased fee for paper applications which are not submitted through ePlanning?	28	34	47
Should there be a single planning fee which includes advertising costs?	33	22	54
Should the submission of an EIA warrant a supplementary fee?	24	47	38
Should applications for PPP continue to be charged at half the standard fee?	29	20	60
Should a service charge be introduced for submitting an application through eDevelopment?	20	38	51

40. With regard to the use of discounts, rebates or other incentives, civil society and policy and planning respondents tended to disagree with penalties placed on local planning authorities as delays could be outwith their control and the process could be difficult to administer. On the other hand, business and development industry respondents tended to favour the use of incentives to improve the efficiency of the planning service.
41. There was general support for moves towards electronic processes, for example the use of e-Planning and the removal of the need to advertise applications in print media. However, there was recognition across the board that applicants without access to the means to submit electronic applications should not be disadvantaged.

Consolidated Impact Assessments

42. The consultation set out a consolidated impact assessment and considered the effect of the proposals on Island authorities. The results of these questions are set out in the table below which shows support for the impact assessment conclusions. There was support from all major groups with civil society respondents tending to be the respondents disagreeing with the conclusions.

Summary of Responses to Consolidated Impact Assessment Questions			
	Yes	No	Not Answered
Do you agree that a full EQIA is not required?	25	5	78
Do you agree that a full SEA is not required?	26	6	78
Do you agree that a full CRWIA is not required?	25	5	79
Do you agree that a full Fairer Scotland Duty assessment is not required?	22	7	80

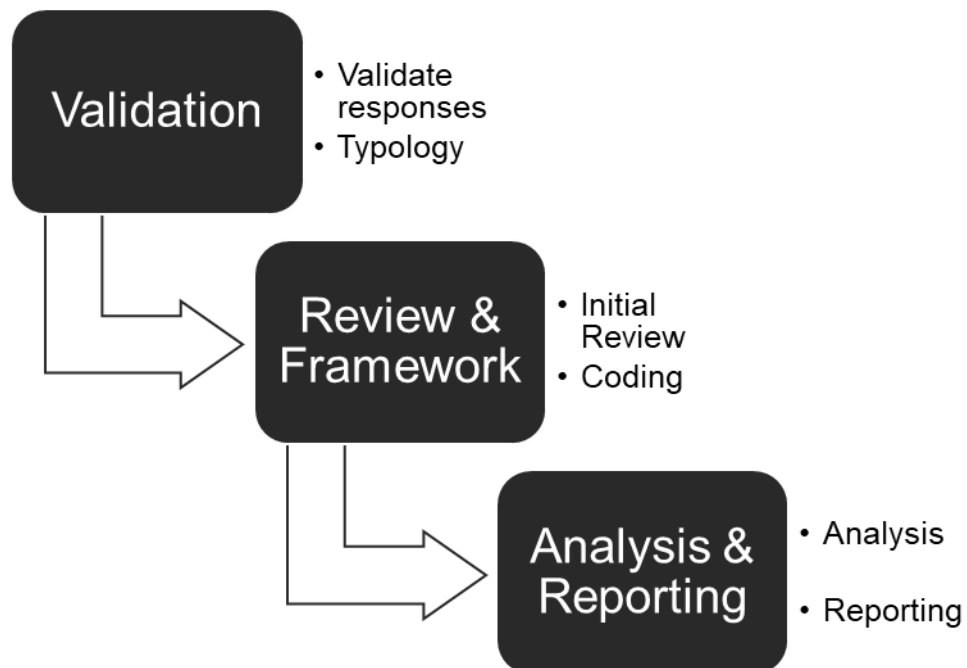
1. Introduction

1.1 Consultation on Planning Performance and Fees - 2019

- 1.1.1 Optimal Economics has been appointed by the Scottish Government – Local Government and Communities Directorate - Planning and Architecture Division (PAD) to undertake an analysis of the responses to the public consultation on Planning Performance and Fees.
- 1.1.2 The Planning (Scotland) Act 2019 includes provisions to extend the range of services which authorities can charge for, the ability to waive or reduce fees and for Scottish Ministers to charge for delivering their planning functions. In relation to performance, the Act places annual reporting by planning authorities onto a statutory basis and introduced the role of the National Planning Improvement Co-ordinator (NPIC). To ensure any changes made to measuring performance and the structure of fees within the planning system are the correct changes, the Scottish Government published a consultation to gather views.
- 1.1.3 The aim of the consultation was to obtain the views and opinions of stakeholders on a new approach to how the performance of planning authorities is measured, the role of the NPIC and the new structure for the planning fee regime along with the introduction of additional services which can be charged for and the ability to waive or reduce planning fees in certain circumstances.
- 1.1.4 The consultation was broadly divided into two parts. The first part covers planning performance and the role and responsibilities of the NPIC through a combination of quantitative and qualitative questions. The second part of the consultation was focused on fees and was split into four main sections:
- Planning fees: For 23 categories of development, questions were posed regarding the level of fee and method for calculating the fee.
 - Other Fees: For a further six types of fees (e.g. conservation areas), questions were posed regarding the level of fee and method for calculating the fee.
 - Discretionary charging: For eleven categories of services, questions were posed regarding whether the service should be charged for and the reasons to support the answer.
 - Other issues: a number of other issues were covered regarding fees.
- 1.2 There was a further section at the end of the consultation with questions on impact assessments.

1.2 Methodology

1.2.1 The approach to the analysis is shown in the Figure below.



1.2.2 The first stage of the review was to validate the responses to determine that they are relevant to planning performance and fees; whether there were any duplicate responses and whether there were any campaign responses. There were a number of responses which were aligned with a particular organisation or replicated part of another organisation's response, but as other aspects of the submission were different, they are not being treated as campaign responses.

1.2.3 The validation stage also developed a typology to reflect the respondent and their relationship to the planning system and its processes (paragraph 1.3.2 below).

1.2.4 Stage 2 was focused on establishing an appropriate framework for the analysis. The consultation combined quantitative and qualitative methods of data collection and while the quantitative responses provided a good overview of opinion, it was the qualitative comments that provided a far greater depth of response.

1.2.5 A coding framework was established of the main themes arising from the open-ended questions. The framework was kept under continuous review to ensure it was fit-for-purpose and that the responses mapped effectively on to it. After the initial themes were identified, a more detailed coding of each main theme was undertaken to allow responses to be grouped to reflect key issues/views by the typology developed in Stage 1.

- 1.2.6 Stage 3 was the analysis of all questions and reporting of results which took account of client feedback at all stages of the reporting process.
- 1.2.7 Almost all “closed” questions asked for a yes/no answer and the analysis presents the number of responses by group providing yes/no and those who did not answer the question. The overall proportion of responses answering yes/no is also provided.
- 1.2.8 All responses to the “open” questions have been given an equal weighting, allowing every idea presented to be considered equally. Where possible we have used a number of simple bands to provide an indication of the frequency of an idea, although it is noted that this treats the response from an individual with the same weight as the response from a professional body which may have many members. Nevertheless, the following bands have been used:
- Few: up to 3 responses.
 - Several: 4 to 10 responses.
 - Many: over 10 responses.

1.3 Overview of Responses

- 1.3.1 At the close of the consultation period (14th February 2020) there were 84 responses, although a further 25 had been submitted to PAD in an alternative format. Where possible, these additional responses were input into Citizen Space taking the total number of responses to 109.
- 1.3.2 The respondents were categorised into the following four major groups:
- **Business:** Respondents who are concerned with the system from the perspective of its impact and influence on conducting business, but not necessarily regular applicants. These include business bodies like chambers and federations, self-employed, financial institutions, as well as retailers, and some business sectors like energy.
 - **Civil Society:** Respondents who are concerned with the system from a non-developer or planner perspective. For instance, civic groups and community councils, individuals, charities and community developers.
 - **Development Industry:** Respondents who are concerned with the system primarily from a development and land value perspective. These included landowners, investors, development surveyors, developers, housing associations and housebuilders
 - **Policy and Planning:** Respondents who are concerned with the system from the perspective of operators or shapers of the planning system, its plans and policies. For instance, local authorities (including National Park Authorities and Strategic Development Planning Authorities), national government bodies and key agencies.

1.3.3 The table below shows the distribution of respondents by major group with Appendix A providing a list of respondents by group.

Summary of the Number of Responses by Group		
	Number	%
Business	29	27
Civil Society	28	26
Development Industry	12	11
Policy and Planning	40	37
Total	109	100

2. General Overview

2.1 Introduction

2.1.1 A number of comments were received as part of the consultation which do not relate specifically to a particular question but relate to planning performance and fees in general. These themes were recurring throughout the consultation, but are set out below rather than repeated, by question, in the detailed analysis.

2.2 Planning Performance and Fees

2.2.1 While respondents welcomed the aims and objectives of the consultation document, the responses made clear that the issues of planning fees and planning performance are intrinsically linked.

2.2.2 Resourcing of the planning system has been under severe pressure as the budget cuts faced by local authorities result in a squeeze on unprotected services such as planning. This, and the additional resources required to implement the new Planning Act, has brought authorities to the point where, without appropriate funding, improving performance will be very difficult. The new requirements of the Planning Act require authorities to deliver more which means that they will require additional resources to stand still before improvements in performance can be considered. If increased fees are to result in sustained performance improvement, then all resourcing issues faced by planning authorities should be addressed.

2.2.3 The principle of increasing fees for planning was generally supported but, for the business and development industry groups, there would need to be a tangible improvement in performance by planning authorities. Specific proposals would have to be clear, justified and show there is path in place to achieve demonstrable and corresponding service improvements for applicants. It was suggested that the consultation was rather one-sided with some steep increases in fees proposed on the one hand with somewhat limited information on performance on the other.

2.2.4 It was noted that the new fees would make applications significantly more expensive than equivalent applications in England with little detail on how performance will be improved. Reference was also made to the previous fee increase in 2017 which did not include any performance measures and the impact of the fee increase appears unclear. This raises the question of how good performance should be defined. There was broad support for a move away from simple metrics such as local authority decision times to a more outcome focused and holistic view of the planning system.

2.2.5 It is important that Scotland continues to remain competitive and any increase in fees paid needs to result directly in an injection of additional resources for planning services which can deliver stronger leadership and support appropriate development and investment in the built environment.

2.3 Cost Recovery

2.3.1 There was general support for the aim of planning fees recovering the cost of determining an application, but there were concerns from some policy and planning respondents that alone, the incremental increase in fees is unlikely to alleviate pressure on local authority planning services and it was suggested that a more fundamental reform of the resourcing of planning authorities is necessary to deliver a high-performing, efficient and effective planning service.

2.3.2 Full cost recovery where those using the planning system pay for the full cost of the process was an important issue for all groups. In support of full cost recovery there needs to be information published on the resources and costs that are required to process applications. The need for clear information on processing costs was raised throughout the consultation with concerns raised that the consultation did not provide any evidence on how the proposed fees have been calculated or whether it covered the cost of processing the application.

2.3.3 Against full cost recovery was the issue relating to the public interest purpose of planning controls. The planning system is a regulatory regime, in place because it is deemed to have wider benefits beyond its immediate users and therefore should have public funding. Concerns were also raised about a number of practical implications of full cost recovery including:

- The ability of some authorities who do not receive many large applications to sustain staff and services on a full cost recovery basis unless there were large increases in fees for smaller developments.
- The need for much larger fees for householder and small-scale applications which are widely believed to be subsidised by larger applications.

2.4 Ringfencing of Fees

2.4.1 It was suggested (by business and development industry respondents) that the increases to planning fees should have a direct relationship to funding for planning departments in Scotland and that authorities should have the option to ringfence any funding from increased fees. Indeed, these respondents felt it would be very difficult to justify a further increase in fees which are not ringfenced for development management services and which cannot be linked to any clear and measurable performance improvement. It was suggested that any additional investment from applicants should be matched by increased public sector investment.

2.4.2 Policy and planning respondents also suggested that income from planning fees should be reinvested in supporting the delivery of the development management service. Planning Performance Reports (PPR) could play a role in reporting where fee income has been spent as a means of reassuring applicants and users of the planning system that this investment is being made.

2.5 Fee Structure

2.5.1 There is scope to simplify the fee structure including the merging of some categories, a reduction in the number of tiers within categories and more consistency in fee level across categories. This would simplify the system and make it easier and cheaper to collect fees.

2.6 Climate Change Emergency

2.6.1 Reference was made to the 2019 Scottish Government goal of reaching net-zero greenhouse gas emissions by 2045. In order to reach this goal, the effort to limit emissions must be a top priority in all Government policies. From the business perspective, there is a need to ensure that proposed fees do not adversely affect the delivery of a low carbon economy. Civil society also questioned whether fees were sufficiently high to reflect the adverse effects of some activities in contributing to climate change.

2.7 Statutory Consultees

2.7.1 There was concern from the policy and planning group that the proposed increase in fee levels only reflect the input from the planning authority into the application process. They do not reflect the specialist input from other statutory consultees. To sustain specialist input into the planning system, it is important that a mechanism is introduced to enable other statutory consultees to receive their costs. If this is not an option, statutory consultees will have to change how they contribute to the planning system to reflect their resources and priorities.

2.8 Other Matters

2.8.1 A couple of very specific points were made in relation to the proposed fees:

- All fees should be increased annually in line with inflation.
- The consultation document appears to use m² when it is believed to be referring to sq. m.

3. Planning Performance

3.1 Introduction

3.1.1 The Planning (Scotland) Act 2019 places annual performance reporting by planning authorities on a statutory basis. The Act sets out that Ministers may make further provision about the form and content of performance reports in regulations.

3.1.2 The Planning Performance Framework¹ (PPF) is the Planning Authorities annual report on the planning service providing a range of qualitative and quantified indicators to document planning activities. The PPF provides a good starting point to look at how the performance of the planning system is measured going forward. The consultation sets out the Government's initial proposition for the structure and content of performance reports going forward.

3.2 Purpose of Planning

3.2.1 The Planning (Scotland) Act 2019 states that the purpose of planning is “to manage the development and use of land in the long-term public interest”. The Government considers there is merit in developing an accompanying statement about the performance of the system, a vision of a system we all want to see. The consultation proposes the following vision:

“The Planning System must provide certainty, consistency and clarity to all those who participate in it, through effective engagement, policy, decision making and communication”.

Q1. Should we set out a vision for the planning service in Scotland?

3.2.2 The table below shows that of the 82 respondents answering the question, there was almost unanimous agreement (96%) that a vision should be set for the planning service in Scotland. The support was provided from all major groups.

¹ <https://hopscotland.org.uk/publications/planning-performance-framework-reports/>

Should we set out a vision for the Planning Service in Scotland			
	Yes	No	Not Answered
Business	20		9
Civil Society	21	2	5
Development Industry	11		1
Policy and Planning	27	1	12
Total	79	3	27
% of Respondents Answering Question	96	4	

Q1a. Do you agree with the vision proposed?

3.2.3 While there was strong support for a vision for the planning system in Scotland, the table below shows that there was very marginal support for the vision proposed in the consultation document. A slight majority (52%) of respondents answering the question supported the proposed vision. Across business and civil society there was a majority of respondents in favour of the vision but, for the development industry and policy and planning groups, a majority of respondents did not agree with the proposed vision.

Do you agree with the vision proposed in this consultation document?			
	Yes	No	Not Answered
Business	12	8	9
Civil Society	14	5	9
Development Industry	4	7	1
Policy and Planning	10	17	13
Total	40	37	32
% of Respondents Answering Question	52	48	

3.2.4 There were 70 comments relating to the vision across a range of themes:

Aspiration and Outcomes

- Several respondents from business, development and policy and planning felt that the vision should be more aspirational and reflect the importance of planning in anticipating the development and land uses needed to ensure all parts of Scotland flourish. It should highlight that planning is about managing change and achieving sustainable development, not just making decisions.
- Several respondents from civil society and policy and planning felt that the proposed vision was more of an outline of how the planning system should operate rather than a vision i.e. it was too focused on the process and not enough focus on the outcomes to which planning contributes.
- A few comments were made regarding the relationship of the vision to the National Performance Framework (NPerF). One felt it was not clear (civil society), one (policy and planning) felt that the vision should focus planning services towards the delivery of the national outcomes in the National Planning Framework (NPF) and one (policy and planning) felt that clarity was required on the “status” of the vision i.e. how it will link to the NPerF and how those in the planning system will be measured against it.

Definition

- Several respondents from business and civil society raised the issue of the terms “planning system” and “planning service” being used interchangeably in the consultation document and assumed that the consultation was referring to a vision for the planning service to be provided by planning authorities. In contrast, a few policy and planning respondents felt that the reference to “participating” in the planning system broadened the vision to more than just planning authorities and questioned if there would be an obligation on developers.

Implementation

- Several respondents from all groups except civil society highlighted the need to introduce a framework of priorities and measurable criteria which are designed to ensure the vision is delivered and measures to be implemented if not delivered.
- Several business and development respondents identified inconsistency in the way planning authorities operate their service, apply policy and make decisions.
- A few civil society respondents highlighted that translating the vision into reality will require careful management to ensure the vision is equally perceived across all authorities and to minimize authorities re-interpreting legislation.

Suggested Vision

- Several business and development respondents suggested “The Planning Service must provide certainty, consistency and clarity to all those who interact with it, through effective engagement, communication, policy and timeous and responsible decision making made in the long-term public interest”.
- Suggestions from civil society included the vision being “accessible” and “transparent” to reflect a service which can be accessed and understood by the general public and the vision expressing how the planning system will help manage the development and use of land for the long term, i.e. the outcomes sought. Examples include appropriate development based on overall planning and economic considerations, creating and conserving valuable buildings, landscapes etc. and involving the public in the planning process.
- Policy and planning respondents highlighted that the vision should be more aspirational, including how the planning system:
 - adds value to development
 - co-ordinates the provision of infrastructure
 - contributes to local, national, and global outcomes
 - is responsive, flexible and adapts to new challenges
 - encourages participation, collaboration and an integrated approach
 - provides creative solutions to local issues
 - provides leadership and inspires change
 - is effective and appropriately resourced
 - encourages innovation, digital transformation and embraces diversity
 - mediates competing interests
 - builds trust and empowers local communities
 - promotes spatial strategies and a holistic, placemaking approach
 - directs development to the most appropriate locations.

3.3 Preparation and Content of Reports

3.3.1 The consultation proposes that the PPF be refocused to take account of the outcomes in the NPerF, better integrate key performance indicators and take account of customer and stakeholder views. Drawing on the experience of the PPF, the consultation suggested that the performance reports cover the following areas:

- **Statistics:** range of published statistics and other quantitative information.

- **Customer Service:** should include those who comment on applications, policies and plans to understand how engagement has been handled and how it can be important in building trust and confidence in the planning system.
- **Engagement:** how the authority has carried out their engagement activity during the reporting year.
- **Case Studies:** which demonstrate how authorities are helping to deliver better development and places and their contribution to national outcomes.
- **Outcomes:** key achievements/metrics contributing to the national outcomes.
- **Improvement:** areas for improvement that authorities can learn from and share good practice.
- **Resources:** how an authority has allocated/used its available resources during the reporting period both financial and staff resources.

Q2. Is the proposed approach to the content correct?

3.3.2 The table below sets out respondents' views on whether the proposed approach to the content of the performance reports is correct. The majority (67%) of respondents agree with the proposed content, particularly from the business, civil society and policy and planning groups. The majority of development industry respondents disagreed with the proposed content.

Is the proposed approach to the content correct?			
	Yes	No	Not Answered
Business	9	5	15
Civil Society	12	8	8
Development Industry	2	7	3
Policy and Planning	26	4	10
Total	49	24	36
% of Respondents Answering Question	67	33	

Q3. Do you have any comments on the proposed content of Planning Performance Reports (PPR)?

3.3.3 There were 72 comments on the proposed content of the PPRs across a range of themes.

National Performance Framework (NPerF)

- The appropriateness of the NPerF for measuring outcomes was raised. Several civil society respondents suggested that outcomes should also be monitored against the 2019 Planning Act which was felt to be more specific and up to date. There was concern that specific outcomes set out in the Planning Act will not be delivered if planning authorities are not required to report on these issues and that some of the outcomes in the NPerF are broader and less directly measurable than some of those in the Planning Act. A policy and planning respondent felt that it would be difficult to evidence effective outcomes against all the NPerF measures every year and it would not provide the mechanism to provide a true picture of delivering planning and development regionally.
- A few policy and planning respondents welcomed the proposals to measure the performance of planning services against the outcomes in the NPerF as they are broader than the statutory outcomes in the National Planning Framework (NPF). It was felt that using the NPerF would align planning well with the purpose, the values and national indicators for Scotland and provide an opportunity for the profile of planning to be raised. One respondent recommended that cross-referencing to the six statutory NPF outcomes is included in the reports.

Statistics

- A few policy and planning respondents agreed that quantitative statistics should be retained, but they should be easy to collect and correlate with objectives.
- A few business and development industry respondents suggested that the statistics to be collected should be set out to ensure consistency and enable comparison across planning authorities.

Customer Service

- Several business and civil society respondents suggested that planning authorities engage with a range of customers who are likely to have experienced both positive and negative planning decisions to ensure meaningful comments are received. This should include applicants (who receive approval and those whose decisions are refused) and members of the public commenting on planning applications. Standard questions should be used by all planning authorities to ensure consistency between authorities when reporting customers experience.
- A few respondents (policy and planning, civil society) suggested the inclusion of complaints information as this is already available and it can be used to show improvements in customer experience.

- A few policy and planning respondents also raised concerns about the measurement of customer service and suggested the focus should be on procedural aspects of customer service e.g. were customers kept informed, were they notified of the outcome.

Engagement

- Several respondents (policy and planning, business, civil society) welcomed the inclusion of engagement including feedback from other stakeholders.
- Caution was noted from a few policy and planning respondents about the resource implications of extensive engagement and the need to balance proportionality and accurate observations. Meaningful stakeholder engagement can be resource intensive and it can be unrepresentative of the of the actual process or customer with those unhappy with any decisions being more inclined to participate. By contrast, a business respondent highlighted that targeted engagement should be open to scrutiny to avoid local authorities targeting stakeholders likely to provide positive feedback.

Case Studies

- A few civil society respondents suggested the inclusion of case studies would help focus on the quality of the outcomes rather than just having time based targets.
- A few business respondents felt that there should be a wider range of case studies across different industry categories and there should be examples of where the process has not worked as intended.
- A few policy and planning respondents felt there should be a range of case studies to provide for a more comprehensive reflection of performance. Case studies would also allow qualitative outcomes to be considered.

Outcomes

- Several business and development industry respondents highlighted the importance of identifying the extent to which measurable outcomes have been achieved, but also to ensure that ongoing service design and resourcing decisions are better aligned to improving the positive outcomes of planning. Examples of outcomes were provided for renewable energy and house building.

- A few policy and planning respondents suggested that in relation to national outcomes, guidance will be required. Reference was made to the research being undertaken by the RTPI into Measuring Planning Outcomes which is exploring how local authorities and national Governments can go beyond simple metrics like speed of processing applications. The research aims to propose and test methods for measuring outcomes and will demonstrate how this information can be used to assess local and national performance. One respondent suggested that sharing good practice rather than measuring outcomes would be better.

Improvement

- Several business respondents acknowledged that PPF reports often focus on “good news” stories and suggest that whilst it is important to learn from other’s successes, the most valuable improvements are likely to arise from scrutinising weaknesses, establishing their cause and methods of avoiding a repeat of poor performance.
- A few policy and planning respondents felt that improvement areas should be a focus of the reports but acknowledged that these should take account of local authority resources, pressures and strategic direction.

Resources

- Several business and development industry respondents welcomed the proposals to report on resourcing. It was suggested that it should be transparent and show where money is sourced from and where it goes. Measurement of resources will allow authorities to demonstrate how any increases in planning fees have been used to improve the service and provide an understanding as to why authorities may be finding response times challenging.
- A few policy and planning respondents were concerned over the inclusion of resourcing in the PPF. It was felt that preparing PPF reports is already onerous and increasing their scope and complexity will only exacerbate the situation.
- A few policy and planning respondents also raised issues around the complexity of identifying resources on specific aspects of planning e.g. the percentage of a flooding officer’s time is spent on planning applications. Smaller authorities often have to outsource more costly specialist skills which may make them appear less efficient. The scope of resources should also be extended to include the range of specialisms (e.g. ecologists) involved in the planning system along with investment in training. Aspects of the Planning Act which sees a closer alignment with the community planning function may make it more difficult to separate what planning does from what the local authority does.

Additional Reporting

- A few policy and planning respondents had concerns about the content of the PPF particularly the reporting process which can be onerous on small teams.
- Policy and planning respondents also made a number of other comments including:
 - The statistics and resources analysis should be part of an annual performance report and a full performance report should be every two years to ensure meaningful time is dedicated to improvements, customer service and engagement.
 - The move from a purely statistical approach to performance outcome measurements is welcome and helps demonstrate the added value the planning system can achieve.
 - These reports are becoming too long and detailed, both to produce and for stakeholders to engage with.
 - There needs to be greater clarity on the audience(s) for the PPR to better define the style of reporting and the information to include.
 - The PPR could be used to capture the relationship between planning outcomes and the Authority's Strategic Plan.

Q3a. Do you have any comments or suggestions as to how reports should be prepared?

3.3.4 There were 45 comments or suggestions as to how the PPRs should be prepared across the following themes:

- Several respondents across all major groups suggested the new reporting structure should take account of the experience and roles played by different stakeholder groups. Suggestions of stakeholders included the Key Agencies Group, interest groups (e.g. Homes for Scotland, home builders), applicants who fund development management services and applicants who are relied on to implement plans.
- Several respondents (civil society, development industry, policy and planning) felt a template approach would create consistency and aid comparison between authorities. This could include a word limit and some flexibility in how the report is presented visually. A few policy and planning authorities felt that the basic structure of the report should be common to all but otherwise there should be scope for variation in content depending on the audience the report is being prepared for.

- The use of geographical information systems (GIS) and digital reporting was suggested by a few policy and planning respondents to provide data spatially and for it to be more of a “live” document. Reference was made to a tool developed by the RTPI in Wales for presenting the value and performance of planning to the wider local authority area.
- While a development industry respondent felt that annual reporting should enable authorities to determine whether service improvements are required, one policy and planning respondent suggested a biennial report (it would be less repetitive and aid resource management) and one suggested performance data could be reported annually (often in other authority reports) but a biennial “focus” report could focus on a particular topic.

Q3b. What statistical information would be useful/valuable to include and monitor?

3.3.5 There were 59 comments on what statistical information would be useful/valuable to include and monitor. The following general points were made:

- Several policy and planning respondents felt that the existing PPF statistics should be used. These statistics are largely drawn from Scottish Government publications and are easily obtainable, measurable, provide a reliable benchmark and can be readily monitored.
- Resources was identified as a key statistic by business, development industry and policy and planning respondents. Several business and development industry respondents felt that there should be data and statistics on how resources are used on applications, particularly larger applications with added complexity. This would be helpful in understanding where authorities spend their effort and provide a quantitative basis for the planning fee structure. A few policy and planning respondents highlighted the need to collect data on resourcing to allow trends in staffing to be monitored. When analysed beside fee income it will allow an assessment of whether fee income is being reinvested into the planning service.

3.3.6 As expected, a variety of statistics was suggested from all groups, and these are summarised below:

- Applications:
 - Number of applications meeting statutory or agreed timescales and then seeking to demonstrate evidence of improvement
 - Number of consents becoming delivered development
 - Measurement of turnaround of conditions

- Number of appeals on decisions and rate of successful appeals, including local review body (LRB) and planning and environmental appeals division (DPEA)
 - Number of recommendations from officials not taken forward by elected members
 - Number of approvals and refusals
 - Number of applications receiving objections from community councils/amenity groups
 - Number of retrospective applications granted
 - Number of repeat applications received
 - Number of decisions made as a departure from the development plan
 - Number of planning consents implemented; planning conditions discharged
 - Number of applications subject to planning processing agreements and those determined within timescale
 - Exchanges between planning authorities and applicant
- Timescales:
 - Time taken to register and validate applications, determine an application (both local and major) and issue and receive consultation responses
 - Average time between the determination and the issue of decision notice regarding legal agreements
 - Time periods for the response to requests to discharge planning conditions
- Monitoring data:
 - Statistics relating to appeals and judicial reviews to measure performance against the proposed quality of decision outcome
 - Deadlines relating to agreement of heads of terms for planning obligations and processing agreements
 - Compliance with the delivery of planning conditions/obligations
 - Use of enforcement procedures

- Plans and Guidance:
 - Age of local and strategic development plans and whether it is on track
 - Number of other plans and Supplementary Guidance prepared and years since review
 - Number of Local Place Plans supported/ incorporated in the Local Development Plan (LDP)
 - Applications and refusals contrary to the LDP
 - How policy is being applied
 - Alignment of priorities between LDP and Local Outcome Improvement Plan (LOIP)
 - 5-year land supply

- Funding/resources:
 - Number of front-line Development Management staff
 - Funding raised through strategic and forward planning activities
 - Use of resources including specialists employed, training undertaken
 - Average number of applications per officer
 - How resources have been used on applications

- Environmental:
 - Number of applications overlapping wildlife designated sites
 - Number of buildings on Buildings as Risk register
 - Number of listed buildings demolished
 - Number of applications where bio-diversity net gain was achieved.
 - Number of renewable schemes implemented, and power produced
 - Consumption of natural assets
 - Levels of blue/green infrastructure
 - Level carbon used/offset

- Historic Environment:
 - Information to monitor outcomes, themes and pressures for the historic environment
 - Information from the Buildings as Risk Register, the Scottish House Conditions Survey, Scheduled Monuments

- Information from the Place Standard Tool, projects by Scotland's Town Partnership and the Vacant and Derelict Land Task Force
- Environmental Impact Assessment:
 - Average time for providing Environmental Impact Assessment (EIA) screening and scoping opinions, sector specific if possible
 - Average length of determination time for applications, sector specific if possible, and for EIA and non-EIA.
- Other:
 - Number of public events/consultations held
 - Amount of developer obligations collected per year
 - External datasets which could review national performance e.g. local financial returns and the Local Government Benchmarking Framework
 - Customer perception/ satisfaction data
 - Monitoring engagement, value added, in relation to national outcomes
 - Quantitative measure of knowledge sharing
 - Number of homes occupied, accessible homes delivered and affordable homes
 - Amount of floorspace delivered from new businesses
 - House price inflation in home ownership and rental markets to monitor the need to stimulate supply

Q3c. What are the key indicators which you think the performance of the system and authorities should be measured against?

3.3.7 There were 57 comments about indicators which should be used to measure the performance of the system and authorities. There is some overlap in responses to this question with the content of PPRs discussed under Q3b (paragraphs 3.3.5 to 3.3.6). The main themes are as follows:

Outcomes

- Many comments were received from civil society and policy and planning about the need to focus on key performance outcomes rather than indicators. Performance should be measured on outcomes of what the planning system delivers (i.e. quality housing, places and environment) rather than being focused on how long it takes to process an application. Combining statistics with outcomes will provide a more balanced understanding of authority performance.

- Several business and development industry respondents suggested that the supply of effective housing land in Scotland is lower than it may appear in development plans and housing land audits as these plans do not take account of commercial considerations and whether building homes on the land is a realistic market option. Despite these issues, some authorities judge themselves to be maintaining an effective housing land supply. An outcome focused measure of performance would look at the number of new homes that have been successfully delivered through the planning system. The number of new homes delivered could be judged against the sites in plans and audits to determine how successful authorities have been in identifying sites that can be delivered.

Timely Decision Making

- Many comments from all major groups related to the need for planning authorities to issue decisions as quickly as possible.
- A few business and development industry respondents highlighted that planning applicants in Scotland do not benefit from a “planning guarantee” or access to the full range of remedies for extended delays (e.g. the provision for repayment of planning fees after 26 weeks in England). Without a timely decision, the only choice is to appeal against non-determination which can increase the uncertainty over decision making.
- A few business and development industry respondents also highlighted the significant adverse effect that delays in determining applications can have on a business, particularly on debt-financed smaller developers and on the cash flow of any business. Existing monitoring of decision-time performance is inadequate and un-inclusive. The focus on relative performance from year to year, rather than on whether statutory timescales are being met, places insufficient emphasis or impetus on timely decision making.

Customer Satisfaction

- Several respondents across all major groups suggested customer satisfaction should be considered as an indicator of performance.
- A few business and development industry respondents highlighted the importance of this indicator given the increasing reliance on customers paying planning fees to subsidise frontline services. As some authorities already send questionnaires to applicants upon conclusion of the application, it could be standardised and include some questions which rate the process rather than the result. For example, questions on project management, communication, validation and speed of response of consultees.

- One policy and planning respondent suggested a customer service rating which is similar to that carried out for the building standards verification service key performance outcomes.

Other

- Several business and development industry respondents suggested that performance could be assessed through the use of a processing agreement to project manage planning decisions from pre-application through to negotiation of developer obligations. This could improve efficiency and transparency from the start to the end of the development management process.
- Several business and development industry respondents welcomed the provisions in the new Planning Act for the training of elected members. Ways to gauge the impact of member training could be to monitor any reduction in the number of decisions that are taken against officer recommendation or in the number of refusals being overturned on appeal.

3.3.8 Heads of Planning Scotland (HOPS) highlighted that the current PPF has 15 markers which provide a consistent basis to consider performance. HOPS commented on these markers and suggested amendments which can be seen in their published response.

Q3d. Do you have any other comments to make with regards to how the performance of the planning system and authorities is measured and reported?

3.3.9 There were 39 comments on this question. Some comments related to topics already covered above and, where appropriate, have been included under those headings. Other themes raised, in descending order of comments made, are:

- Several policy and planning respondents highlight “process” aspects of the PPR which could be improved including giving authorities the opportunity to feedback/discuss the Scottish Government’s response/Red, Amber, Green assessment before it is published; faster provision of feedback from Scottish Government to inform subsequent PPF submissions; and draft PPFs should be subject to both public and wider stakeholder comments before submission to Scottish Government with these comments submitted alongside the draft report.
- The performance of planning authorities can be affected by external stakeholders and their actions. A few policy and planning respondents suggested that the performance of other participants in the planning system should be measured and reported on. This would recognise the need for partnership working across all areas of planning and set out how they will contribute to the vision statement and key objectives of the system.

- A few business and development industry respondents highlighted that the High-Level Group on Planning Performance does not embrace representatives of key planning applicant groups and planning fee payers e.g. the home building industry. These respondents felt that the group needs more balance if it is to play an effective role in achieving an outcome focused approach to performance and if it is to provide those funding planning services with an appropriate opportunity to discuss their experience, needs and perspectives.
- A few business respondents highlighted the need for more consistency across authorities in the application of planning policies. Examples included the process for the Approval of Matters Specified in Conditions (AMSC) and the way material variations are applied. Inconsistencies can impact on the ability of developers to forward plan and can add to costs.
- A few civil society responses noted that sometimes the refusal of an application or no development on a site is the best outcome. This should not be reported or viewed as a failure but the part that planning plays in preventing harmful development which does not benefit the area of development.
- Other comments included:
 - One size does not fit all - all authorities have different geographies, demographics, property and job markets, political make-up and internal processes which cannot be compared equitably (policy and planning).
 - The lack of good settlement level data on the quality of the physical environment should be an area for development to establish what the priorities are and how well the planning system is delivering against these. Better integration of development planning with regional Land Use Strategies and helping deliver the Planning Act's objective of use of land in the long term public interest (civil society).
 - An easy to read summary of the performance reports should be widely available (civil society).
 - Rather than the proposed complex and resource intensive approach, resources should be targeted towards under-performing authorities and problem topics/areas which are constraining performance and development (policy and planning).

Q3e. Do you have any suggestions about how we could measure the outcomes from planning such as:

- **Placemaking**
- **Sustainable Development**
- **Quality of Decisions**

3.3.10 There were 49 comments on how outcomes from planning could be measured for placemaking, sustainable development and quality of decisions. The main themes raised are:

General

- Several policy and planning respondents and a development industry respondent highlighted the difficulty in measuring outcomes from planning around placemaking, sustainable development and quality of decisions. Issues raised included the subjective nature of the outcomes and the need for extensive resources to gather data.
- A few policy and planning respondents suggested that measuring outcomes in terms of placemaking, sustainable development and quality of decisions is a long-term process as the true impact is not immediately ascertainable and many developments, particularly large scale ones, are completed over a number of years. It is not something that can be measured on an annual or 5-year basis.
- A few civil society respondents felt that these terms were not sufficiently defined to be measured effectively. For example, placemaking can mean different things to different people. Related to definition, a development industry respondent suggested that the Scottish Government should set out criteria which define good placemaking, sustainable development and quality decisions and invite authorities to confirm whether these criteria have been met for each application (major developments only).
- A few policy and planning respondents suggested that a national approach should be developed or perhaps even a national level assessment.
- The RTPI research on Planning Outcomes was highlighted by a few policy and planning respondents as a valuable input to measuring outcomes.

Placemaking

- Several civil society and policy and planning respondents suggested that The Place Standard is helpful in measuring placemaking outcomes and engaging local communities and stakeholders.
- A number of possible measures/approaches were suggested. All suggestions are from policy and planning unless stated:

- A baseline assessment of life qualities at a location prior to development and what positive changes the development will have on the local community (civil society)
- Number of applications which meet criteria relating to national or local place principles. Authorities could nominate applications for a “placemaking award for Scotland” where they meet or surpass place principles. This could incentivise investment in the placemaking agenda (development industry)
- Where added value has been provided by the planning process i.e. where significant improvements have been required through discussions such as increased open space, increased active travel network.
- Positive impacts on health, well-being, safety and community participation
- Condition of the historic environment as measured by listed building demolitions, condition of scheduled monuments, condition of pre-1919 buildings
- Local perceptions of quality of place drawing on the Scottish Household Survey methodology
- Remediation of vacant and derelict land
- Delivery of a mix of housing including size, affordability and accessibility
- Access to services including health, social care and education

Sustainable Development

- The term sustainable development requires clarification with different interpretations from the different groups responding i.e. civil society respondents have a different definition to business and development industry. However, the need to measure the economic, environmental and social outcomes of projects is recognised.
- A number of possible measures/approaches were suggested by civil society and policy and planning:
 - Energy saving measures and carbon neutral heating
 - Provision of electric transport
 - Remediation of vacant and derelict land
 - Proportion of development served by a heat network
 - Reduction of carbon dioxide emissions from buildings
 - Proportion of new buildings with low and zero carbon technologies
 - Improvements in air quality
 - Re-use of existing buildings, active travel data

- Change in biodiversity
- Contribution of development to blue/green infrastructure

Quality of Decisions

- Measuring the quality of decisions will need to be undertaken sometime after the development was approved to see if it was implemented and had the effects detailed in the original application (development industry). This point was also made by a civil society respondent in relation to economic (employment) outcomes i.e. there is a need to measure actual outcomes and not just those estimated in the application.
- A few development industry and business respondents also highlighted the need to track what happens after community's object to applications to determine if the perceived negative impacts arise or if they are mitigated.
- Decisions should be measured in terms of transparency and openness to public participation. With regards to the historic environment, the Historic Environment Policy for Scotland, 2019 includes a framework for good decision making for plans and projects which requires decisions to be informed by an inclusive understanding of the potential consequences for people and communities.

Q3f. Do you have any suggestions about how planning's contribution to the National Outcomes contained in the National Performance Framework should be measured and presented?

3.3.11 There were 43 comments received on how planning's contribution to the national outcomes contained in the NPerF should be measured and presented. The comments covered the following themes:

General

- A few policy and planning respondents identified Local Outcome Improvement Plans (LOIP) as providing the most appropriate opportunity for presenting planning's contribution to the NPerF outcomes, particularly if seeking to achieve closer alignment between planning and community planning. However, more detailed advice on how planning sits within the national outcomes would be useful to ensure they are meaningful. It was also noted that not all the outcomes in the NPerF are directly linked to decisions made via the planning system.
- Policy and planning respondents also made a number of other comments:
 - It was felt that the NPerF outcomes may be better assessed at the authority level with contributions to certain outcomes from its planning function.

- Using more indicators that link to national outcomes is recommended
- A few business and development industry respondents identified that National Planning Framework 4 (NPF4) will have to be very clear in terms of what actions and outcomes are required at the local authority level to achieve the positive outcomes intended. With specific reference to housing, the level of delivery needed across authorities to achieve the required level of new homes is necessary if positive outcomes are to be achieved and negative outcomes avoided. There has to be an understanding of need and demand and the consequences of failing to fully deliver against the need and demand. A policy and planning respondent also identified that housing targets are not included in national outcomes, but the delivery of housing should be a key part of how an authority is performing.
- A business respondent identified planning as instrumental in achieving national outcomes and that the planning system needs to be a dynamic enabler of development and investment.
- A few civil society respondents felt the outcomes listed in the Planning Act should be better reflected in the assessment of planning performance, particularly as climate change is absent from the NPerF outcomes and biodiversity may not otherwise be reported.
- A few policy and planning respondents felt that the existing key performance indicators (KPIs) used in the PPR should be used for consistency and to prevent unnecessary additional work.

National Performance Framework Outcomes

- One policy and planning respondent suggested the following measures for assessing planning's contribution to the national outcomes:
 - Human Rights - Service improvements to ensure the Planning Service treats people with dignity and respect. Empowering communities to influence local decisions that affect their neighborhood's e.g. through charrettes, local place plans.
 - Culture - How spatial strategies and plans support the creation of spaces for cultural production and help grow the cultural economy.
 - Environment - Identifying policies, plans and decisions that improve access to open space, protect and enhance the natural and built environment and support renewable energy.
 - Health - How policies, plans and decisions support active travel, increase opportunities for physical activity, and improve mental wellbeing (e.g. access to open space and high-quality development can create sense of pride in place).
 - Fair Work and Business - How policies, plans and decisions support businesses and economic participation by improving access to employment and by creating the conditions for investment.

- Education - Addressing skills shortages in the planning system, ensuring that planning is integrated with other services and able to deliver a coordinated approach to achieving wider outcomes.
- Children - Consider how policies and plans focus on the needs of children and young people. Increasing opportunities for engagement with young people.
- Communities - Capture how the planning service engages with local communities to understand and sensitively respond to local issues. Engagement during the preparation of spatial strategies and plans.
- Poverty - How the planning service seeks to work with others to improve access to services, facilities and so on. Directing the right development to the right place.
- International - How plans reflect local, regional and national strategies to promote an area. Promoting the planning service internationally and networking. Considering how international research and best practice influence policies and plans.
- Economy - Identifying policies and plans that promote inclusive economic growth and decisions that give weight to economic outcomes. Plans that seek to enhance access to digital infrastructure by frontloading integrated infrastructure. Policies and plans that support entrepreneurial activities, attract investment and seek to optimise natural capital."

Planning Act Outcomes

- A development industry respondent made some suggestions around the outcomes in the Planning Act:
 - Meeting housing needs - Clear housing targets required for each authority; Explicit methodology to calculate housing land shortfalls; Standardise generosity allowance; Develop a housing land methodology over a minimum ten-year period.
 - Improving health and wellbeing - Prepare guidance which clarifies how planning improves health and wellbeing.
 - Increasing population in rural areas - Significantly improve quality of infrastructure and services in these rural areas.
 - Improving equality and eliminating discrimination - Existing system is effective.
 - Meeting targets relating to reduction of emissions of greenhouse gases - Existing system through building standards is effective. The challenge is to reduce emissions in existing developments not future developments. Major initiatives required to introduce low-carbon infrastructure.
 - Positive effects for biodiversity - Existing system is effective. All new developments are more biodiverse than green field sites, recognising the need to preserve and enhance existing wildlife corridors.

3.4 National Planning Improvement Coordinator (NPIC)

3.4.1 The Planning (Scotland) Act 2019 includes a power for Ministers to appoint a NPIC to monitor and provide advice to planning authorities and others on the performance of general or specific functions. The Coordinator will be appointed by Scottish Ministers and their role will be focused on the performance of the planning system as a whole. The coordinator will provide advice to Ministers in an impartial way, including looking at Planning and Architecture Division (PAD), Department for Planning and Environmental Appeals (DPEA) and Scottish Ministers' role. It is thought that the Coordinator should help to develop their role in collaboration with stakeholders once they are in post so they can learn from what does and does not work.

Q4. Do you have any comments about the role and responsibilities of the NPIC?

3.4.2 The consultation sought comments and suggestions about the role and responsibilities of the NPIC. The table below shows that a substantial majority (89%) of respondents answering the question agreed with the proposed responsibilities of the NPIC. There was broad support for the role and responsibilities from all groups except development industry.

Do you agree with the proposed responsibilities of the NPIC?			
	Yes	No	Not Answered
Business	10	2	17
Civil Society	14	3	11
Development Industry	10	1	1
Policy and Planning	22	1	17
Total	56	7	46
% of Respondents Answering Question	89	11	

3.4.3 There were 64 comments on this question across a range of issues which are presented below in decreasing order of the number of comments made:

- Many respondents across all major groups identified the need for the NPIC to promote improvements and share best practice across planning authorities. This should include best practice in terms of efficiency and decision making and advising on how to best measure outcomes against key indicators. Amongst the policy and planning respondents, it was felt that the NPIC should provide a supportive role in seeking to identify the obstacles to improve performance and share good practice rather than being there to punish underperforming authorities. Amongst the business and development industry respondents, the current forum for performance discussions (the High-Level Group on Planning Performance) was not felt to be conducive to improving performance and respondents felt that the house building industry should be part of the

group. Civil society respondents highlighted that the NPIC should have a nationwide, external role to share good practice and improve consistency across planning authorities.

- Many respondents across all major groups identified the need for the NPIC to develop communications/relationships with key stakeholders including agencies, development industry, infrastructure providers, local authorities, agents and community groups. The potential for digital tools to assist in maintaining connections was made as was the need for the NPIC to engage with stakeholders in round-table sessions as well as individually. One policy and planning respondent supported the role but felt the consultation did not provide sufficient guidance on who the stakeholders would be and how engagement would be delivered.
- Several respondents across all major groups except policy and planning referred to the need for the NPIC to have the powers to implement change to drive improvement.
- Several respondents across all major groups except development industry felt that it was essential that the role extended beyond monitoring the performance of individual planning authorities and seeks to address issues within the planning system as a whole. If implemented well, the NPIC has the potential to raise the profile of planning and strengthen the ability of the planning system to deliver on many of Scotland's priorities.
- Several respondents across all major groups identified the need for the NPIC to be someone with significant experience of the statutory planning system in Scotland. The development industry and business respondents highlighted that the NPIC should have a balanced and informed perspective on the planning system, including from the user's perspective. Development management experience with both a local authority and the private sector was also suggested.
- Several respondents across all major groups emphasised that the post should be independent. Independent from political parties, government departments and other users of the planning system. The role will require clear parameters and several business and policy and planning respondents raised the importance of having a clear distinction between the role of the Chief Planner and NPIC.

4. Planning Fees

4.1 Introduction

4.1.1 The consultation sought views on how the new provisions of the Planning Act can be implemented as well as reviewing the current planning fee structure. This section sets out the results of the questions which examined some of the issues related to how fees might operate.

4.2 Category 1 – Residential Development

4.2.1 The consultation proposed that the fee for a single house should more accurately reflect the processing and advertising costs associated with determining the suitability of the site. The following fees were proposed:

- 1 unit £600
- 11-49 units £450
- 50+ units £23,550 plus £250 per unit to maximum of £150,000.

4.2.2 For planning permission in principle (PPP) the fee proposed for one single unit is £300. Where the application is based on site size, the fee will rise on a £300 per 0.1 ha incremental basis up to the maximum £75,000 for PPP.

Q5: Do you agree with the proposed planning fees?

4.2.3 The table below shows whether the respondents agreed with the proposed planning fees for Category 1 – residential development. The majority of respondents did not answer this question but, of those who did, there was a slight majority (53%) in agreement with the proposed planning fees for residential development. Policy and planning was the group most in favour of the proposed changes. Respondents from business and civil society were split over the question, but no development industry respondents were in agreement with the proposals.

Do you agree with the proposed planning fees for Category 1 – residential development?			
	Yes	No	Not Answered
Business	1	1	27
Civil Society	8	9	11
Development Industry		8	4
Policy and Planning	19	7	14
Total	28	25	56
% of Respondents Answering Question	53	47	

Q5a. Is the proposed method for calculating the fee correct?

4.2.4 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (56%) did not agree with the proposed method. Policy and planning was the only group where the majority of respondents answering the question, agreed with the proposed method. All development industry respondents answering did not agree with the proposed method.

Is the method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1	1	27
Civil Society	8	10	10
Development Industry		8	4
Policy and Planning	14	10	16
Total	23	29	57
% of Respondents Answering Question	44	56	

4.2.5 There were 54 comments on the proposed fees for residential development across the themes described below. The themes are presented in decreasing order of comments received.

Fee Rates

- **Business:** a few respondents were not accepting of the increase for small numbers of units i.e. 1-49. They felt it would penalise small developers, particularly in rural areas. A graded approach for 11-49 units was suggested as was the concern that projects in the 200-399 and 400-562 cohort face a higher increase than lower end major development or strategic scale development.
- **Civil Society:** several respondents felt it was wrong that the largest increase is for the smallest developments. Commercial developers should pay more and it should be based on the environmental impact of development.
- **Development Industry:** a few respondents agree with increasing fees for smaller developments on the grounds that these applications will require the same attention as larger applications. However, it was suggested that some applications will become twice as expensive as an equivalent application in England and the justification for the increase is not clear. The proposals send the wrong message to would-be and current investors in home building in Scotland.

- Policy and Planning: Several respondents felt the proposed increases were not enough. The rate of £250 per unit for over 50 units received most criticism, particularly for major development that can require substantial supporting information. A few suggestions were made regarding the thresholds with suggestions of just two rates: 1-49 units at £600 and more than 50 units at £500. Applying the higher fee of £600 to the first 20 units was also suggested. There were contrasting views on the sliding scale and whether there should be a maximum fee and, if so, whether it should be higher (as in England).

Method

- Business and Development Industry: a few respondents stated that full cost recovery puts too much burden on applicants when the planning service costs are increasing in response to complex policy requirements and not as a result of the actions of applicants. It was also suggested that any increase should be incremental in terms of the percentage increase.
- Civil society: a few support increases in fees to reflect the costs of processing. Other comments included that a quantity discount is wrong as large applications are more labour intensive and can have more complex relationships to neighbours; it could be carbon based and related to the whole life emissions of the building or a flat rate with reductions for community housing/housing reflecting NPF outcomes in design.
- Policy and Planning: several supported linking fees to costs and moving towards full cost recovery. One respondent supported a reduction for projects which are conceived as a significant benefit to zero carbon and climate change emergency.

PPP

- Civil Society: a few respondents felt PPP should be subject to the full fee. Approval of Matters Specified in Conditions (AMSC) could then be free. Charging half the fee is not consistent with full cost recovery.
- Development industry: there was concern that PPP will require a fee that is half the fee for a detailed application. Both PPP and detailed applications require a full assessment of the suitability of the proposals, therefore charging half the fee for PPP does not reflect the level of assessment required. Hence, there is no justification for the 'standard' fee (for detailed applications) to be higher and this should be reduced.
- Policy and Planning: several respondents highlighted that PPP applications can have more unknowns than a detailed application and hence, be more time consuming. The same or more effort is required to assess them, so they should attract the same fee as a detailed

application. A few suggested the fee should be calculated on the basis of a rate per 0.1 ha as the number of units is not always known.

Performance

- **Business:** a few respondents supported the fee increase if there was a clear pathway to an improvement in service for applicants. Recent fee increases have not led to improvements in performance.
- **Development Industry:** several highlighted that recent fees have not led to improved performance and stated that Scotland is taking too long to determine major applications compared to England. An improvement in performance and the achievement of statutory timescales must be in place before an increase in fees can be considered. There could be an impact on investment decisions which would affect Scotland's ability to deliver sustainable development.
- **Policy and Planning:** one respondent agreed there must be a link between performance and increased fees whilst another felt that increased fees should be seen in the context of the new Planning Act which places additional duties and financial burdens on authorities.

4.3 Categories 2, 3, 4, and 5 – Extensions and Alterations to Existing Dwellings

4.3.1 The consultation proposed that there should be a clear distinction between the work involved in the creation of an extension to a dwelling and other smaller ancillary developments such as replacement windows, fences and garden huts and the fees should be more commensurate with the work involved in making a decision on those applications.

4.3.2 The following fees were proposed.

- Fees for an application to enlarge an existing dwelling will increase to £300 and an application relating to two or more dwellings will be a maximum of £600.
- Fees for an application for alterations to dwellings and operations within the curtilage of an existing dwelling will be £300 per dwelling subject to a maximum of £600.
- The replacement of windows, sheds, gates, fences and other enclosures, garages and micro-generation equipment will carry a fee of £150 for a single dwelling. For two or more dwellings or building containing one or more flats, the fee will be £300.
- Applications for PPP for the erection of buildings under these categories will incur the same fees.

Q6. Do you agree with the proposed planning fees?

4.3.3 The table below shows whether the respondents agreed with the proposed planning fees for Category 2 – extensions and alterations to existing dwellings. The majority of respondents did not answer this question but, of those who did, there was a majority (61%) in agreement with the proposed planning fees for extensions and alterations to existing dwellings. Civil society and policy and planning were the groups most in favour of the proposed changes with the majority of development industry respondents not agreeing with proposals.

Do you agree with the proposed planning fees for Category 2 – Extensions and Alterations to Existing Dwellings?			
	Yes	No	Not Answered
Business	1		28
Civil Society	10	4	14
Development Industry	1	3	8
Policy and Planning	15	10	15
Total	27	17	65
% of Respondents Answering Question	61	39	

Q6a. Is the proposed method for calculating the fee correct?

4.3.4 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, a very slight majority (51%) agreed with the proposed method. Policy and planning respondents were divided on the method with business and civil society tending to agree with the method and development industry disagreeing with the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	10	7	11
Development Industry		3	9
Policy and Planning	11	11	18
Total	22	21	66
% of Respondents Answering Question	51	49	

4.3.5 There were 41 comments on the proposed fees and method in this category from across the themes described below:

Definition

- Business: one respondent agreed with the definition of what constitutes 'enlargement' in this category but questioned if a fee of £300 is appropriate given it is quite close to the current fee for a single house. Clarification was also required of the costs involved in processing an application for an extension compared with a whole new dwelling.
- Civil society: clarity is required as to whether the £150 fee applies to new sheds/garages etc. or just to replacement sheds/garages etc. If it is the latter, how will a substantial difference in size between the original and replacement be dealt with. Some of the statements regarding 'dwellings' and '2 or more dwellings or buildings containing one or more flats' could be open to interpretation.
- Policy and planning: several respondents highlighted a need for clarity over what is included in each category, particularly if a sliding scale of fees is to be applied. For example, a large double garage could be significantly bigger than a small extension to a house and could give rise to similar or greater planning issues, therefore there appears to be little justification for saying that the fee for the garage should be half the fee for the extension. Similarly, proposals for micro-generation equipment can give rise to issues of planning consequence that cause similar costs to consideration of an application for a modest extension to a house.
- Policy and planning: several respondents felt the categories are making householder applications complicated and confusing. There should be no distinction between extensions, developments within the curtilage of an existing dwelling and replacement works because the process is the same. An application will require neighbour notification, consultation, site visit and assessment whether it is for extension or alteration to the building or for the construction of a new ancillary building within a curtilage.

Method

- Development industry: it is understood that these applications can be time consuming. If the aspiration is to achieve full cost recovery, these applications should pay their way.
- Policy and planning: a few respondents suggested that it would be more logical to use the definitions in General Permitted Development Order (GPDO) as the basis for the fee calculations. The fees could align with the 'incidental' and 'ancillary' definitions with incidental works attracting a lower fee and ancillary work attracting a higher fee. It was also suggested that fees for applications such as fences should be lower than applications for garages.

- Policy and planning: a few respondents also highlighted that smaller developments such as replacement windows/fences etc. often occur in conservation areas and require advertisements in the local press such that a reduction in fees does not seem justified or consistent with cost recovery. (Conservation is considered further in Q30).
- Policy and planning: a few respondents highlighted that fee reductions are not consistent with full cost recovery.

Fee Rate

- Civil society: one respondent felt that planning requirements for replacement windows, internal development and extensions below a predetermined size should be exempt from planning (as in England). On the other hand, another respondent supported the retention of fees as long as it translated into a more efficient system. There was concern that an increase in permitted development rights would reduce the ability of communities to comment on neighbourhood development.
- Policy and planning: a few respondents highlighted that a two-tier scale for householder applications is not appropriate as both types of applications require similar work to process i.e. registration/validation checks, neighbour notification, site visit, assessment and report writing.
- A number of suggestions were made on the specifics of the fees and are all from the policy and planning group unless otherwise stated:
 - There should be a distinction between sheds and garages/large outbuildings as the latter usually have a greater impact. A footprint threshold may be better e.g. a rate per square metre up to 12 sq. m. and over 12 sq. m.
 - Driveway applications have not been specified but suggest £300 as there is a need to consult with the roads department.
 - Alterations should be £200 as it is easier to handle for applicants paying in cash.
 - Agree in principle with increase for extension and decrease for alteration, but suggest extensions are £400.
 - Extensions should be £600, alterations should be £300+ and replacements should be £150. The rate should be per unit, irrespective of the number of dwellings (civil society).

PPP

- A policy and planning respondent suggested there should be no provision for PPP applications for development of this nature. The acceptability of householder development within the curtilage of an existing house is very rarely a matter of principle but is typically a question regarding the acceptability of the detail.

4.4 Category 6 – Retail and Leisure including Extensions

4.4.1 Applications for full permission for buildings (other than dwelling houses) are charged according to the gross floor space to be created. The consultation proposed the following fees:

- For applications where there is no new floorspace created or the floorspace is less than 50 sq. m. the fee will be £300.
- For developments above 50 sq. m. the fee is:
 - £1,500 for the first 50 – 100 sq. m.
 - £800 per 100 sq. m. thereafter up to 2,500 sq. m.
 - £500 per 100 sq. m. or part thereof to a maximum of £150,000.
- Applications of PPP shall be charged at £500 for each 0.1ha of the site to a maximum of £75,000.

Q7. Do you agree with the proposed planning fees?

4.4.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 6 – retail and leisure including extensions. The majority of respondents did not answer this question but, of those who did, the majority (67%) were in agreement with the proposed planning fees for retail and leisure including extensions. Respondents in favour of the proposals were from the civil society and policy and planning groups. Some respondents from all groups did not agree with the proposals.

Do you agree with the proposed planning fees for Category 6 – Retail and Leisure including Extensions?			
	Yes	No	Not Answered
Business		1	28
Civil Society	9	4	15
Development Industry		4	8
Policy and Planning	20	5	15
Total	29	14	66
% of Respondents Answering Question	67	33	

Q7a. Is the proposed method for calculating the planning fee correct?

4.4.3 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (56%) agreed with the proposed method. Respondents were split over the proposed method although a majority of respondents (answering the question) in the civil society and policy and planning groups supported the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		1	28
Civil Society	8	5	15
Development Industry	1	2	9
Policy and Planning	13	9	18
Total	22	17	70
% of Respondents Answering Question	56	44	

4.4.4 There were 41 comments across a range of themes with the majority of comments from the civil society and policy and planning groups. Many respondents stated that they supported the increase in fees and the move to recovering the full costs of determining a planning application. The other comments are summarised by theme, with the themes in descending order of comments received:

Fee Rates

- Several comments (business, civil society, planning and policy) were made about the percentage and absolute increase at the lower scale of development being too high and suggesting the maximum increase should be 20%. This could have disproportionate impacts on smaller community groups. There was also concern from businesses that the proposed fees could inhibit development if a development was borderline, although a civil society respondent felt the rate of increase should be higher for larger developments. It was also noted that the proposed fees are greater than the equivalent fee in England.
- A few policy and planning comments were received on the following points:
 - The increase from £300 to £1,500 at 51 sq. m. is too much of an increase which does not seem fair or proportionate.
 - The fee for development under 50 sq. m. should be £500 or £600 (to be consistent with other types of development) or remain at £400.

- There should be no maximum fee or it should be increased given the complexity of sites that could command fees in excess of £150,000.
- The floorspace thresholds are too low (including 50 sq. m.) and will penalise some minor extensions (e.g. golf clubs, farm shops), £1,500 should apply up to 250 sq. m. as no significant technical issues are likely at that threshold.
- There should be a fee per 0.1ha for developments that do not have buildings e.g. golf range or equestrian arena.

Method

- Policy and planning: a few respondents were concerned that the proposed fees do not protect the traditional high street as the large increases are for small developments. The traditional high street is struggling to compete with large scale supermarket and discount retailers and the proposed fees are likely to exacerbate this. A town centre and non-town centre split is suggested so there is no impact on regeneration activities.
- Policy and planning respondents also noted:
 - Different fee categories may be impractical and add to complexity for calculating fees for mixed use developments.
 - Four fee rates over four floorspace thresholds is too complicated. The number of levels should be simplified.
- Civil society: the proposed fees for very large development do not reflect the social and environmental impacts which need to be assessed and managed and which are more likely to increase with scale.
- Civil society: the methodology should not be based on the number of units or floor size, but should be carbon based in recognition of the carbon targets set for Scotland and relate to the whole life operational carbon emissions of the development proposed, including the loss of embodied carbon arising from any demolition/fabric removal.

PPP

- Several respondents from civil society, development industry and policy and planning stated that there should be no reduction in fees for PPP. The proposal that a PPP application will require a fee of half that for a detailed application is not reflective of the required resourcing as both applications require a full assessment of the suitability of the proposals.
- Policy and planning: a few respondents suggested that PPP should be aligned with other non-housing developments and the same rate should be applied across categories.

Definition

- Policy and planning: a few respondents suggested that careful consideration should be given to the proposed disaggregation of different uses in relation to fees. To avoid confusion and uncertainty, the different uses should be related to the use classes order.
- Policy and planning: a few respondents also stated that clarity was required regarding what is covered by retail and leisure. Guidance should be prepared to ensure there is no confusion or misinterpretation of the category.
- Policy and planning: the cost of determining an application does not relate to its use, particularly for Categories 6 (retail and leisure) and 7 (business and commercial), therefore there should be consistency in fees.

4.5 Category 7 – Business and Commercial including Extensions

4.5.1 This category covers those developments not covered by residential, agriculture, retail and leisure. The proposed fees are designed to encourage affordable levels of expansion for small to medium businesses. Applications for full permission for buildings (other than dwelling houses) are charged according to the gross floor space to be created. The consultation proposed the following fees:

- For applications where there is no new floorspace created or the floorspace is less than 50 sq. m. the fee will be £300.
- For buildings above 50 sq. m. of new floorspace, the fee is:
 - £800 for the first 100 sq. m.
 - £400 per additional 100 sq. m. or part thereof to a maximum of £150,000.
- Applications for PPP shall be charged at £400 for each 0.1ha of the site to a maximum of £75,000.

Q8. Do you agree with the proposed planning fees?

4.5.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 7 – business and commercial including extensions. The majority of respondents did not answer this question but, of those who did, there was a majority (60%) in agreement with the proposed planning fees for business and commercial development. Business, civil society and policy and planning respondents tended to favour the proposed fees with all development industry respondents against the proposed fees.

Do you agree with the proposed planning fees for Category 7 – Business and Commercial including Extensions?			
	Yes	No	Not Answered
Business	1		28
Civil Society	11	2	15
Development Industry		4	8
Policy and Planning	14	11	15
Total	26	17	66
% of Respondents Answering Question	60	40	

Q8a. Is the proposed method for calculating the fee correct?

4.5.3 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (56%) did not agree with the proposed method, although there was variation across groups. Policy and planning respondents were relatively evenly split over the proposed method and all development industry respondents answering the questions did not agree with the proposed method. The business respondent and the majority of civil society respondents agreed with the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	11	2	15
Development Industry		4	8
Policy and Planning	11	12	17
Total	23	18	68
% of Respondents Answering Question	56	44	

4.5.4 There were 39 comments on this category of fees with the majority of comments from the civil society and policy and planning groups. The comments are summarised by theme below with the themes listed in descending order of comments received:

Cost Recovery

- Many respondents (civil society and policy and planning) support the move towards the costs of determining a planning application being recovered by the fee. However, in this Category, there is tension between reducing the fees for small scale developments and the move

towards full cost recovery. If existing fees do not cover costs, why would they be reduced? Several policy and planning respondents felt that existing fees should be maintained rather than reduced.

- A few business, civil society and policy and planning responses supported the reduction in fees to support small businesses. A further policy and planning response agreed with the support to small businesses but felt that reducing fees was not the best way to achieve this e.g. small business grants may be better.

Definition

- Several respondents (business and policy and planning) felt there should be consistency between the fees for Category 6 and Category 7 applications. The discrepancy is much greater for small applications and there is no justification for the disparity (in terms of the cost of processing and determining applications) or the role both categories play in contributing to economic development. It was also noted that a large part of the assessment related to the principle of the development which is not necessarily affected by size.
- A few policy and planning respondents stated that clarity was required regarding what is covered by Category 7 e.g. does it include tourism development? Guidance should be prepared to ensure no confusion or misinterpretation of the category.
- A specific point was raised by a policy and planning respondent regarding Use Class Order 10 (non-residential institutions) and whether it would be covered by this category or Category 6 which has higher fees.

PPP

- A few respondents from civil society, development industry and policy and planning stated that there should be no reduction in fees for PPP. It should be the same as a detailed application as both require a full assessment of suitability.
- A few respondents suggested that PPP should be aligned with other non-housing developments and the same rate should be applied across categories.

Method

- A few policy and planning respondents questioned why small-scale business and commercial extensions are supported (with a proposed reduction in fees) but similar size of retail or leisure extension is being penalised (with a substantial increase in fees). There should be a consistent approach across the two categories.

- Other comments from policy and planning respondents included:
 - 50 sq.m. and 0.1ha are appropriate for assessing fees.
 - Different fee categories for non-domestic development may be impractical and add to the complexity of calculating fees for mixed use developments.
 - the number of fee levels is correct but some of the calculations are wrong in the consultation document.

Fees

- Policy and planning suggestions included:
 - The lower fee should be £600 to be consistent with other fee levels.
 - Fees should align with other non-housing and increase in increments of £500 e.g. £500, £1000, £1500.
 - There should be no maximum fee.
- Development industry: There was a large increase in fees two years ago and now a further 20% increase is proposed, but there has been no improvement in service.

General

- There were mixed views on whether the changes in fees would deter investment. Some respondents believe that planning fees are small relative to the overall costs of expansion while others consider that investment could be affected by increased fees. A few policy and planning respondents suggested that it would be useful to have further information on how important a reduction in planning fees would be in encouraging economic development, particularly from small/medium enterprises.

4.6 Category 8 – Agricultural Buildings

4.6.1 The Scottish Government considers that linking fee levels for agricultural buildings and developments to housing developments is disproportionate to the value of the development and actual work involved in processing such applications. The consultation proposed the following fees:

- No change to applications for buildings under 465 sq. m. which do not have permitted development rights. Fee remains £0.
- Applications for agricultural buildings (other than glasshouses or polytunnels) as defined in the Interpretation of Part 6 of the GPDO will increase from £401 for each 75 sq. m. to £500 for every 100 sq. m. in excess of 465 sq. m. or part thereof with the maximum fee increasing to £25,000.

Q9. Do you agree with the proposed planning fees?

4.6.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 8 – agricultural buildings. The majority of respondents did not answer this question but, of those who did, there was a majority (55%) in agreement with the proposed planning fees for agricultural buildings. A majority of civil society respondents answering the question were in favour of the proposed changes with development industry respondents not agreeing with the proposed fees. Policy and planning respondents were split over the question.

Do you agree with the proposed planning fees for Category 8 – Agricultural Buildings?			
	Yes	No	Not Answered
Business	2		28
Civil Society	8	4	16
Development Industry		4	8
Policy and Planning	11	9	20
Total	21	17	71
% of Respondents Answering Question	55	45	

Q9a. Is the proposed method for calculating the fee correct?

4.6.3 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (57%) agreed with the proposed method. The majority of civil society and policy and planning respondents answering the question, agreed with the proposed method. All development industry respondents answering the question did not agree with the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	8	3	17
Development Industry		5	7
Policy and Planning	11	7	22
Total	20	15	74
% of Respondents Answering Question	57	43	

4.6.4 There were 28 comments received on the proposed fees for agricultural buildings. These are summarised below by theme with the themes listed in descending order of the number of comments received:

Fee Rates

- Several respondents (civil society and policy and planning) stated that the £0 fee for buildings less than 465 sq. m. should be removed. Reasons cited include costs are still incurred, there is a fee for permitted development of the same size and a lack of fees can result in inappropriate buildings without consideration to visual or environmental impact. Rates of £500 to £600 were suggested for buildings under 465 sq. m.
- Related to £0 fee for buildings under 465 sq. m. were some comments about Determination of Prior Approval (DPA). A few policy and planning respondents highlighted an anomaly in the current fee system in that a development which constitutes permitted development attracts a fee while a similar development that requires planning permission attracts no fee. An agricultural building less than 465 sq. m. and that constitutes permitted development is subject to a DPA process with a fee of £78. An agricultural building less than 465 sq. m. that is not permitted development requires planning permission and attracts a fee of £0. It was suggested that the building that requires planning permission (unlike the building that is permitted development) could be used for activities that have the potential to give rise to greater planning implications with associated cost to determine acceptability (e.g. housing pigs or poultry or for the storage of slurry or sewage sludge).
- It was suggested that this anomaly is exploited in some rural areas. If work commences without a DPA, the work is no longer permitted development and the fee for a retrospective planning application applies. This is £0 which acts as a disincentive to follow the correct process and rewards those who breach planning control.
- One policy and planning respondent felt there should be no maximum fee.

Cost Recovery

- Several civil society and policy and planning respondents welcomed the move to increase fees to better reflect the cost of determining planning applications. However, several policy and planning respondents felt that reducing fees (for buildings up to 1,565 sq. m.) does not support working towards full cost recovery.

Method

- A few respondents (business, civil society, policy and planning) felt it was not clear how the proposed changes relate to the cost of processing applications.
- Development industry: A permit-based approach is suggested where a fee is paid irrespective of whether proposed development is classified as permitted development. Indeed, “as more and more development becomes 'permitted development' it is unfair that those proposals that still require planning permission have to make up any shortfall”.
- Civil society: Dairy/poultry facilities come with significant waste and greenhouse gas emissions which can have a profoundly negative effect on the local environment. There is an opportunity to incentivise ecologically beneficial development. Concessions, as proposed, should only be made for businesses with a lower environmental management footprint or who actively mitigate against environmental damage for net biodiversity gain.

4.7 Category 9 – Glasshouses

4.7.1 The current charge for applications to erect glasshouses on agricultural land is a flat rate fee of £2,321 where the ground area to be covered exceeds 465 sq. m. The consultation proposed the following:

- A fee of £150 per 0.1ha for ground area exceeding 465 sq. m. up to a maximum of £10,000.
- There is no provision within the fee regulations for applying for PPP for such developments.

Q10. Do you agree with the proposed planning fees?

4.7.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 9 – glasshouses. The majority of respondents did not answer this question but, of those who did, there was a majority (56%) in agreement with the proposed planning fees for glasshouses. Civil society and policy and planning were the only groups in favour of the proposed fees. There were some respondents from all groups who were not in agreement with the proposals.

Do you agree with the proposed planning fees for Category 9 – Glasshouses?			
	Yes	No	Not Answered
Business		1	28
Civil Society	7	4	17
Development Industry		2	10
Policy and Planning	11	7	22
Total	18	14	77
% of Respondents Answering Question	56	44	

Q10a. Is the proposed method for calculating the fee correct?

4.7.3 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, there was a slight majority (53%) in favour of the proposed method. Policy and planning was the only group where the majority of respondents answering the question, agreed with the proposed method. Civil society respondents answering the question were split over the method and business and development industry respondents did not agree with the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		1	28
Civil Society	6	5	17
Development Industry		3	9
Policy and Planning	11	6	23
Total	17	15	77
% of Respondents Answering Question	53	47	

4.7.4 There were 26 comments on the proposed fees and method of calculation for glasshouses. These are summarised below by theme, with the themes listed in descending order of the number of comments received:

Fee Rates

- Several respondents (business, civil society and policy and planning) commented that the scale of increase for larger developments (197% and 330%) for 5,065 and 10,065 sq. m. respectively seems to be particularly high. Related to this large percentage increase, a few civil society respondents felt that the proposed increase for large applications

may deter investment and lead to businesses locating elsewhere. The climate in Scotland necessitates the use of glasshouses for many crops.

- Several policy and planning respondents highlighted the inconsistency of fee rates between category 8 – agricultural buildings, category 9 – glasshouses and category 10 – polytunnels. See comments under ‘definition’ below.
- A few policy and planning respondents felt there should be a fee for applications below 465 sq. m. as there are still costs incurred in processing. The comments made on the £0 fee for applications less than 465 sq. m. and DPA listed under Category 8 – agricultural buildings were also made for glasshouses.
- The fees for small scale applications were welcomed as a means of supporting voluntary and charity groups e.g. Men’s Shed (policy and planning) and a civil society respondent suggested that a reduced fee should be applicable for projects that support local food production, particularly given Scottish Government commitments with regard to creating a sustainable food system.

Definition

- A few policy and planning respondents felt there was no justification for different fee structures for glasshouses and polytunnels (Category 10). The planning considerations and costs associated with an application for either form of development is likely to be similar and the fee should be the same regardless of the cladding of the structure. The two categories are combined in England where there is clarification on the definition. The proposed fee for polytunnels is £50 per 0.1ha less and the maximum is £5,000 rather than £10,000.
- A few policy and planning respondents felt there should be more consistency between Categories 8 (agricultural buildings) and 9 (glasshouses). The maximum fee for agricultural buildings is £25,000.

Method

- One policy and planning respondent felt that the proposed fees appear to be linked to the use of the proposed glasshouse or polytunnel for agricultural purposes. However, a glasshouse or polytunnel is a building and not a use. This type of structure could be used for other business or commercial purpose and could give rise to entirely different planning impacts. In that case there appears little or no justification to exclude this form of development from the standard fee calculation approach under Categories 6 (retail and leisure) or 7 (business and commercial). This would better reflect the costs associated with determination of a planning application.

- A development industry respondent felt it is not clear how the proposed changes relate to the costs of determining the applications. The move from a flat system to a tiered system implies it is more expensive to determine an application, but there is no evidence to support this or whether it is appropriate.

Q10c. Should a separate category be established for erection of glasshouses on land that is not agricultural land?

4.7.5 The table below sets out respondents' opinion on whether a separate category be established for the erection of glasshouses on land that is not agricultural land. The majority of respondents did not answer the question but, of those who did, the majority (60%) did not agree with a separate category for glasshouses on non-agricultural land. The majority of respondents disagreeing with a separate category were from policy and planning. A slight majority of civil society respondents favoured the establishment of a separate category.

Should a separate category be established for erection of glasshouses on land that is not agricultural land?			
	Yes	No	Not Answered
Business			29
Civil Society	7	5	16
Development Industry		2	10
Policy and Planning	5	11	24
Total	12	18	79
% of Respondents Answering Question	40	60	

4.7.6 There were 26 comments on whether there should be a separate category for glasshouses not on agricultural land across the following themes:

Definition

- Several respondents from civil society and policy and planning (who did not support a separate category) made a number of suggestions on the most appropriate category for glasshouses not on agricultural land including Category 6 - retailing for glasshouses in garden centres, Category 7 – business and commercial and Category 26 – change of use. A further policy and planning respondent who supported a separate category also suggested category 7.

- A few policy and planning respondents supporting a separate category felt that it depends on the location of the glasshouse. There is a case for a separate category for glasshouse applications for schools, community groups etc. One civil society respondent felt there should be no charge for those in gardens².

Method

- A few civil society respondents felt all glasshouses should be treated the same as they have the same material footprint and function whereas another civil society respondent felt that there are a number of other factors to consider if a glasshouse is on non-agricultural land e.g. rainwater disposal, traffic etc.
- A few respondents from development industry and policy and planning, questioned whether glasshouse applications for non-agricultural land require more or less complex assessment. The policy and planning respondent suggested that a glasshouse on non-agricultural land is not more costly to process and recognising this in the fee structure would support the development of new technology-based / efficient forms of food production. The development industry respondent raised the issue of whether it is the agricultural land that drives the planning authority's assessment of the application? If not, this category could be graduated by a different variable (e.g. ecological sensitivity, visual sensitivity of the environment) which could also provide a more quantitative basis to the glasshouse size bands.
- A policy and planning respondent felt there are not enough applications of this kind to merit an individual category while another policy and planning respondent felt that a separate category would allow a fee to be applied at a lower size threshold, but it could exclude "domestic" scale applications.

4.8 Category 10 – Polytunnels

4.8.1 The current charge for applications to erect polytunnels on agricultural land is a flat rate fee of £2,321 where the ground area to be covered exceeds 465 sq. m. The consultation proposed the following:

- A fee of £100 per 0.1ha for ground area exceeding 465 sq. m. up to a maximum of £5,000.
- There is no provision within the fee regulations for applying for PPP for such developments.

² It is understood that glasshouses in gardens are covered by GPDO

Q11. Do you agree with the proposed planning fees?

4.8.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 10 – polytunnels. The majority of respondents did not answer this question but, of those who did, there was a clear majority (68%) in agreement with the proposed planning fees for polytunnels, particularly in the civil society and policy and planning groups. There was no support from the development industry.

Do you agree with the proposed planning fees for Category 10 – Polytunnels?			
	Yes	No	Not Answered
Business			29
Civil Society	10	2	16
Development Industry		2	10
Policy and Planning	11	6	23
Total	21	10	78
% of Respondents Answering Question	68	32	

Q11a. Is the proposed method for calculating the fee correct?

4.8.3 The table below sets out respondents' opinion on whether the method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (69%) agreed with the proposed method. These respondents were from civil society and policy and planning groups. There was some opposition to the proposed method from civil society, development industry and policy and planning.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business			29
Civil Society	9	3	16
Development Industry		2	10
Policy and Planning	11	4	25
Total	20	9	80
% of Respondents Answering Question	69	31	

4.8.4 There were 24 comments across a number of themes with the themes presented below in descending order of the number of comments received:

Fee Rates

- Several policy and planning respondents highlighted the inconsistency of fee rates between category 8 – agricultural buildings, category 9 – glasshouses and category 10 – polytunnels. See comments under ‘definition’ below.
- A few respondents (business and civil society) commented that the scale of increase for larger developments (98% and 115%) for over 5,065 and 10,065 sq. m. respectively seems to be particularly high. A civil society respondent felt that the proposed fee increases at the large-scale end of the range could impact on some agricultural and horticultural businesses, with consequent adverse impacts on produce and jobs within local communities. Another civil society respondent felt that the building of polytunnels should be encouraged for small businesses or private owners investing in local fruit and vegetable or tree/ornamental plant production with another civil society respondent suggesting there should be no fee for community owned polytunnels producing food for the local community.
- A few policy and planning respondents stated that there should be a fee for all applications including those up to 465 sq. m. with a fee of £500 being suggested. The comments made on the £0 fee for applications less than 465 sq. m. and DPA listed under category 8 – agricultural buildings were also made for polytunnels.
- One business respondent felt the increase in fees for applications over 5,065 sq. m. was not justified, particularly given they are moveable. Given the wide variety of polytunnel types available it might be prudent to allow for discretion in relation to permanence and impact of structures, where fees might be reduced accordingly. A civil society respondent raised the issue of how the movement of polytunnels is dealt with in planning.

Definition

- The two points listed under ‘definition’ for category 9 – glasshouses apply to this category.
- As polytunnels are often used as shelters for livestock (particularly sheep), one policy and planning respondent questioned if fees should be aligned with agricultural buildings but recognising that a poly-tunnel has a more limited lifespan and that fees should not be overly penal.

Method

- A few respondents (civil society, development industry and planning and policy) felt the consultation was not clear on how the proposed changes relate to the costs of determining the applications. The move from a flat system to a tiered system implies it is more expensive to determine an

application, but there is no evidence to support this or whether it is appropriate (development industry). Likewise, as actual costs are not given, it is difficult to know whether the existing fee or proposed fee better meets cost (civil society).

- The point made under ‘method’ for category 9 – glasshouses regarding the proposed fees appearing to be linked to the use of the glasshouse were repeated for polytunnels.

Q11c. Should a separate category be established for erection of polytunnels on land that is not agricultural land?

4.8.5 The table below sets out respondents’ opinion on whether a separate category be established for the erection of polytunnels on land that is not agricultural land. The majority of respondents did not answer the question but, of those who did, the majority (63%) did not agree with a separate category for polytunnels on non-agricultural land. The majority of respondents disagreeing with a separate category were from policy and planning.

Should a separate category be established for erection of polytunnels on land that is not agricultural land?			
	Yes	No	Not Answered
Business			29
Civil Society	5	7	16
Development Industry	1	2	9
Policy and Planning	5	10	25
Total	11	19	79
% of Respondents Answering Question	37	63	

4.8.6 There were 26 comments on whether a separate category should be established for the erection of polytunnels on land that is not agricultural land. The themes are presented in descending order of the number of comments received:

Method

- Several respondents from civil society and policy and planning felt there should not be a separate category as the same amount of officer time would be required regardless of whether the polytunnel was on agricultural land or not.
- As with glasshouses, a policy and planning respondent felt there are not enough applications of this kind to merit an individual category.

Definition

- A few respondents from policy and planning (who did not support a separate category) suggested category 7 (business and commercial) and category 26 (change of use) would be the most appropriate categories for polytunnels not on agricultural land.

4.9 Categories 11, 12 and 13 – Electricity Generation

4.9.1 Currently all applications for Electricity Generation fall within the plant and machinery category. Given the rise in the number of applications for wind turbines, wind farms, energy from waste plants etc. it is considered that there should be a separate fee category for these. The consultation proposes three new categories covering windfarms and turbines, hydro schemes and all other generation.

4.10 Category 11 – Windfarms – Access Tracks and Calculation

4.10.1 Applications for this type of development were previously covered under the plant and machinery category. A new category is proposed for turbines and windfarms.

4.10.2 It is proposed that a distinction is made between single wind turbines under 15m to hub height, those between 15m and 50m and those over 50m as turbines over 15m require to be screened for EIA purposes and those over 50m require significant input from determining authorities. Otherwise the fees for windfarms will be based on site size.

4.10.3 The proposed fees are:

- Where less than three turbines are to be installed and:
 - All turbines are less than 15m, the fee will be £500
 - Any one turbine is between 15m and 50m, the fee will be £1,500
 - Any one turbine is over 50m, the fee will be £5,000.
- Windfarms with four or more turbines will be charged £500 per 0.1ha up to a maximum of £150,000
- Applications for PPP will be charged at £500 per 0.1ha up to a maximum of £75,000.

Q12. Do you agree with the proposed planning fees?

4.10.4 The table below shows whether the respondents agreed with the proposed planning fees for Category 11 – windfarms. The majority of respondents did not answer this question but, of those who did, there was a majority (61%) in agreement with the proposed planning fees for windfarms. Of those answering the question, the majority of civil society and policy and planning respondents

agreed with the proposed fees. All development industry and almost all business respondents disagreed with the proposed fees.

Do you agree with the proposed planning fees for Category 11 – Windfarms – access tracks and calculation?			
	Yes	No	Not Answered
Business	1	5	23
Civil Society	10	5	13
Development Industry		3	9
Policy and Planning	17	5	18
Total	28	18	63
% of Respondents Answering Question	61	39	

4.10.5 There were 26 comments on the proposals for windfarms across a range of themes with the themes presented in descending order of comments received:

Fee Rates

- A few policy and planning respondents suggested the maximum fee should be greater than £150,000, possibly up to a maximum of £225,000. An increased maximum fee for more than four turbines is required to reflect the scale, complexity, requirements for specialist input, level of public interest and the potential significant costs of defending decisions at public inquiry.
- A few business respondents raised concern about the increase to the maximum fee and highlighted the need to understand the justification for the fee e.g. the number of hours required to process the application.
- A few business respondents highlighted that the Government has adopted very challenging decarbonisation targets that will require significant deployment of renewable generation in the next 15 years. Renewable technologies such as wind, solar and hydro will play a major role in this, but the level of fee proposed could discourage investment in new generating projects and threaten the renewable energy targets. The industry has been “hit” by a number of costs in recent years including the rise in planning fees, the loss of rates relief and the removal of market support. Concerns were raised over a further increase in fees at a time when subsidy for on-shore wind farms has been removed and the potential for further increases in costs have the potential to make some developments unviable. A civil society respondent felt that the recent uplift in fees had not proved to be a disincentive for these developments.

- A few policy and planning respondents suggested the lowest fee should be £600 for consistency with other categories as the costs of processing a single turbine application must at least be the same as that of a single dwelling house.
- A few business respondents raised the issue of increased fees. There was concern that although the guidance suggests that EIAs should only consider the likely significant effects, authorities and stakeholders often ask for an assessment of effects which are likely to be non-significant. This results in an inefficient process which adds costs for developers and time for local authorities.
- Clarification was also required that councils should not charge separate fees for borrow pit applications, which have already been subject to EIA and planning consideration as part of a full planning application, which carries its own fee (business respondent).

Method

- Several policy and planning respondents highlighted a number of areas where further clarification is required including:
 - There were questions regarding whether height was blade to tip height or hub height with height not being the sole driver of cost, particularly above 15m. It was suggested that blade to tip height is a better measure of visual or landscape impact.
 - Above 15m, the fee should be the greater of £5,000 per turbine or £500 per 0.1ha.
 - The consultation deals with proposals for “less than three turbines” and “four or more turbines” but does not cover three turbines.
 - The consultation is not clear whether the cost for less than three turbines is a per-turbine cost or a total flat rate cost.
- A business respondent suggested that 100m turbines with a hub-height of 59m are already considered by developers to be unprofitable. A sliding scale according to hub height was suggested where £5,000 (or more) is the minimum fee for 50m and rising incrementally according to the height of the hub.
- If the fee is to be related to the size of turbine, it should be more graduated as the amount of work to determine an application for a 150m turbine is substantially greater than the work for a 50m turbine (civil society).
- The distance to the energy being connected to the main grid should be taken into account as should road distance to the turbines. There is an environmental impact in the development of windfarms which should be negated (civil society).

PPP

- Several policy and planning respondents did not believe PPP was necessary for this type of development as detailed information (e.g. visual, siting, turbine design) was required for the assessment. A few civil society respondents also made this point.

Definition

- Several respondents across civil society, business and policy and planning supported separate categories for electricity generation.
- The consultation is confusing in that the category is windfarms – access tracks, but also covers proposals for 1 to 3 turbines that are not windfarms based on the definition in the regulations (policy and planning).

Q12a. Is using site area the best method of calculating fees for windfarms of more than 3 turbines?

4.10.6 The table below sets out respondents' opinion on whether site area is the best method for calculating fees for windfarms of more than three turbines. The majority of respondents did not answer the question but, of those who did, the majority (71%) agreed that site area was the best method. A majority of civil society and policy and planning respondents answering the question supported the use of site area, but business and development industry respondents did not agree that site area was the best method.

Is using site area the best method of calculating fees for windfarms of more than 3 turbines?			
	Yes	No	Not Answered
Business	1	3	25
Civil Society	11	5	12
Development Industry		3	9
Policy and Planning	18	1	21
Total	30	12	67
% of Respondents Answering Question	71	29	

4.10.7 There were 23 comments made on whether site area was the best method of calculating fees for windfarms of more than three turbines. For respondents not supporting the use of site area, the main concerns are described below:

- A few civil society respondents stated that using site area to calculate the fee encourages applicants to draw their applications very tightly around the turbines and infrastructure which can lead to important

elements of the development being omitted from the site boundary e.g. access roads. Excluding these areas may impede planning controls available to manage land. It can also cause problems later in the process if there is a design change. Drawing the line too tightly will also penalise applicants who seek permission for land that is not to be developed but will form part of a habitat management plan.

- A few business respondents highlighted that some developments may have a large area for a comparatively small installed capacity e.g. where an option area covers a hill, a large proportion of the land may be undevelopable due to gradient. In other cases, windfarm sites could be wide with large proportions of the site areas comprising access tracks and land management areas rather than the turbines themselves. Reference was made to England and Wales where planning fees are primarily based on the ground take of the associated infrastructure e.g. roads.
- A few businesses suggested that a fee of between £2,000 and £3,000 per proposed megawatt (MW) would mean that a planning application up to 50MW pays a fee proportionate to an over 50MW application under the S36 Electricity Act process.

4.10.8 For respondents supporting the use of site area as the best method for calculating fees, a few points were made including:

- Access tracks and other infrastructure should be added to the site area.
- The area of actual development would be better as the site area may include land which is not to be developed e.g. area part of a habitat management plan and developers should not be disincentivised from including large areas of land for such uses.

Q12b. If site area is not the best method, can you suggest an alternative?

4.10.9 The table below provides a summary of the support for the different approaches to calculating windfarm fees. The table presents the results by the answer given to Q12a – is using site area the best method for calculating fees for windfarms of more than three turbines. Use of MW capacity was the method supported by ten respondents while site area was supported by eight respondents. There was no business support for site area or the number of turbines.

Support for different approaches to calculating fees for windfarms of more than 3 turbines by answer to Q12a (is site area the best method)?				
	No²	Yes²	Not Answered	Total
Site Area ¹		5 Policy 2 Civil	1 Civil	8
MW Capacity	3 Business 1 Civil 1 Policy	2 Policy	1 Civil 1 Policy 1 Business	10
Number of Turbines	2 Civil 1 Policy	1 Policy	1 Policy	5
1: Includes all area options e.g. actual development area, access tracks and other infrastructure				
2: Some respondents suggested more than one option				

4.10.10 A number of general points were raised about the method:

- A policy and planning respondent highlighted the potential to exclude consequential works (e.g. access tracks) from fees if using a capacity approach. The upper limit of 50MW under the Planning Act was also noted.
- Windfarms are increasingly going to be associated with proposals for battery storage and solar power. Some allowance should be made in the fees system for mixed use developments.

4.11 Category 12 – Hydro Schemes

4.11.1 In 2018 a new category was created for hydro developments which calculated the fee on the full extent of the proposed development. The current rate is £401 per 0.1ha subject to a maximum of £20,055. The regulations describe hydro developments as:

The construction of a hydro-electric generating station and the carrying out of any other operations in connection with the construction of the generating station, including the construction or installation of any means of access to the generating station, pipes or other conduits and overhead electric lines.

4.11.2 The consultation proposes a fee of £500 per 0.1ha subject to a maximum of £25,000.

Q13. Do you agree with the proposed planning fee?

4.11.3 The table below shows whether the respondents agreed with the proposed planning fees for Category 12 – hydro schemes. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (75%) in agreement with the proposed planning fees for hydro schemes. There was support for the proposed fees from all groups except development industry.

Do you agree with the proposed planning fees for Category 12 – Hydro Schemes?			
	Yes	No	Not Answered
Business	2		27
Civil Society	8	3	17
Development Industry		3	9
Policy and Planning	17	3	20
Total	27	9	73
% of Respondents Answering Question	75	25	

Q13a. Is the definition and proposed method for calculating the fee correct?

4.11.4 The table below sets out respondents' opinion on whether the definition and proposed method for calculating the planning fee is correct. The majority of respondents did not answer the question but, of those who did, the majority (69%) agreed with the proposed method. There was support for the proposed method from all groups except the development industry.

Is the definition and the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	2		27
Civil Society	7	4	17
Development Industry		3	9
Policy and Planning	15	4	21
Total	24	11	74
% of Respondents Answering Question	69	31	

4.11.5 There were 24 comments on the proposed method for calculating planning fees, across the following themes. The themes are presented in descending order of the number of comments received:

Fees

- Several policy and planning respondents felt that the maximum threshold of £25,000 was too low given the potential issues that could arise in determining these applications including the need for specialist advice and consultation.
- A few policy and planning respondents also felt that the rate should be increased. Reasons cited included:
 - The scale, complexity and need for specialist input and the potential costs of public inquiries.
 - There should be increased fees in designated areas (e.g. Special Areas of Conservation or National Scenic Areas) where the workload will be increased if Habitat Regulations Assessments are required.
 - £500 for up to 1,000 sq. m. appears low when £1,000 for 100 sq. m. is proposed for other forms of energy generation. A rate of £600 to £1,000 for first 0.1ha was suggested with each 0.1ha at a reduced rate which would make it more consistent with other forms of development.
- Contrasting comments were received from the business group with support from one respondent while another (who did not answer the closed questions) suggested this was not a good time for fee increases as there was uncertainty over rateable values for small hydro schemes following the Tretton Review. Increased regulatory burden could undermine rural Scotland's ability to tackle climate change.
- A development industry respondent questioned the maximum level of fees when other categories (e.g. housing and other energy) have much higher levels and may not be as complex to assess. Do these fees support cost recovery given the specialist input required to assess them?
- Civil society respondents suggested exemptions for community led projects and further discussion with industry to ensure projects were not jeopardised as a result of fees.

Method

- A few respondents called for guidance on site areas (policy and planning) and guidance on how the existing fee would be applied to changes to existing operational sites i.e. adding storage or catchment diversions (business). It was suggested that the footprint of the above ground structure be used rather than a red line boundary covering buried pipework/cable.

- A development industry respondent suggested that the rationale for a per hectare approach is not clear given hydro schemes surface area will not necessarily correlate with the complexity of the assessment. It was suggested that planning effort is more likely to correlate with the ecological sensitivity of the exploited water course, and on ‘high head’ schemes³ the sensitivity of land crossed by the pipework (which may be of relatively small diameter and potentially of limited impact). Careful alignment of fee structure with specific elements in planning assessment could unlock new “low complexity” hydro schemes.
- A civil society respondent suggested that there needs to be some consideration of pipework length and the complexity of the conditions required to monitor and enforce the restoration of ground once construction is complete. For example, access tracks can affect drainage and features such as Ground Water Dependent Terrestrial Ecosystems. An increased fee for monitoring would be appropriate, based on either the level of monitoring required or the level of environmental sensitivity.
- A question was also raised by civil society as to how the method would be applied to ‘run of the river’ schemes⁴.

Q13c. Could the planning fee be set using site area for the generating station and equipment with a separate calculation used for pipework?

4.11.6 The consultation specifically asked if the planning fee could be set using site area for the generating station and equipment with a separate calculation used for pipework. A total of nine respondents across civil society, business and policy and planning agreed that this would be appropriate. Reasons for supporting a separate category include if the distance from source is excessive and as pipework can be extensive with significant impacts, but not result in a large surface area, it may be more appropriate to apply a fee related to the length of pipework.

4.11.7 It was also suggested from policy and planning that the introduction of a lower fee for the pipeline component of development would reduce the financial burden of identifying a pipeline corridor of sufficient scope to allow flexibility of routing in the event that constraints are identified either during the application or post consent which might necessitate a material amendment and a fresh application. Revised guidance for developers of hydro schemes should suggest that applications should identify a pipeline corridor with sufficient scope to amend the pipeline route to address potential constraints which might be unknown at the time of submission.

³ Head is the change in water levels between the hydro intake and the hydro discharge point. It is a vertical height measured in metres. High Head schemes have a large vertical height.

⁴ Run-of-river hydro schemes are small scale schemes that take some of the water out of a burn at the ‘intake’ point, carry it down the hillside in a buried pipeline to a turbine house, before returning it to the same burn at the ‘outfall’.

4.11.8 A total of ten respondents across civil society, business and policy and planning did not agree with using site area for the generating equipment and a separate calculation for pipework. Several respondents from policy and planning disagreed that this would be appropriate, primarily because it would add more complexity to the calculation of the fee and felt that pipework could result in just as much assessment work as other elements. It was suggested that an area-based fee would more accurately reflect the resources required to determine the application. It was noted that issues about EIA assessment could also apply (x-refer to Q50).

4.11.9 One business respondent cautioned against a separate fee from their experience with fish farm applications.

4.12 Category 13 – Other Generation Projects

4.12.1 Other energy generation projects which are not windfarms will be based on their site size or floor space. The proposed fees are:

- £1,000 for the first 100 sq.m. of site size/floor space to be created with £500 for every 100 sq. m. thereafter to a maximum of £150,000
- Applications for PPP will be charged at £500 for every 100 sq. m. until the maximum of £75,000.

Q14. Is the definition and proposed method for calculating the planning fee correct?

4.12.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 13 – other energy generating projects. The majority of respondents did not answer this question but, of those who did, there was a majority (68%) in agreement with the proposed planning fees for other energy generating projects. Policy and planning was the group most in favour of the proposed changes with support from civil society and business. No respondents from the development industry were in agreement with the proposals.

Is the definition and the proposed method for calculating the planning fee correct for Category 13 – Other Energy Generation Projects?			
	Yes	No	Not Answered
Business	2	1	26
Civil Society	8	3	17
Development Industry		2	10
Policy and Planning	15	6	17
Total	25	12	72
% of Respondents Answering Question	68	32	

4.12.3 There were 25 comments on the proposed method for calculating the fee for other energy generating projects across the following themes, with the themes presented in descending order of the comments received:

Method

- A few respondents stated that the rationale is not clear for basing the fee on floorspace (business, development, policy and planning). Development industry and business suggested that a flat admin fee be introduced with additional fees to assess different impacts e.g. visual, hydrology, ecology etc. with a further split by “simple” or “complex” assessment if possible.
- A few respondents from civil society and policy and planning suggested installed capacity may be an alternative method.
- There is no rationale for using 100 sq. m. when other categories use 1,000 sq. m. This makes fees look high relative to some categories and may unfairly affect solar farms (policy and planning).
- A business respondent suggested looking at similarities between technologies and the planning efforts needed to assess them. Reference was made to polytunnels and glasshouses, which have similar characteristics to ground mount solar (i.e. both are temporary structures and cover a similar area) but have considerably lower maximum planning fees. It was suggested that the parallels between technologies should be reflected in the maximum planning fee.
- It was recognised that this is a broad category and that the method should be flexible for the type of development proposed (policy and planning) and that it could be difficult to apply a single calculation to a variety of projects (business).
- Civil society respondents made a number of suggestions including:
 - an allowance for mixed use applications for wind turbines and battery storage/solar power.
 - would there be reduced fees for solar panels located on non-agricultural land?

Fees

- One policy and planning respondent suggested the maximum limit should be increased to £225,000 while a business respondent felt the consultation suggested a bias towards other forms of renewable energy by capping fees at a much lower rate. For example, under the current proposals, solar fees (capped at £150k) will be six times the amount of hydro (category 12, capped at £25k) and thirty times more than polytunnels (category 10, capped at £5k). The proposed fee increase would be a barrier for new deployment of solar in Scotland to the

detriment of the Government's decarbonisation targets. It was suggested the maximum fee should be £10,000 which would be in line with glasshouses (Category 9).

- A civil society respondent questioned the logic of an upper limit to fees, but no upper limit to the size of the potential development. There should also be exemption for community led projects
- One policy and planning respondent suggested a simpler fee structure of £600 for every 100 sq .m. or part thereof. Alternatively, another policy and planning respondents suggested the fee should better relate to other non-domestic developments and increase in increments of £500.
- There should be a fee for ground and air source heat pumps for non-domestic use (policy and planning).

Definition

- It would be useful to distinguish between different generating types e.g. a district heating scheme will require different levels of technical input from that of a solar photovoltaic farm, regardless of area. A few business respondents suggested separate categories for solar farms, energy storage developments and heat networks. A business respondent also questioned if the definition included other projects which are not electricity generation for supply but provide services to the grid (e.g. synchronous compensation sets). The term "other energy related applications" may be more appropriate than "other energy generation projects".
- A few policy and planning respondents raised issues around the definition of the category including:
 - Energy from waste developments should be excluded from this category and included in Category 7 (business and commercial) as it involves the erection of industrial buildings.
 - There should be a separate fee structure for solar panels on existing buildings. As energy storage is not energy generation it could fall within plant and machinery (Category 17) or buildings, depending on its form and design.
 - The definition requires to be clarified to specifically exclude hydro schemes and domestic micro-generation.
- A civil society respondent questioned whether community solar panels mounted on roofs would be exempt.

PPP

- One policy and planning respondent stated there should be no PPP for this category as visual information was essential to the assessment.

- Another felt it would be difficult to base the fee on the floorspace of the development at the PPP stage as this is unlikely to be known until later in the process when decisions on the specific technology to be utilised are finalised.

Q14b. Should a category be created for solar farms?

- 4.12.4 The consultation specially asked if there should be a category created for solar farms and the table below sets out the results. Some 66% of respondents (answering the question) agreed that a separate category was appropriate. While business and civil society respondents clearly favoured a separate category, the development industry and policy and planning groups were more evenly split on the issue.
- 4.12.5 It was suggested that the proposed fee structure (Category 13) would result in fees being excessive in relation to the complexity of the assessment required as solar farms developments were described as being less complex to assess than wind energy. A respondent from the business group felt that the fee system was discriminating against solar farms when other renewable technologies have separate, technology specific categories with lower planning fees.

Should a category be created for Solar Farms?			
	Yes	No	Not Answered
Business	3		26
Civil Society	9	3	16
Development Industry	2	2	8
Policy and Planning	11	8	21
Total	25	13	71
% of Respondents Answering Question	66	34	

- 4.12.6 There were 24 comments made in response to how fees should be calculated for solar farms. In terms of suggestions for how fees should be calculated, the following comments were made:
- Several responses across policy and planning, civil society and business felt that area of land take was appropriate for calculating the fee, although one development industry respondent felt that site size did not change the planning assessment as the key issues need addressed regardless of project size. A business respondent felt that linking the planning fee to the surface area of technology was not justified. A structure which is specific and based on processing resources was suggested.

- It is not clear from the consultation why other categories with relatively equivalent visual, ecological and societal impacts have much lower fees and much lower maximum fees (e.g. Categories 8, 9, 10, 12 - agricultural buildings, glasshouses, polytunnels, hydro respectively). Solar also has a higher maximum fee than oil and gas exploration (Category 14) which should be more complex to assess.
- A few civil society respondents suggested:
 - reduced fees if on non-agricultural land or giving solar farms the benefits of agricultural land to stimulate projects.
 - Site area, access fee and generating capacity as options for fees.
 - There should be no charge for renewables to encourage renewable energy development.

Q14d. Should a category be created for energy storage developments?

4.12.7 The consultation asked if there should be a category created for energy storage developments. The table below shows that the majority of respondents did not answer this question. Of those that did, some 58% felt that there should be a separate category for energy storage developments. While there was support from business, civil society and the development industry for a separate category for energy storage developments, a majority of policy and planning respondents (answering the question) did not support this option.

Should a category be created for Energy Storage Developments?			
	Yes	No	Not Answered
Business	3	1	25
Civil Society	10	2	16
Development Industry	2	1	9
Policy and Planning	6	11	23
Total	21	15	73
% of Respondents Answering Question	58	42	

4.12.8 Policy and planning reasons for supporting a separate category include the fact that this type of development can raise concerns for local communities and as energy storage developments are not energy generation, a sub-category could be justified. The category could have regard to the likely components of the development e.g. batteries. A separate category may also be appropriate if the development is separate from the energy generation site it serves.

4.12.9 A few policy and planning respondents suggested that energy storage developments should be covered by Category 17 (plant and machinery).

4.12.10 In terms of suggestions for how fees should be calculated for energy storage development, the following comments were made:

- Several civil society suggestions were made regarding fees:
 - As this technology is at an early stage of development it should be encouraged, therefore fees could be based on areas above 250 sq. m. with a sliding scale above 500 sq. m. and 1,000 sq. m. A clear strategy for the recycling and replacement of storage systems should be provided.
 - Fees should be similar to solar farms with aspects from warehousing
 - Fees should be based on the size of the buildings or area of land, structure and generating capacity.
- Planning fees should be kept to a minimum for this technology so as not to act as a further barrier to development. A few business respondents suggested the fees are calculated by volume of space occupied proportionate to the impact storage developments will have on the land area. Fees for warehousing space (Category 7) are less than for storage developments which does not seem justified given the external infrastructure is essentially the same. It was suggested that there is a discrepancy regarding the winning and working of minerals where a maximum fee of £150,000 is proposed for 109ha developments whereas the proposed fee for other energy would be £150,000 for a 2.99 ha development. The rate per 100 sq. m. rather than per 0.1ha seems high.
- A development industry respondent stated that energy storage has a very small footprint, looks similar to electrical substations (e.g. electrical transformers, switchgear, containers) and has similar planning considerations. It may be appropriate to retain energy storage under Category 17 (plant and machinery).
- A few policy and planning respondents also suggested energy storage was included in Category 17 (plant and machinery) or Category 12 (hydro).

Q14f. Should a category be created for heat networks?

4.12.11 The consultation asked if there should be a category created for heat networks. The table below shows that of the respondents answering the question, there was a majority (56%) in favour of creating a separate category for heat networks. However, while this proposal was supported by business and civil society respondents, it was not supported by development industry and evenly split for policy and planning respondents.

Should a category be created for Heat Networks?			
	Yes	No	Not Answered
Business	1		28
Civil Society	8	4	16
Development Industry	1	2	9
Policy and Planning	9	9	22
Total	19	15	75
% of Respondents Answering Question	56	44	

4.12.12 There were 19 comments made on heat networks. A few policy and planning respondents felt that there should be a separate category for heat networks for the following reasons:

- These are different to other energy generation projects, and an important sector to encourage as part of the move away from fossil fuels.
- District heating networks often cross urban areas and public roads. This therefore involves consultation with a large number of consultees and requires notification with a very large number of neighbouring properties, which increases the cost of such an application. This would be different to other forms of energy generation projects.

4.12.13 A number of points were made about the appropriate category for heat networks including:

Definition

- A few policy and planning respondents made a number of comments about definition including:
 - Whether the pipework/plant relating to heat networks should require planning permission and if it should be considered as any other utility. Until this is resolved Category 17 fees should apply.
 - This is subject to the permitted development review so it is difficult to comment in advance of the review.
 - Heat networks will usually be covered within the context of the development to which they relate, if part of a larger application.
- A civil society respondent suggested that the hub could be covered by industrial buildings but was unclear how the buried distribution pipework would be covered.

- A business respondent felt that the proposed fees place unnecessary costs on these developments relative to high carbon alternatives which could be a disincentive for developments to choose a low carbon heating source and compromise Scotland's ability to reach its net zero target.

Fees

- A few policy and planning respondents suggested the fees should be similar to hydro developments (Category 12) with separate fees for equipment and pipework.
- Civil society respondents highlighted the need to encourage these networks and suggested the fee should be a nominal sum to reflect the cost of processing the application. There should also be exemptions for community led projects.
- A civil society respondent also suggested that fees are calculated on system output in bands and take account of the use of the heat generated e.g. 500kw could be free, 1,500kw could be £100, 1,500-2,500kw could be £250, 2,500-5,000kw could be £500.

4.13 Category 14 – Exploratory Drilling for Oil and Natural Gas

- 4.13.1 The consultation proposes that applications for on-shore oil and natural gas exploration will be charged according to the area of the site at a rate of £500 per 0.1ha or part thereof, subject to a maximum of £100,000.

Q15. Do you agree with the proposed planning fee?

- 4.13.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 14 – exploratory drilling for oil and natural gas. The majority of respondents did not answer this question but, of those who did, there was a clear majority (69%) in agreement with the proposed planning fees for other exploratory drilling for oil and natural gas. There was considerable support for the proposed fees from civil society and policy and planning respondents, but the proposed fees were not supported by the development industry.

Do you agree with the proposed planning fees for Category 14 – Exploratory Drilling for Oil and Natural Gas?			
	Yes	No	Not Answered
Business			29
Civil Society	9	4	15
Development Industry	1	4	7
Policy and Planning	15	3	22
Total	25	11	73
% of Respondents Answering Question	69	31	

Q15a. Is the proposed method for calculating the fee correct?

4.13.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 14 – exploratory drilling for oil and natural gas. The majority of respondents did not answer this question but, of those who did, there was a majority (68%) in agreement with the proposed method for calculating planning fees for exploratory drilling for oil and natural gas. There was a majority of civil society and policy and planning respondents, who answered the question, in favour of the proposed method, with all development industry respondents opposed to the method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business			29
Civil Society	8	4	16
Development Industry		4	8
Policy and Planning	15	3	22
Total	23	11	75
% of Respondents Answering Question	68	32	

4.13.4 There were 18 comments on the proposed fees and method for exploratory drilling for natural gas, primarily relating to fees. These are set out below:

Fees

- Several respondents, primarily from civil society and policy and planning, were concerned that the fees proposed were not high enough to reflect the adverse effects that this activity has in contributing to climate change. The proposed fees do not provide an incentive for renewables and it was suggested that exploratory drilling is not compatible with the Government’s Climate Emergency statements.
- Other specific points raised from policy and planning include:
 - The proposed base fee of £500 is unlikely to cover costs associated with an application for a 0.1ha development, given the complexity of issues anticipated. The proposed base fee is lower than that proposed for a car park (Category 18, £600) and is likely to be more complex and result in greater cost. Hence it was suggested that the base fee is £1,000 for the first 0.1ha, then a reduced scale per 0.1ha thereafter.
 - Given the complexity of issues, requirements for specialist input, level of public interest and potential public inquiry costs, it is suggested that the fees for Category 13 (other energy generation) should be used. The maximum fee should be increased to £225,000.

- It was suggested that examples be provided of a past development to provide a benchmark.
- Development industry raised a couple of points including:
 - Inconsistency between Category 14 (oil and natural gas) and Category 19 (winning and working of minerals). These are similar processes, but Category 14 has double the fee of Category 19 for a 10ha site⁵.
 - It was suggested that oil and gas exploration generate significantly more extensive impacts than renewable energy or housing construction and that the fees for this group are either under-recovering the costs of processing the planning application or the proposed fees for processing renewables are over-recovering planning authority costs.

4.14 Category 15 – Fish Farming

4.14.1 There are no changes in the methodology for calculating fish farming fees. However, there are proposed changes in the rates used to calculate the fees as follows:

- £200 for each 0.1ha of surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purpose of fish farming.
- £75 for each 0.1ha of the seabed to be used in relation to such development, subject to a maximum of £150,000.

Q16. Do you agree with the proposed planning fee?

4.14.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 15 – fish farming. The majority of respondents did not answer this question but, of those who did, there was a clear majority (72%) in agreement with the proposed planning fees for fish farms. There was considerable support for the proposed fees from civil society and policy and planning respondents, but the proposed fees were not supported by business and the development industry.

⁵ Note that the maximum fee for Category 14 is £100,000 and £150,000 for Category 19

Do you agree with the proposed planning fees for Category 15 – Fish Farming?			
	Yes	No	Not Answered
Business		3	26
Civil Society	7	3	18
Development Industry		1	11
Policy and Planning	16	2	22
Total	23	9	77
% of Respondents Answering Question	72	28	

Q16a. Is the proposed method for calculating the fee correct?

4.14.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 15 – fish farms. The majority of respondents did not answer this question but, of those who did, there was a majority (67%) in agreement with the proposed method for calculating planning fees for fish farms. There was a majority of civil society and policy and planning respondents, who answered the question, in favour of the proposed method, with all business and development industry respondents opposed to the method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		2	27
Civil Society	7	3	18
Development Industry		1	11
Policy and Planning	13	4	23
Total	20	10	79
% of Respondents Answering Question	67	33	

4.14.4 There were 17 comments on the proposed fees and method of calculating fees for fish farms across a range of themes. The themes are presented in descending order of the number of comments received:

Fees

- It was stated by several policy and planning respondents that fish farm applications raise complex and controversial marine environmental issues which must be assessed in determining the application. They are also accompanied by substantial amounts of environmental information and the increased public scrutiny results in much more correspondence from third parties. However, while one respondent felt the proposed

structure appears to recognise and reflect this, a few felt the proposed changes were not enough. One suggestion was to raise the maximum fee to £225,000 although another respondent felt that the low incremental fee value would make the proposed maximum of £150,000 beyond the scale of any fish farm proposed in Scottish waters. On this latter point, another respondent highlighted that fin fish sites are getting larger with many now coming in at the current low maximum fee.

- Several business respondents raised concerns about the proposed increase in the maximum fee from £18,270 to £150,000. This was not considered proportionate. One business respondent also felt the proposed increase in rates per 0.1ha were not acceptable.
- A civil society respondent felt the proposed fees appeared very low given the scale and intensity of impacts from fish farming, while another felt they were too high given the need to encourage and develop this sector to feed a growing population.

Method

- Splitting the fee into one for the surface area and one for the seabed was not supported by a few business respondents who referred to the proposed removal of the seabed calculation for shellfish farming (Category 16) as acceptance of the principle of this argument. They felt there should be a simpler basis for the fee and the approach to shellfish farming should apply to fin fish. A policy and planning respondent suggested a higher fee could be charged for the surface works and the seabed calculation could be removed. This would make the system clearer, simpler to calculate, safer (applicants may not try to save money by having smaller moorings than ideal), help the environment (applicants may spread cages over a larger area without costing more) and payment of fees is only for what people see. £1,400 - £1,600 per 0.1ha for surface works would generate roughly the same fees as the proposed changes.
- A few business and development industry respondents felt there was no justification given for the proposed increase in terms of the actual costs of processing applications.
- A few points of clarification/suggestions were made including:
 - Why does seabed area have a different rate considering the negative impact of effluent/food waste on seabed (civil society).
 - Guidance should clarify if the surface area is to be subtracted from the seabed area (policy and planning).
 - Tonnage may be a more appropriate measure of impact (civil society).

Performance

- A few business and civil society respondents supported the principle of a fee structure which is based on cost recovery, but it must deliver an efficient planning service. It was felt that applicants in the fish farming sector did not receive an efficient, effective or timely service. Prior to any increase in fees, there must be commitment to deliver a reasonable level of service.

4.15 Category 16 – Shellfish Farming

4.15.1 Previous consultations showed support for creating a separate fee for shellfish farms due to the differing nature of the development. The proposed change removes the seabed calculation and is:

- £250 for each 0.1ha of the surface area of the marine waters which are to be used in relation to the placement or assembly of any equipment for the purposes of shellfish farming.

Q17. Do you agree with the proposed planning fee?

4.15.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 16 – shellfish farming. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (80%) in agreement with the proposed planning fees for shellfish farms. There was support for the proposed fees from all groups with the exception of the development industry.

Do you agree with the proposed planning fees for Category 16 – Shellfish Farming?			
	Yes	No	Not Answered
Business	1		28
Civil Society	9	3	16
Development Industry		1	11
Policy and Planning	14	2	24
Total	24	6	79
% of Respondents Answering Question	80	20	

Q17a. Is the proposed method for calculating the fee correct?

4.15.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 16 – shellfish farms. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (80%) in agreement with the proposed method from all groups except the development industry.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	2		28
Civil Society	10	2	16
Development Industry		1	11
Policy and Planning	12	3	25
Total	24	6	79
% of Respondents Answering Question	80	20	

4.15.4 There were 15 comments on the proposed fees and method for calculating fees for shellfish farms which are presented below:

Fees

- Several respondents from civil society and policy and planning felt that the fee rate should be less than that for finfish farms as shellfish farm applications do not usually generate as much work in their determination, they are less visually intrusive and have less of a footprint (no ancillary equipment). Suggestions were made for rates of £50, £100 and £200 per 0.1ha by a few civil society respondents and £170 to £200 per 100m of line by a policy and planning respondent. The costs associated with the latter rate are felt to be equivalent to the proposed changes in the consultation document.
- A few respondents from business and civil society identified that there is no maximum fee for this category which is inconsistent with other categories. A civil society respondent suggested that £5,000 would be an appropriate maximum which would be consistent with Category 10 (polytunnels). Polytunnels are a comparable category given their use in primary food production, relative complexity of assessment and relationship to the Climate Change Emergency. A £5,000 fee could have the benefit of encouraging the development of larger scale, more efficient farms which would help meet Government targets on production.
- A civil society respondent suggested a higher fee rate because of their environmental impact.
- A business respondent felt the proposed fees were more appropriate to mussel farming as high fees in the past have prevented expansion of the industry.

Method

- Several respondents welcomed the introduction of a separate category for shellfish farming (civil society, business and policy and planning).
- A few respondents from civil society and policy and planning felt that clarification is required as to exactly how surface area is determined. For example, is it just the width of the lines or does it include the area between multiplier lines?

Definition

- A development industry respondent questioned if this category should also apply to seaweed farms. In this case, the category could be renamed “other aquaculture”

Other Matters

- It was noted by a civil society respondent that most applications are for farms in Shellfish Water Protected Areas (SWPA) with a presumption of use noted within the National Marine Plan. A shellfish farm application should therefore be restricted in the matters to be assessed. A marine licence is also required from Marine Scotland for shellfish farms and it was suggested that this should be determined within the planning application process. A nominal fee could be charged for the license (civil society).
- There should be the ability to cross subsidise planning fees where the proposed developments accord to specific national priorities. Shellfish cultivation sites could be part of programmes dealing with climate change. Fees should be waived and support sought in the subsidy of planning determinations where they contribute to local or national priorities e.g. pilot trials, carbon sequestering.

4.16 Category 17 – Plant and Machinery

- 4.16.1 The consultation proposes that applications for the installation of plant and machinery will be charged according to the area of the site at a rate of £500 per 0.1ha of part thereof, subject to a maximum of £150,000.

Q18. Do you agree with the proposed planning fees?

- 4.16.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 17 – plant and machinery. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (84%) in agreement with the proposed planning fees for plant and machinery. There was support for the proposed fees from all groups except for development industry.

Do you agree with the proposed planning fees for Category 17 – Plant and Machinery?			
	Yes	No	Not Answered
Business	2	1	26
Civil Society	9	1	18
Development Industry		2	10
Policy and Planning	20	2	18
Total	31	6	72
% of Respondents Answering Question	84	16	

Q18a. Is the proposed method for calculating the fee correct?

4.16.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 17 – plant and machinery. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (88%) in agreement with the proposed method for calculating planning fees for plant and machinery. There was support for the proposed methodology from all groups except the development industry.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	2		27
Civil Society	8	2	18
Development Industry		1	11
Policy and Planning	18	1	21
Total	28	4	77
% of Respondents Answering Question	88	12	

4.16.4 There were 15 comments on the proposed fees and method for calculating fees for plant and machinery across the following themes. The themes are presented in descending order of comments received:

Fees

- A few policy and planning respondents suggested a rate of £600 per 0.1ha as the issues raised by this type of application would be at least as complex as a single dwelling (Category 5) or car park (category 18). It

could be subject to a reduced rate thereafter and the maximum fee should be removed.

- A civil society respondent felt that a 100% increase (sites greater than 20 hectares) would not be sustainable for most companies.
- A business respondent who supported cost recovery also highlighted the cost impact on large scale developments in this category. As a regulated business, any increase in its costs are ultimately borne by the consumer. The red line boundary on applications has increased in recent years as a result of environmental factors (e.g. enhancing biodiversity) and the actual development area now forms a relatively small proportion of the area within the red line boundary (e.g. 20%). There was therefore concern that the significant fee increases promote potentially negative behaviour such as minimising red line boundaries to the detriment of biodiversity and landscaping initiatives. This could risk developers choosing not to progress these positive environmental initiatives due to the disproportionately higher increase in planning fees associated with the increase in red line boundaries these initiatives result in.

Definition

- One policy and planning respondent suggested the category should be removed while a development industry respondent stated that solar farms should not be part of plant and machinery and should have their own category.

Method

- A policy and planning respondent requested further clarity around the “site” e.g. the site should not just be the compound but also access tracks.

4.17 Category 18 – Access, Car Parks etc. for Existing Uses

4.17.1 The consultation proposes that applications for the construction of service roads, other accesses or car parks serving an existing use on a site will be subject to a flat rate of £600.

Q19. Do you agree with the proposed planning fee?

4.17.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 18 – access, car parks etc. for existing uses. The majority of respondents did not answer this question but, of those who did, there was a majority (69%) in agreement with the proposed planning fees for access roads and car parks for existing uses. There was support from all groups except for development industry.

Do you agree with the proposed planning fees for Category 18 – Access, Car Parks etc. for Existing Uses?			
	Yes	No	Not Answered
Business	1		28
Civil Society	9	3	16
Development Industry		2	10
Policy and Planning	17	7	16
Total	27	12	70
% of Respondents Answering Question	69	31	

Q19a. Is the proposed method for calculating the fee correct?

4.17.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 18 – access roads and car parks for existing uses. The majority of respondents did not answer this question but, of those who did, there was a majority (67%) in agreement with the proposed method with support from all groups except the development industry.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	8	3	16
Development Industry		2	11
Policy and Planning	15	7	18
Total	24	12	73
% of Respondents Answering Question	67	33	

4.17.4 There were 22 comments on the proposed fees for access and car parks for existing uses. The main themes raised are as follows:

Method

- Several respondents across policy and planning, civil society and business felt a sliding scale of fees would be more appropriate. The main reasons were that there can be a significant variety of applications which cover a wide range of sizes and circumstances, some of which may require traffic impact assessments and other specialist inputs. A flat fee may be reasonable for smaller scale projects, but not larger proposals.

- Several respondents from civil society and policy and planning felt that the fee should be charged on area and be more reflective of the scale of development.

Fees

- Several respondents felt that the flat fee for car parks would inadvertently encourage unsustainable development, particularly when some authorities are trying to reduce car dependency.
- A policy and planning respondent suggested a fee of £500 as this is the base fee for other non-housing.

Definition

- A development industry respondent felt that if an access road application could be assessed for £600, this should be the road component of the planning fee for other developments such as wind farms and oil or gas exploration. A business respondent also assumed that an application for access to the foreshore for a shellfish farm site would be considered under Category 18 although the shellfish farm site would be Category 16.
- The fee was not appropriate in relation to domestic dwellings which should fall under extensions and alterations to existing dwellings (Categories 2, 3, 4 and 5).

4.18 Category 19 – Winning and Working of Minerals

- 4.18.1 The consultation proposes that applications for the winning and working of minerals (other than peat) will be charged according to the area of the site at a rate of £500 for the first 0.1ha of the site and thereafter, at a rate of £250 per 0.1ha⁶ or part thereof, subject to a maximum of £150,000.

Q20. Do you agree with the proposed planning fee?

- 4.18.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 19 – winning and working of minerals. The majority of respondents did not answer this question but, of those who did, there was a majority (63%) in agreement with the proposed planning fees for the winning and working of minerals. A majority of civil society and policy and planning respondents answering the question supported the proposed fees, but no business or development industry respondents supported the fees.

⁶ Consultation document states “a rate of £250 per ha” but believe it is calculated on £250 per 0.1ha

Do you agree with the proposed planning fees for Category 19 – Winning and Working of Minerals?			
	Yes	No	Not Answered
Business		6	23
Civil Society	8	2	18
Development Industry		2	10
Policy and Planning	16	4	20
Total	24	14	71
% of Respondents Answering Question	63	37	

Q20a. Is the proposed method for calculating the fee correct?

4.18.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 19 – winning and working of minerals. The majority of respondents did not answer this question but, of those who did, there was a majority (63%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning respondents answering the question supported the proposed method but there was no support from the business or development industry.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		6	23
Civil Society	7	3	18
Development Industry		2	10
Policy and Planning	17	3	20
Total	24	14	71
% of Respondents Answering Question	63	37	

4.18.4 There were 26 comments raised with respect to winning and working minerals as follows:

Fees

- Several respondents from policy and planning and civil society highlighted that mineral applications are highly resource intensive given their complexity (including the length of life of the permission and the long run consequences of not ensuring there are adequate controls).

- Suggestions from policy and planning include:
 - Rates of £600 per 0.1ha and £1,000 per 0.1ha with each subsequent 0.1ha or part thereof charged at a reduced rate.
 - The maximum fee should be increased to £225,000 or there should be no maximum fee.

Method

- A few civil society respondents sought clarification if it is site area or extraction area that the rate applies to.
- A few policy and planning respondents raised the following points:
 - The reduction in the rate after 0.1ha is not consistent with other categories and the issue of fees for EIA (Q50) also applies to this category.
 - No fee is chargeable for submissions relating to the Review of Old Mineral Permissions under Section 74 of the Act. Scottish Government should consider the introduction of a fee to properly resource this workstream, ensuring any scale is reflective of the complexity of the submission.

4.18.5 There were four responses from the business group which all made the same points and a further two which made four of the points. These respondents appear to have shared their response, but they are not being treated as a campaign response as they have answered other questions in the consultation in a different way. The main points raised by these businesses are:

- **Scale and Threshold:** all six respondents were concerned about the removal of the threshold at which the rate reduces and highlighted that this contradicts a statement from the Chief Planner in 2017. It was also suggested that there was no evidence to support the implied assumption that the complexity and burden of processing a planning application is directly related to scale on a straight-line basis. Above a threshold level, most applications would be comparable in terms of complexity and input.
- **Total Planning Burden:** all six respondents felt that the aggregates industry engages with the planning system at many stages which is done at considerable cost. Given the economics of the industry, it was suggested that planning is a significant and increasingly unsustainable burden particularly for small and medium sites. There is a risk that increased costs will reduce the number of local quarries leading to increased transport of minerals to meet the demand for infrastructure development.
- **Comparison:** the six respondents felt Scotland already had a much higher maximum fee compared to England and Wales and the proposed changes would cost Scottish businesses significantly more.

- Alternatives: the six respondents felt that the current and proposed fee structure does not reflect the differences between hard rock quarries (usually deep deposits over a small geographic area) and sand and gravel quarries (shallower deposits over a larger area). Basing the fee structure on site area places an additional burden on sand and gravel applications which are often already marginal.
- Service: four respondents felt that the increase in planning fees in 2017 had not been accompanied by an improvement in performance.
- Actual costs: four respondents wanted more evidence and discussion on actual costs of processing applications.

4.19 Category 20 – Peat

4.19.1 The consultation proposes that applications for the winning and working of peat will be charged at the rate of £300 for each hectare of the site area, subject to a maximum of £6,000.

Q21. Do you agree with the proposed planning fee?

4.19.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 20 – winning and working of peat. The majority of respondents did not answer this question but, of those who did, there was a slight majority (52%) opposed to the proposed planning fees for the winning and working of peat. Civil society and policy and planning respondents answering the question were evenly split over the proposed fees but a higher number of development industry respondents opposed the proposed fees.

Do you agree with the proposed planning fees for Category 20 – Peat?			
	Yes	No	Not Answered
Business			29
Civil Society	6	6	16
Development Industry	1	2	9
Policy and Planning	8	8	24
Total	15	16	78
% of Respondents Answering Question	48	52	

Q21a. Is the proposed method for calculating the fee correct?

4.19.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 20 – winning and working of peat. The majority of respondents did not answer this question but, of those who did, there was a majority (55%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning

respondents answering the question supported the proposed fees, but no development industry respondents supported the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business			29
Civil Society	5	6	17
Development Industry		2	10
Policy and Planning	12	6	22
Total	17	14	78
% of Respondents Answering Question	55	45	

4.19.4 There were 27 comments with respect to peat across the following themes:

Definition

- Several policy and planning respondents felt that the category should be incorporated into Category 19 (winning and working of minerals). A civil society respondent suggested a caveat whereby if the proposed extraction was for purposes other than heating, it should revert to Category 19.

Fees

- Several civil society and policy and planning respondents felt that the fees were too low (including the maximum fee of £6,000) with a policy and planning respondent suggesting the fee was low relative to other groups with regard to the complexity of applications.

Climate Change

- Given the need to address the climate change emergency, several civil society respondents felt that peat extraction should be banned or phased out.
- A few civil society respondents felt that the fees provided little disincentive for this type of development given the negative effect of peat extraction in terms of climate and biodiversity change.

Method

- A few civil society respondents suggested using the proposed cubic meters of extraction for calculating fees.

- Clarification was sought from a business respondent on whether peat movement as a result of wind farm development will result in a separate planning fee.

Q21c. In light of the climate change emergency do you agree that fees for applications relating to the winning and working of peat should continue to be considered separately from other mineral operations?

4.19.5 The consultation asked if, in light of the climate change emergency, fees for applications related to the winning and working of peat should continue to be charged separately from other mineral operations. The table below sets out the responses by group. Of the 25 respondents answering the question, 18 (72%) agreed that the winning and working of peat should be a separate category while seven (28%) felt it should not be treated separately. There was support for a separate category from the business, civil society and policy and planning groups with all respondents opposing a separate category from policy and planning.

Do you agree that fees for applications relating to the wining and working of peat should continue to be considered separately from other mineral operations?			
	Yes	No	Total
Business	3		3
Civil Society	9		9
Development Industry			
Policy and Planning	6	7	13
Total	18	7	25

Note: there were four other comments unrelated to the specific question

4.20 Category 21 – Other Operations

4.20.1 The consultation proposes that applications for operations for any other purpose will be charged at the rate of £400 for each 0.1ha of the site area, subject to a maximum of £4,000.

Q22. Do you agree with the proposed planning fee?

4.20.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 21 – other operations. The majority of respondents did not answer this question but, of those who did, there was a majority (71%) supportive of the proposed planning fees for other operations. A majority of business, civil society and policy and planning respondents answering the question supported the proposed fees but no development industry respondents were supportive of the proposed fees.

Do you agree with the proposed planning fees for Category 21 – Other Operations?			
	Yes	No	Not Answered
Business	1	1	27
Civil Society	7	2	19
Development Industry		2	10
Policy and Planning	17	5	18
Total	25	10	74
% of Respondents Answering Question	71	29	

Q22a. Is the proposed method for calculating the fee correct?

4.20.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 21 – other operations. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (82%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning respondents answering the question supported the proposed fees, but no development industry respondents supported the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	2		27
Civil Society	6	3	19
Development Industry		1	11
Policy and Planning	19	2	19
Total	27	6	76
% of Respondents Answering Question	82	18	

4.20.4 There were 17 additional comments regarding this category with the main points summarised as follows:

Fees

- Several policy and planning respondents felt that the fees were too low with suggestions of rates of £500 per 0.1ha (2 respondents) and £600 per 0.1ha (3 respondents). Reasons cited for increasing the rate include better alignment with other non-housing rates and consistency with other categories.

- Several policy and planning respondents felt that the maximum fee should be increased. The maximum fee is reached at 1.0ha with suggested maximum fees ranging from £25,000 to £150,000 (comparable to Category 26 – change of use) to no maximum.
- One business respondent felt the proposed fees were too high and not reflective of the limited time required to assess the applications.

Method

- A few policy and planning respondents suggested guidance as to whether the category included access tracks and the need for examples of past development to illustrate the type of development in the category.
- A few civil society respondents suggested a case-by-case approach perhaps reflecting the environmental impact.

4.21 Categories 22 and 23 – Waste Disposal and Minerals Stocking (Does not cover Waste Management (Recycling))

4.21.1 The consultation proposes that applications for the disposal of waste or minerals stocking will be charged according to the area of the site with a rate of £500 for the first 0.1ha requiring a fee, followed by a rate of £300 per 0.1 ha or part thereof, subject to a maximum of £4,000.

Q23. Do you agree with the proposed planning fee?

4.21.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 22 – waste and disposal and mineral stocking. The majority of respondents did not answer this question but, of those who did, there was a majority (71%) supportive of the proposed planning fees for waste disposal and minerals stocking. A majority of policy and planning respondents answering the question supported the proposed fees; civil society respondents were split over the proposal and business and development industry respondents did not support the proposed fees.

Do you agree with the proposed planning fees for Category 22 and 23 – Waste Disposal and Minerals Stocking (Excluding Waste Management (Recycling))?			
	Yes	No	Not Answered
Business		1	28
Civil Society	4	4	20
Development Industry		2	10
Policy and Planning	18	2	20
Total	22	9	78
% of Respondents Answering Question	71	29	

Q23a. Is the proposed method for calculating the fee correct?

4.21.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 22 – waste disposal and minerals stocking. The majority of respondents did not answer this question but, of those who did, there was a majority (73%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning respondents answering the question supported the method for calculating fees, but no business or development industry respondents supported the proposal.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		1	28
Civil Society	5	4	19
Development Industry		1	11
Policy and Planning	17	2	21
Total	22	8	79
% of Respondents Answering Question	73	27	

4.21.4 There were 13 comments on waste disposal and mineral stocking with the main points summarised as follows:

Fees

- Several policy and planning and civil society respondents felt fees should be higher. Reasons cited included the fee should be related to the type and toxicity of the waste and this type of application would be more complex than a car park which attracts a fee of £600 and it may require additional knowledge to assess.
- A civil society respondent suggested the maximum fee should be £200,000 and a policy and planning respondent suggested there should be no maximum.
- A few policy and planning respondents suggested rates of £600 per 0.1 ha and £1,000 per 0.1 ha with a reduced rate thereafter.

4.22 Category 24 – Conversion of Flats and Houses

4.22.1 Applications for the change of use of any building to use as one or more separate dwelling houses will be charged at the same rate as residential units as follows:

- £600 per house for the first 10 houses

- £400⁷ for each new dwelling house created between 11 and 49 units
- £250 per house thereafter subject to a maximum of £150,000.

Q24. Do you agree with the proposed fees?

4.22.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 24 – conversion of flats and houses. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (86%) in support of the proposed planning fees for conversion of flats and houses. A majority of civil society and policy and planning respondents answering the question supported the proposed fees with the development industry split over the proposal.

Do you agree with the proposed planning fees for Category 24 – Conversion of Flats and Houses?			
	Yes	No	Not Answered
Business	1		28
Civil Society	9	2	17
Development Industry	1	1	10
Policy and Planning	21	2	17
Total	32	5	72
% of Respondents Answering Question	86	14	

Q24a. Is the proposed method for calculating the fee correct?

4.22.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 24 – conversion of flats and houses. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (76%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning respondents answering the question supported the method for calculating fees with the development industry evenly split over the proposal.

⁷ Although the consultation states that conversions will be charged at the same rate as residential units, the rate for 11 to 49 units in Category 1 is £450.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	7	5	16
Development Industry	1	1	10
Policy and Planning	19	3	18
Total	28	9	72
% of Respondents Answering Question	76	24	

4.22.4 There were 21 comments regarding this category with the main points summarised across the themes as follows. The themes are presented in descending order of the number of comments received:

Method

- A few civil society respondents felt that change of use fees should be lower than new build to incentivise re-use over new build while a business respondent felt that change of use fees appeared high given that they should be less time consuming than new build to determine.
- One policy and planning respondent felt the increase reflected the resources required to assess these applications, while another required further evidence on how the increase relates to costs.

Fees

- A few civil society and policy and planning respondents made comments on the maximum fee. Suggestions ranged from a ceiling of £200,000 to no maximum fee.
- A policy and planning respondent suggested a rate of £600 for up to 20 units.

Definition

- Several policy and planning respondents sought clarification around the use of the term “dwelling house”. The term does not include flats therefore it may be more appropriate to use the term “dwelling” or “residential unit”.

4.23 Category 25 – Change of Use Buildings

4.23.1 Applications for the change of use of buildings or land (other than the conversion to, or subdivision of, dwelling houses, the tipping of waste or the stocking of minerals and spoil) will be charged separately. The change of use of a building will be charged at £600 per application.

Q25. Do you agree with the proposed planning fee?

4.23.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 25 – change of use of a building. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (76%) in support of the proposed planning fees for change of use of a building. A majority of civil society and policy and planning respondents answering the question supported the proposed fees with the development industry split over the proposal.

Do you agree with the proposed planning fees for Category 25 – Change of Use – Buildings?			
	Yes	No	Not Answered
Business	1		28
Civil Society	10	2	16
Development Industry	1	1	10
Policy and Planning	19	7	14
Total	31	10	68
% of Respondents Answering Question	76	24	

Q25a. Is the proposed method for calculating the fee correct?

4.23.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 25 – change of use of a building. The majority of respondents did not answer this question but, of those who did, there was a majority (68%) in agreement with the proposed method for calculating planning fees. Respondents from all groups supported the proposed method.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business	1		28
Civil Society	8	4	16
Development Industry	1		11
Policy and Planning	15	8	17
Total	25	12	72
% of Respondents Answering Question	68	32	

4.23.4 There were 21 comments regarding this category with the main points summarised by theme. The themes are presented in descending order of comments received:

Method

- Several policy and planning respondents felt that certain changes of use could give rise to sensitive, complex applications which could involve retail or traffic impact assessment. Examples included hot food takeaways, pubs, amusement arcades, retail and leisure developments. These applications would tend to be more resource intensive and may require consultation and detailed assessment of ancillary development (e.g. flues). It was suggested by one respondent that consideration should be given to charging a higher level of fee for proposed uses within a defined use class while another suggested aligning the change of use application with the relative fee for development of a new building.
- Several policy and planning respondents also felt that a scale-based approach which increased with floorspace would better address the complexities and resources required to determine the application.

Fees

- There were some suggestions regarding the fee rates including:
 - £500 to align with other non-housing (policy and planning).
 - £800 per application (civil society).
 - Fees should align with Category 26 (change of use of land) which would be £500 for the first 0.1ha and £300 for each 0.1ha or part thereof up to a maximum of £150,000.
- A civil society respondent felt the re-use of buildings should be encouraged but that the rate did not incentivise this. Another respondent also felt there should be an exception for community led projects.

4.24 Category 26 – Change of Use Land

4.24.1 Applications for the change of use of buildings or land (other than the conversion to, or subdivision of, dwelling houses, the tipping of waste or the stocking of minerals and spoil) will be charged separately. The fee for a change of use of land will be based on the site area with an initial fee of £500 for the first 0.1ha and £300 for each 0.1ha or part thereof, up to a maximum of £150,000.

Q26. Do you agree with the proposed planning fee?

4.24.2 The table below shows whether the respondents agreed with the proposed planning fees for Category 26 – change of use of land. The majority of respondents did not answer this question but, of those who did, there was a substantial majority (76%) in support of the proposed planning fees for change

of use of a building. A majority of civil society and policy and planning respondents answering the question supported the proposed fees but no business or development industry respondents supported the proposal.

Do you agree with the proposed planning fees for Category 26 – Change of Use – Land?			
	Yes	No	Not Answered
Business		1	28
Civil Society	8	3	17
Development Industry		3	9
Policy and Planning	23	3	14
Total	31	10	68
% of Respondents Answering Question	76	24	

Q26a. Is the proposed fee for calculating the fee correct?

4.24.3 The table below shows whether the respondents agreed with the proposed method for calculating planning fees for Category 26 – change of use of land. The majority of respondents did not answer this question but, of those who did, there was a majority (68%) in agreement with the proposed method for calculating planning fees. A majority of civil society and policy and planning respondents answering the question supported the method for calculating proposed fees but no business or development industry respondents supported the proposal.

Is the proposed method for calculating the planning fee correct?			
	Yes	No	Not Answered
Business		1	28
Civil Society	7	4	17
Development Industry		2	10
Policy and Planning	19	5	16
Total	26	12	71
% of Respondents Answering Question	68	32	

4.24.4 There were 27 comments on the proposed fees and method for changes of use of land which are summarised below by theme:

Method

- Several respondents felt that charging on the basis of site area did not reflect the nature of the proposed use. The fees may penalise basic proposals (e.g. expansion of existing use into adjoining land, change of use from agricultural use to a burial ground or exercise area for horses). A number of suggestions were made including:
 - Aligning the fee with the actual use (policy and planning).
 - Adding a fee category where the fees might be a barrier (e.g. playing fields, parks etc) particularly where this is in the community interest (policy and planning).
 - Retain a flat rate fee but at a higher level (e.g. up to £600) or charge on the basis of the specific use (business).
- A few respondents in policy and planning referred to Category 21 (other operations). One questioned if the fees conflicted with those proposed for Category 21 while another suggested that the fee rate and maximum should be the same in Categories 21 and 26 with the higher rates applying.
- A policy and planning respondent also suggested the threshold for reducing to £300 is too low and inconsistent with other categories.

Fees

- Contrasting views on the fee rate were made by civil society respondents with one suggesting £500 was high, especially for extensions of domestic gardens while another felt the fees were too low. It was also suggested that fees should be reduced for the re-use of brownfield land.
- A few policy and planning respondents felt an initial rate of £600 was appropriate.
- A business respondent suggested a flat rate of £500 to £600 as the proposed fee scale could have an adverse impact on investment decisions, particularly those relating to caravan parks.
- There was some support for increasing the maximum to £200,000 (civil society) while one policy and planning respondent suggested there should be no maximum.

Definition

- A few business respondents raised concerns about whether change of use in the fish farming sector was included or excluded from this category. If included, all respondents felt the fees were inappropriate and suggested an exemption for fish farming should be maintained.

4.25 Q27. Please list any types of development not included within the proposed categories that you consider should be.

4.25.1 The consultation asked if there are any types of development which should be included. There were 26 comments received with the suggested developments shown below by group:

Business

- Hybrid schemes – more clarity required on how these will be treated e.g. a solar and wind collaboration.
- Energy network infrastructure or utilities category – clarity required on where energy network infrastructure falls. Assume it is plant and machinery and proposed fees seem excessive for sub-stations given site area thresholds listed. A new category could provide lower fees due to the developments being a required service and the declared climate emergency. Issues with red line boundaries in remote locations and the resultant fees were identified as was clarification regarding Section 37 requests.
- Number of Section 42 applications for the variation of conditions can often be associated with minor matters pertaining to the wider planning application.

Civil Society

- Should be a distinction between change of use from ‘residential to other’ and ‘other to residential’ as the former has a substantially higher impact on neighbouring residents’ quality of life.
- Underground or above ground developments and associated works should have separate categories and planning fees.
- Re-use of old industrial use land to be developed for residential occupancy. Levels of residual toxicity should be actively addressed.
- Listed buildings as many owned by charities/voluntary groups. Should not be charged for development required by changes in legislation introduced by the government, particularly to address climate change and energy efficiency improvements. (Listed buildings are considered in Q31).
- Re-use of existing structures and sites should be encouraged, and consideration could be given to exemptions or reduced fees for change of use and development in areas of brownfield/vacant land.
- Agriculture requires appropriate fees when operating on an industrial scale e.g. one building housing eight hundred dairy cows has a significant impact on an area.

Development Industry

- Burying existing overhead power lines: will benefit from a cleared corridor and that any disruption from the operations to bury a line will be temporary and likely to result in a net societal benefit (more resilient power, less visual impact).

Policy and Planning

- Telecommunications: as a growth area with 5G roll-out, telecomms masts and equipment should have their own category. Two respondents.
- Modification and discharge of planning obligations. These are considered in Q40.
- Community facilities/non-residential institutions which are not businesses (i.e. NHS, fire, police) appear to be covered by Category 21, but the proposed fees would significantly reduce income and would not cover cost of assessing application.
- AMSC applications where no development is taking place and the applicant is solely submitting information to be assessed by the Planning Authority (e.g. assessments or schemes). AMSC is considered in Q28.
- Renewal of applications: consideration should be given to introducing a disincentive to prevent repeat applications for renewals which can lead to sites becoming stagnant. Development should commence within the development plan timescale. The potential fee proposal might be that the first renewal would be charged at 10% above the cost of the planning fee and would rise by another 10% each time it was renewed thereafter. The aim would be to bring sites forward for development.
- New buildings: What category would apply to new buildings which are not Category 6 or 7 e.g. a new school or mixed-use development.
- Change of Use of land: a category for uses with sizeable areas but are likely to be progressed by community groups where substantial fees could be barrier to development.
- Review of Old Mineral Permission under Section 74 of Act.
- Any submission which requires resources should attract a fee.

5. Other Fees

5.1 Introduction

5.1.1 The consultation sought views on how certain fees should be charged in the future e.g. cross-boundary applications. This section sets out the results of the questions which examine some of the issues related to how these fees might be charged.

5.2 Approval of Matters Specified in Conditions (AMSC) Applications

5.2.1 AMSC applications are currently charged at the full rate until the total paid by the applicant is equal to the fee that would have been paid if approval of all matters involved had been sought all at once for the whole development. It was envisaged that one applicant was responsible for a site, but it appears that when a site is being taken forward by multiple developers/applicants there is the potential that the first developers/applicants could end up paying significantly more for their AMSCs than those who take forward their part of the site at a later date.

5.2.2 It is not intended to change the principle that PPP and AMSC applications ultimately lead to 150% of the planning fee being paid, but views are sought on how the maximum fee is reached thus triggering the standard fee for AMSC applications

Q28. How Should Applications for Planning Permission in Principle and Approval of Matters Specified in Conditions be Charged in Future?

5.2.3 The consultation asked how applications for PPP and AMSC should be charged in the future. Several respondents in policy and planning highlighted that the current fee for AMSC applications does not cover the cost of processing these applications and is not really suitable for large, complex sites. The current fee structure of AMSC applications is overly complicated, particularly for major sites where the assessment of PPP and AMSC applications are very resource intensive and can result in work lasting for many decades without fee income.

5.2.4 However, six respondents across the development industry, policy and planning and business groups stated that there should be no change to these applications.

5.2.5 Many comments were made suggesting changes which are summarised as follows:

- Several points were made in relation to the 150% cap on fees from policy and planning respondents:

- If the principle of the cap is to remain, it was suggested that PPP should be charged at 100% and AMSC should be charged at 50%.
 - A few policy and planning respondents suggested the cap should be removed, particularly for strategic sites which may generate AMSC applications over 20 years. Multiple AMSC applications can be time consuming and difficult to administer. It was suggested that each application could be charged without a maximum fee.
 - The cap may not be a significant fee relative to the scale of development, so it may be appropriate to limit the time period for the maximum fee to apply.
 - The cap should only apply to the original applicant with any other applicant submitting an AMSC required to pay the fee applicable for a full application.
 - The full fee (or a high proportion) should be charged for a PPP application with no charge (or a nominal fee) for AMSC applications (civil society).
- The AMSC could be calculated as a proportion of the number of units/site area of the PPP/proportion of PPP site, (development industry, policy and planning).
 - If additional documentation is required with an AMSC (e.g. site investigation reports) there should be a separate category with a set fee per application (policy and planning).
 - Subsequent developers should have the same outlay as the first (civil society).

Q28a. How Should the Fee for AMSC Applications be Calculated?

5.2.6 The consultation asked how the fee for AMSC applications should be charged. There were 22 comments on how the fee for AMSC calculations should be calculated, the majority of which were from the policy and planning group:

- A few respondents suggested that fee levels could be calculated on the basis of the development category to which the application relates.
- It should be 50% of the PPP fee.
- A flat base rate and levels set above that rate when the application relates to siting and design of houses; all other applications could be a flat rate based on site area.
- Each application could be charged its own fee.
- Given the development plan led system, the allocation of a site is effectively an in principle decision. It was suggested that fees for AMSC

applications should be the same as for their full planning permission fee. To simplify the calculation of the fee, it would be possible to just apply the higher of the fees, rather than the cumulative total, as the total fee to be paid e.g. in a residential development, the fee for houses, at their full rate, would probably be the highest fee and would not require fees for the road infrastructure, landscaping etc when submitted as a single AMSC package.

- AMSC applications that do not seek approval for the siting/design of new buildings should have a separate category with a flat rate to cover administration.
- The PPP fees could be kept and AMSC applications charged at 50% of the full permission fee until the development is built out.
- The 150% cap should only apply to the original applicant. Any other applicant submitting an AMSC should pay the fee applicable to a full application.
- Site area and a sliding scale could be used based on the use being proposed.

5.2.7 Suggestions from other groups on how the fee for AMSC applications should be charged included:

- The full fee for PPP should be charged and no fee/ low fee per AMSC application (civil society).
- The fees should be based on the proportion of site built by particular developer (civil society).
- The fee should be based on the potential full permission fee and split on a proportionate basis with PPP having the lower proportion than AMSC e.g. 1/3 PPP, 2/3 AMSC (business).

Q28b. Should the maximum fee apply to the individual developers or be applied to the whole development?

5.2.8 The consultation asked if the maximum fee should be applied to individual developers/applicants or applied to the whole development with the applicants (if the number is known) paying an equal share of the maximum fee. There were 24 comments on this question. Reasons cited for not applying the fee to individual developers/applicants were that it was unlikely that the number of developers would be known at the start of the process and because you can't control when AMSC applications come forward. The alternative view that it should be applied to the whole development was suggested because planning permission runs with land and not the applicant.

Q28c. Should the granting of a Section 42 application lead to the fee calculator being reset?

5.2.9 The consultation asked if the granting of a Section 42 application should lead to the fee calculator being reset. The table below shows that 33 respondents answered this question with the majority (61%) in favour of the proposal. All respondents who were in favour of the calculator being reset following a Section 42 application were from the civil society and policy and planning groups. Although some civil society and policy and planning respondents opposed the proposal, all business and development industry respondents answering the question opposed the proposal.

Should the granting of a Section 42 application lead to the fee calculator being reset?			
	Yes	No	Not Answered
Business		2	27
Civil Society	6	3	19
Development Industry		6	6
Policy and Planning	14	2	24
Total	20	13	76
% of Respondents Answering Question	61	39	

5.2.10 There were 16 comments on the re-setting of the fee calculator. Re-setting the fee calculator was felt to be appropriate from a policy and planning perspective because a new consent for the site is being issued, it can introduce further complications and must include all conditions which involves similar workload to the full application. It was suggested that Section 42 is often used by developers to avoid paying a large application fee. This is a category which should be considered for a fee proposal.

5.2.11 One policy and planning respondent felt it should not be re-set because it is a difficult process to manage. Reasons, from the business and development industry groups, why it should not be re-set include the principle that a developer should not pay more than they would if a detailed application has been made, Section 42 applications for the variation of conditions can often be associated with minor matters pertaining to the wider planning application and the Section 42 application is only concerned with a particular part of the approval being varied, not the whole approval.

5.3 Cross Boundary Applications – Allocation of the Fee

5.3.1 Cross boundary fees are currently calculated separately for each application, in the normal way, and then added together. The applicant pays this amount or, if less, an amount equal to 150% of the fee that would have been paid had one application been made. The planning fee goes to the authority where the majority of the development occurs with the other authority receiving nothing.

5.3.2 As there can be significant work involved for both parties, the consultation sought feedback on whether there should be a more equal distribution of the fee.

Q29. Should the fee for cross boundary applications be split between the respective authorities?

5.3.3 The table below shows respondents views on how cross boundary application fees should be treated. A majority (55%) of respondents favoured splitting the fee as per how the development is split across boundaries. These respondents were from all respondent groups and cited that this would provide a more equitable distribution of the fee given that both authorities had to undertake assessment.

Should the fee for cross boundary applications be split between the respective authorities?					
	No Change	100% to main authority, 50% to other	Fee split across auth. with development	Other	Not Answered
Business	3		5	3	18
Civil Society		1	8		19
Development Ind.	1	1	3	2	5
Policy and Planning	5	4	11	2	18
Total	9	6	27	7	60
% of Respondents Answering Question	18	12	55	14	

5.3.4 There were only a few comments by policy and planning respondents advocating “no change” to the system. They stated the system was working and were not aware of any concerns relating to the existing arrangements.

5.3.5 Respondents favouring 100% of the fee to the authority where the majority of development occurs with the remaining 50% to the other authority felt that ascertaining how much of a development is distributed across authorities may be labour intensive. Hence, the 100%/50% would be easier to apply and fairer than the current system.

5.4 Conservation Areas

5.4.1 Concerns have been raised about the requirement to apply for planning permission for carrying out alterations to a property which would otherwise have been carried out under permitted development rights. The consultation proposes that where applications are submitted under categories 2, 3, 4 and 5 for development in conservation areas which are required because of the restriction on permitted development, then only half the fee would be payable.

Q30. Do you agree with the proposal that where applications are required because permitted development rights for dwellings in conservation areas are restricted, then a reduced fee should be payable?

5.4.2 The table below sets out whether respondents agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation areas are restricted, then a reduced fee should be payable. The majority of respondents did not answer the question but, of those who did, the majority (60%) of respondents disagreed that there should be a 50% reduction for planning applications in conservation areas that would previously have been permitted development. Business respondents supported the proposal, civil society and development industry respondents were evenly split on the proposal and the majority of policy and planning respondents disagreed with the proposal.

Do you agree or disagree with the proposal that where applications are required because permitted development rights for dwellings in conservation areas are restricted, then a reduced fee should be payable?			
	Agree	Disagree	Not Answered
Business	3		26
Civil Society	7	7	14
Development Industry	2	2	8
Policy and Planning	6	18	16
Total	18	27	64
% of Respondents Answering Question	40	60	

5.4.3 Many policy and planning respondents identified the need to recover costs as the main reason for opposing the increase. It was stated that the work and cost involved in processing an application in a conservation area is more than a householder application, given the requirement to advertise the application, put up a site notice and assess the matter against heritage issues and context. In addition, applications in conservation areas are often more likely to attract representations and require further consideration in terms of the conservation area issues.

5.4.4 Other reasons for disagreeing with the proposed reduction in fees include:

- There should be no fee as applicants are maintaining their properties for the enjoyment of everyone i.e. it is in the public interest (several responses across civil society, development industry and policy and planning).
- Conservation should always take priority (civil society).

5.4.5 Comments made to support the proposed reduction in fees include:

- Charging full fee may dissuade applications and lead to properties not being updated or maintained (civil society, policy and planning).
- It might lead to better compliance (policy and planning).
- It seems reasonable given that it would have been permitted development (policy and planning).
- Conservation areas provide public benefits, therefore it is correct that residents are not penalised (civil society).

5.4.6 The responses highlight the balance to be achieved in ensuring that the planning system is resourced with the skills and expertise needed to protect and enhance Scotland's built heritage and the need to ensure that that goal is not undermined by disincentivising building owners from investing in the maintenance and upkeep of their properties.

5.5 Q31. Listed Building Consent

5.5.1 There is currently no fee payable for listed building consent. The consultation sought to understand any potential long-term implications and unintended consequences of introducing fees for Listed Building Consent (LBC). The Scottish Government wants to ensure the long term viability of historic buildings is not compromised by the introduction of additional costs for homeowners and applicants but also recognises the considerable resource required to deal with LBC applications.

5.5.2 For larger developments (often requiring planning permission) the introduction of fees for LBC is likely to make little difference, but many applications are for relatively minor works in planning terms. Hence, the introduction of fees for LBC may require clearer national-level guidance on the need for consent to be produced.

Q31. Is the introduction of a fee for LBC appropriate?

5.5.3 The table below shows respondents views on whether a fee for listed building consent should be introduced. The majority of respondents did not answer the question but, of those who did there was a majority (72%) in favour of the introduction of a fee. There was support from all groups, although civil society respondents were more evenly split on the introduction of a LBC fee than the other groups.

Is the introduction of a fee for applying for Listed Building Consent appropriate?			
	Yes	No	Not Answered
Business	2		27
Civil Society	8	8	12
Development Industry	3	1	8
Policy and Planning	21	4	15
Total	34	13	62
% of Respondents Answering Question	72	28	

5.5.4 There were 49 comments on how the LBC fee should be set. In terms of respondents supporting the introduction of a fee, the following comments were made:

Policy and Planning

- Several suggested a flat fee ranging from £100 to £500.
- While the introduction of a LBC fee was considered to be a good idea, a few respondents felt that there should be exemptions or very reduced fees for restoring/reinstating buildings or for buildings on the “at risk” register.
- A few respondents suggested a scale to cover the range of works from minor to demolition.
- A few suggested it should be a proportion of the planning fee with different rates depending on whether planning permission is required.

Civil Society

- As per a standard application or proportion of a planning application (25%).
- The same as if it was not listed.
- It would depend on the size and category of building and cost of work.

Business/Development Industry

- A fee of £300 if required along with planning permission.
- As a percentage of the planning application fee.

5.5.5 Several policy and planning respondents were against introducing a fee as they felt it may dissuade people applying for LBC or doing the necessary works to the detriment of the buildings. A few civil society respondents were also concerned about:

- Adding additional burdens to those already faced because they have a listed building.
- Preventing people seeking listed status or applying for de-listing.
- Listed buildings are enjoyed by the community as a public amenity and should not attract a fee.

5.5.6 It was suggested that further analysis on listed buildings is required which covers:

- The costs associated with resourcing LBC applications including the nature of works that are typically the subject of LBC applications.
- How a fee would affect the attractiveness and viability of owning and using listed buildings. In addition to the perceived regulatory burden, there are costs associated with owning/using listed buildings including increased insurance costs, requirements to invest in the use of traditional materials and a requirement to seek professional advice before the submission of an LBC application.
- The circumstances where LBC is required, is at the discretion of the local authority as to whether any works proposed would affect the character of a listed building and would consequently require LBC. It was also suggested that there is a need for national guidance on when an application is required.
- The relationship of fees for LBC and permitted development rights, particularly given the proposals to introduce mandatory standards for energy efficiency for homeowners from 2024 which is likely to result in a significant increase in LBC applications. A fee scale may be more appropriate than a flat fee.

5.6 Q32. Hazardous Substances Consent

5.6.1 The fee levels for hazardous substances have not changed for 25 years and are £200, £250 and £400. Where the quantity is twice the controlled quantity, the fee is £1,000. The consultation does not propose a change in the fee structure, but it seeks views on whether there should be an increase in fee levels.

Q32. Should the fees for hazardous substances consent be increased?

5.6.2 The table below shows the respondents views on whether the fees for hazardous substances should be increased. The majority of respondents did not answer the question but, of those who did, there was a substantial majority (91%) in favour of the proposal.

Should the fees for hazardous substances consent be increased?			
	Yes	No	Not Answered
Business			29
Civil Society	9	1	18
Development Industry	2		10
Policy and Planning	19	2	19
Total	30	3	76
% of Respondents Answering Question	91	9	

5.6.3 There were 28 suggestions on the appropriate level of fees for hazardous substances consent:

- Fee should recover costs (several civil society and a few policy and planning respondents).
- A doubling of fee levels (several policy and planning and a civil society respondent).
- An inflation increase (several policy and planning respondents). It was suggested that a doubling of fees would be roughly an inflation increase over 25 years.
- Percentage increase of between 15% and 25% (a few civil society respondents).
- £500 minimum fee (a civil society and a policy and planning respondent).
- A few policy and planning respondents suggested a base of £1,000 with the potential scale being £1,000, £1,500, £2,000 and £5,000. Increases in units of £500 to a maximum of £2,000 was also suggested.

5.6.4 It was suggested that clarification was required on who was the most appropriate party to determine these consents – local authorities or the Health and Safety Executive.

5.7 Other Types of Application

Certificate of Lawful Use or Development (CLUD)

5.7.1 There are currently four categories of fees for a CLUD application:

1. Section 150(1)(a) – use as one or more separate dwelling houses: £401 for each dwelling house subject to a maximum of £20,055.
2. Section 150(1)(a) or (b) – uses other than use as one or more separate dwelling houses and any operations: the same fee as would apply to a planning application for the same development.
3. Section 150(1)(c) - existing use: £202.
4. Section 151(1) – proposed use: half the fee applying to a planning application for the same development.

5.7.2 The following fees are proposed for categories one and three:

- 1. £600 for each dwelling house subject to a maximum of £150,000.
- 3. £300.

Q33a. is the proposed increase for CLUDS appropriate?

5.7.3 The table below sets out respondents' views on whether the proposed fees for CLUDS are appropriate. The majority of respondents did not answer the question but, of those who did, a substantial majority (88%) agreed that the proposed fees were appropriate. While the majority of civil society and policy and planning respondents answering the question were supportive of the proposals, business respondents did not agree with the proposed fees and development industry respondents were evenly split.

Are the proposed fees for CLUDS appropriate?			
	Yes	No	Not Answered
Business		2	27
Civil Society	7		21
Development Industry	1	1	10
Policy and Planning	22	1	17
Total	30	4	75
% of Respondents Answering Question	88	12	

5.7.4 There were 8 comments made in relation to proposed fees for CLUDS:

- The proposed fee level for an application for a certificate of lawfulness of existing use or development is considered appropriate in circumstances where the development was lawful when undertaken. However, it is suggested that a separate and higher fee, in accordance with those applicable for retrospective applications should apply in circumstances

where the use or development has become lawful by virtue of time limits set by Section 124 (policy and planning).

- One policy and planning respondent questioned whether fees should be increased to 150% of the normal fee to reflect the retrospective nature of such applications, but conversely maybe fees should be reduced to act as an incentive to do things properly.
- The CLUD fee per dwelling house does not take account of the reduction in cost associated with the unit number thresholds in the planning permission application fee structure (policy and planning).
- A business respondent stated that a Certificate of Lawful Use is distinct from obtaining planning permission in that it allows the applicant to obtain a decision from the planning authority as to whether a proposed use or works require planning permission. This implies that the information and work required to process such an application are not as rigorous as a full application for planning permission. That being the case fee levels which are equivalent to full planning permission are not appropriate for CLUD applications

Advertisement

5.7.5 The current fee for advertisement is £202. The consultation proposes an increase to £300.

Q33b. Is the proposed fee for advertisement appropriate?

5.7.6 The table below shows whether respondents think the proposed fees for advertisement are appropriate. The majority of respondents did not answer the question but of those who did, there was substantial (88%) support for the proposed fees from business, civil society and policy and planning. There was no support from the development industry group for the proposal.

Are the proposed fees for advertisement appropriate?			
	Yes	No	Not Answered
Business	2		27
Civil Society	5	2	21
Development Industry		1	11
Policy and Planning	22	1	17
Total	29	4	76
% of Respondents Answering Question	88	12	

5.7.7 There were 9 comments received on the proposed advertisements fee with the majority of these comments supporting the proposal. Other comments from policy and planning include:

- There should be a greater fee for advertisements on shopfronts or for illuminated signage to reflect the greater level of work and detail required to ensure development is appropriate to its context and to reflect consultation with the roads authority and other bodies.
- There should be a lower fee if the proposals comprise a single advertisement or higher rates where there are 2 or more advertisements.

5.7.8 There were a few comments received which appear to have misinterpreted the question. The question relates to applications for advertisements not advertising applications. The comments from civil society and policy and planning include:

- Adverts should be online or by email or social media with no costs.
- The paper costs of advertising can be prohibitive for larger rural authorities and authorities with many listed buildings. New methods of advertising should be considered, including the use of digital planning approaches.

Prior Approval

5.7.9 There are currently two fees for prior approval covering “telecoms” and “all others” as follows:

- Telecoms: £300.
- All others: £78.

5.7.10 It is proposed that these fees are increased as follows:

- Telecoms: £500.
- All others: £100.

Q33c. Is the proposed fee for prior approval appropriate?

5.7.11 The table below shows whether respondents think the proposed fees for prior approval are appropriate. The majority of respondents did not answer the question but, of those who did, there was substantial support (83%) for the proposed fees from business, civil society and policy and planning. There was no support from the development industry group for the proposal.

Are the proposed fees for prior approval appropriate?			
	Yes	No	Not Answered
Business	3		26
Civil Society	5	2	21
Development Industry		1	11
Policy and Planning	21	3	16
Total	29	6	74
% of Respondents Answering Question	83	17	

5.7.12 There were 11 comments on the proposed fee for prior approval. Several respondents supported the proposed increase with other comments including:

- A few policy and planning respondents suggested prior approval should be phased out as a development either needs planning permission or not. The question was also raised if agricultural buildings will still be exempt from a prior approval fee. Please also see the comments on DPA under Category 8 (agricultural buildings) in Section 5.
- Prior Approval should be increased to £200 (civil society).
- A few policy and planning respondents raised a number of points around forestry tracks:
 - Will forestry tracks (private ways) still be exempt from a prior approval fee?
 - Payment of fees should be applicable to all prior notification submissions to cover administration costs to local authorities. The requirement for fees for forestry tracks (and electricity works) should be addressed by amendment of the GPDO.
 - 'Hill track' prior notification/approvals can have potentially significant impacts in sensitive areas that require careful consideration of their siting, design and construction. Where prior approval is required, a higher fee should be charged reflecting the resources required and the stated intention of moving towards full-cost recovery.

Alternative Schemes

5.7.13 The current fee for alternative schemes is the highest applicable fee for options and a sum equal to half of the cumulative remaining options. No change is proposed by the consultation.

Q33d. Should the fee for alternative schemes remain as it is?

5.7.14 The table below shows whether respondents think the fees for alternative schemes should remain the same. The majority of respondents did not answer the question but of those who did, there was substantial support (84%) for the proposed fees from business, civil society and policy and planning. Development industry respondents were evenly split on the proposal.

Should the fees for alternative schemes remain the same?			
	Yes	No	Not Answered
Business	2		27
Civil Society	5	2	21
Development Industry	1	1	10
Policy and Planning	18	2	20
Total	26	5	78
% of Respondents Answering Question	84	16	

5.7.15 There were 7 comments regarding fees for alternative schemes. A few respondents considered the fees proportionate. Other comments included:

- Fees should increase to £400 (civil society).
- This option is very rarely employed (policy and planning).
- There is little justification for a reduced fee for alternative schemes on the same site. A proposal for a wind farm on an area of land will give rise to different issues than a proposal for a housing development on the same area of land. The submission of alternative schemes for different development on the same site does not reduce costs incurred by the planning authority. An alternative scheme still requires a full and detailed assessment (a few policy and planning).

Section 42 Applications

5.7.16 The consultation proposes an increase in the fee for Section 42 applications from £202 to £300. There was no closed question for Section 42 applications and only 3 comments were received. One business respondent felt the fee proposal was acceptable with the other policy and planning comments shown below:

- Section 42 applications are increasingly being used as a means of renewing planning permissions that are due to expire. This is likely to further increase given the Planning Act will reintroduce the requirement for timescales to be attached by planning condition. The approval of a

Section 42 application results in the grant of a new and separate permission. Circular 3/2013 is clear that in determining a Section 42 application, consideration can be given to the overall effect of granting a new permission. The procedure places less burden on an applicant but similar duties and responsibilities on the planning authority as would be found with an application for planning permission. A planning authority is expected to undertake publicity and consultation on the application, including neighbour notification and advertisement and it can be required to revisit the overall effect of granting a new planning permission. The costs incurred by a planning authority in determining a Section 42 application can be similar to those that would be incurred in determining a planning application for the development, and the benefit to the applicant is the same. The current fee regulations are clear that an application for 'renewal' should pay the full fee calculated in accordance with the prevailing charges at the time the application is submitted and the same approach should be adopted for Section 42 applications that achieve the same purpose. The flat rate fee is not appropriate.

- The provisions for Section 42 applications should be tightened up and it should be made clear that they are not to be used to amend the approved development.

5.7.17 At Q34 the consultation asked if there were any fees which had not been considered. Many respondents (mainly policy and planning) highlighted that the fee for a Section 42 application was not appropriate as it did not reflect the amount of work processing an application, particularly major developments.

5.8 Q34. Any Other Fees

5.8.1 The consultation asked if there were any other fees which had not been considered. There were 22 comments across a range of suggestions. Those suggestions made by more than one respondent are highlighted below:

- There is currently no fee for the modification or discharge of obligations which can be complex and time consuming. Fees should also be able to be introduced for the monitoring of planning obligations which is a potentially time consuming but important task (a few policy and planning).
- A civil society respondent felt there should be fees for applications arising as a consequence of new legislation but a business felt that there should not be a charge for planning applications required by changes in legislation e.g. those required to address climate change and energy efficiency improvements or to comply with the Equality Act 2010. A policy and planning respondent also noted that the proposed increase in fees is not to fund the 49 new and unfunded duties introduced through the new Planning Act.
- A few respondents (civil society and policy and planning) felt there was a need for fees for repeat applications where developers submit similar proposals time and time again despite refusal. This can put undue

burden on resources and it was suggested that there should be significant additional fees, for each additional application, with the fee increasing each time.

6. Discretionary Charging

6.1 Introduction

6.1.1 The Planning (Scotland) Act 2019 contained provisions which enable the extension of the scope of services planning authorities can charge for in carrying out their functions.

6.2 Discretionary Charging

6.2.1 The consultation sets out some examples of services for which authorities may wish to charge e.g. pre-application discussions. Government does not intend to make it compulsory for authorities to charge for delivering these services but leave it up to their discretion.

Q35. Do you think that the range of services which an authority can charge for should be set out?

6.2.2 The consultation proposed that it should be left to the discretion of authorities to charge for delivering these services. The table below shows respondents views on whether the range of services which an authority is allowed to charge for should be set out. There was considerable support (87%) for setting out the range of services from all groups.

Do you think we should set out the range of services which an authority is allowed to charge for?			
	Yes	No	Not Answered
Business	15	1	13
Civil Society	12	3	13
Development Industry	7	1	4
Policy and Planning	25	4	11
Total	59	9	41
% of Respondents Answering Question	87	13	

6.2.3 There were 67 comments across a range of themes which are described below in descending order of comments received. Some responses fall across more than one theme, for example, a few respondents would like the range of services set out nationally for transparency and consistency but would like local discretion in the actual fees charged. There are also contradictory suggestions within groups, including policy and planning with some respondents looking for transparency and consistency and others seeking local discretion over which services should be subject to a charge.

Transparency and Clarity

- **Business:** several respondents would like to see the services set out to ensure transparency and provide certainty but would like to see a strict list of which discretionary charges may be considered.
- **Civil Society:** several respondents suggested services should be set out to ensure transparency in the cost of access to services. It would help to clarify, for planning authorities and service users, which services are subject to a charge.
- **Development Industry:** several respondents would like uncertainty removed over the lawfulness of charges being used already and would like to see clarity in how fees correlate with planning effort incurred.
- **Policy and Planning:** many respondents supported clarity for applicants to reduce uncertainty and stakeholders to be given confidence through improved transparency in the Planning System. Policy and planning respondents would welcome clear advice and guidance from Government.

Consistency

- **Business:** several respondents would like an end to the significant disparity of charges and services between authorities and would like to see consistency with a national standard for charging for services.
- **Civil Society:** several respondents would like to see standardisation across local authorities to avoid hidden costs. It might be of value to suggest the level of charges that may be exercised by authorities to avoid disparities.
- **Development Industry:** a respondent would like a consistent approach across authorities through identifying what services are chargeable.
- **Policy and Planning:** many respondents would like national consistency and an end to disparity in non-statutory discretionary charging. Policy and planning would also like to see the level of response that an applicant can expect to receive set nationally.

Local Authority Discretion

- **Civil Society:** a respondent felt it should be a matter for the planning authority and they should be answerable to their electorate.
- **Development Industry:** a respondent felt there should be an appropriate spectrum of charges which may vary between local authorities depending on the level of service available.

- **Policy and Planning:** several respondents felt there should be flexibility based on local circumstances and demand. It should be left to individual local authorities to determine which services are charged for and how much they cost.

Other Observations

- **Business and civil society:** a few respondents would recommend that charging for services should be regulated.
- **Development Industry:** a few respondents supported, in principle, the payment for discretionary services where it assisted the core planning process.
- **Policy and Planning:** a respondent highlighted that it is important to ensure that the list of services is kept under review.

6.3 Pre-application Discussions

6.3.1 Planning authorities are encouraged to enter into pre-application discussions with prospective applicants. These discussions can help to provide certainty to applicants regarding the information required to be submitted with their application and can help ensure applications are effectively and efficiently processed.

6.3.2 The consultation highlights that some authorities already charge for entering into pre-application discussions and others are investigating the potential of introducing this practice. A selection of existing authority fees was presented for comparison to show the wide range of fees currently charged.

Q36. How should the fees for pre-application discussions be set?

6.3.3 There were 69 comments on how the fees for pre-application discussions should be set across a range of themes which are described below with the themes presented in descending order of comments received.

Based on Level of Service & Nature of Development

- **Business:** several recommend that any fees charged for pre-application discussions are based on the service level provided and related to the scale of development, for example, a few businesses feel small scale home builders should continue to benefit from free or low-cost pre-application advice services. Fees should be set against specified service-level agreements and refunds should be given if these are not met.
- **Civil Society:** the fees should reflect the scale and complexity of the proposal and the number of consultees that are likely to be involved.
- **Development Industry:** any pre-application fee should correlate with the planning effort provided to the applicant. Suitable flexibility should be

provided to ensure that a flat rate is not simply applied to all types of applications and scales of development. For a few, using pre-application services should be optional if a fee is to be charged.

- Policy and Planning: for many respondents, the fee should reflect the level of service provided. The fees should be commensurate with the scale of the development, if a site visit is required, the number of consultees to consult and the number of meetings required.

Discretion of Local Authority

- Civil Society: a few believe it should be up to the discretion of the individual planning authority. One respondent raised concern about setting a fee without a related standardisation of what is required in pre-application discussions which appears to interfere with the autonomy of individual planning authorities.
- Policy and Planning: many respondents think fees should be set at a local level as the amount of resources dedicated to pre-application discussions will vary depending on the authority's capacity. Planning authorities should be able to set charges that they consider appropriate to ensure that full cost recovery is achieved.

National Approach and Guidance on Fees

- Business: for a few businesses there should be a national rate. One respondent feels if pre-application discussion fees are to be set, they should be done so consistently across the country to ensure one authority is not disadvantaged against another in attracting applications. Standardisation could cover fees, feedback response times and quality of information.
- Civil Society: for one respondent, a minimum level of advice on specific issues should be provided free of charge with hourly fees beyond this. For a few other respondents, charges should be uniform across the country.
- Development Industry: a few respondents would like a reasonable rate to be set nationally, with a maximum fee set down by the Scottish Government.
- Policy and Planning: for several organisations, a national approach and level of service expected should be set in order to create consistency across authorities. Advice regarding a maximum reasonable limit for each category would be beneficial for some respondents who would also like local discretion on the actual fee charge within this limit.

Included in/ Deducted from Planning Fee

- **Business and civil society:** several businesses believe if a pre-application fee is introduced, the cost for the service should be deductible from the planning application fee, if and when submitted. For a few civil society respondents, deducting the fee from the full fee payable encourage pre-application discussions to take place.
- **Development Industry:** a few feel the fee should be deducted from any planning application fee. It was also suggested that it should be reimbursed if an application, which reflects the pre-application advice of Officers, is subsequently refused against recommendation or if the statutory timescales for determining planning applications are not met.
- **Policy and Planning:** for a few respondents, fees for pre-application discussions should be subtracted from the full fee payable on submission of an application, although clarity on the criteria that would apply in such cases would be welcomed.

Pre-application Fees Should Not be Encouraged

- **Business:** several business respondents state there is no evidence that charging for pre-application discussions and advice leads to quicker or better decisions. Furthermore, fees for these services may reduce dialogue between developers and planning authorities. Efforts for front-loading engagement should be encouraged by the Scottish Government as a means of improving the quality and efficiency of planning applications.
- **Civil Society:** it was suggested that there should be no charge for charities or small-scale applications by private homeowners. There is also the danger that a fee would detract from the engagement of public authorities with the public and stakeholders.
- **Development Industry:** one respondent does not agree that fees for pre-application discussions are necessary as they should be covered within the cost of a planning application and pre-applications should be encouraged to smooth the application process.
- **Policy and Planning:** one respondent highlighted customer feedback is very positive about their availability to engage with applicants at an early stage and they would not seek to adversely affect this.

Based on Percentage of Application Fee

- **Business, development industry, policy and planning:** the preference of several businesses would be to set a pre-application fee based on a percentage of the application fee with some suggesting the fee be capped at a certain threshold.

- Civil Society: for one respondent it should be based on planning fees.

Fixed or Flat Rate

- Business: one business respondent suggested a fee should be set on an hourly rate for pre-application discussions.
- Development Industry: for a few respondents, it should be a fixed fee based on the nature of the project and level of input required.
- Policy and Planning: for a few respondents, it should be a flat fee to make it simple to calculate, rather than an hourly rate.

Other observations

- Business: feedback from all the key consultees is important to provide clarity for applicants.
- Civil Society: fees presented as examples seem high.
- Development Industry: the relevant agencies should be involved in pre-application discussions to ensure proposed developments meet their current and future requirements.

Q36a. Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?

6.3.4 The consultation asked whether fees for pre-application discussions should be subtracted from the full fee payable on submission of an application. The table below shows that a majority (58%) of respondents believe pre-application discussion fees should be subtracted from the full fee payable on submission of an application. While business, civil society and development industry respondents supported the proposal, the majority of policy and planning respondents did not support the proposal.

Should the fees for pre-application discussions be subtracted from the full fee payable on submission of an application?			
	Yes	No	Not Answered
Business	17		13
Civil Society	11	7	10
Development Industry	9	1	2
Policy and Planning	3	21	16
Total	40	29	40
% of Respondents Answering Question	58	42	

6.3.5 There were 67 comments across a range of themes which are described below. The themes are presented in descending order of comments received.

Should Not be Subtracted as Pre-Application a Separate Exercise

- Civil Society: a few respondents do not agree with the principle as the fee is for the processing of the planning application and the pre-application discussions are a separate exercise.
- Policy and Planning: many respondents do not want the fee subtracted as the pre-applications are a distinct exercise incurring costs and resources. Furthermore, there is no guarantee that the applicant will take on board the advice provided, which could result in delays processing the application.

Saves Time at Application Stage and Improves Quality of Submission

- Business, Civil Society, Development Industry: many respondents across these three groups felt that consideration given by the authority to proposed developments during pre-application discussions is likely to reduce the amount of consideration required in the processing of the application. The provision and take-up of pre-application advice should result in better quality applications, thereby easing the work for planning officers and consultees.

Will Encourage Engagement

- Business and policy and planning: for several business respondents, allowing fees for pre-application discussion to be subtracted from the full fee payable on submission of the application will encourage developers to engage in the pre-application process. A policy and planning respondent also felt it would provide an incentive to engage in pre-application discussions.
- Civil Society: for one respondent pre-application discussion should be part of the service that local authorities provide to encourage sustainable local development.
- Development Industry: for a few respondents, the subtraction of the fee would encourage applicants to engage with the pre-application advice service, which will ensure applicants are aware of the key issues and front-load applications with the required information.

Other observations

- Business: the pre-application process is a positive tool for both developers and planning authorities as it provides clarity at the outset on what is required from the applicant. The Scottish Government should set standards of service for the pre-application process including attendance of relevant personnel at meetings.

- Civil Society: The pre-application discussion should be deemed to be part of the whole process and not separated out and the cost of the application should be set to reflect all the costs of dealing with it
- Development Industry: as a performance incentive, fees could be reimbursed or reduced if timescales were not met. Acceptance would be subject to evidence that projects where a pre-application fee was charged simplified the subsequent planning effort.

6.4 Processing Agreements

6.4.1 Processing agreements can be an important tool in setting out the expectations of all parties regarding the processing timescales for determining an application. Processing agreements will rely on effective pre-application discussions and guidance on what information is required to support an application and when it should be submitted.

Q37. Do you think there should be an additional charge for entering a processing agreement to reflect the additional resources required to draft and agree the timescales to be included?

6.4.2 The consultation asked whether there should be an additional charge for entering into a processing agreement to reflect the additional resources required to draft and agree the timescales to be included. The table below sets out respondents' views on an additional charge for entering into a processing agreement. There was limited support for this proposal with 71% of respondents answering the question opposing an additional charge. The only group where there was more support for an additional charge was civil society.

Do you think that there should be an additional charge for entering into a processing agreement to reflect the additional resource required to draft and agree the timescales to be included?			
	Yes	No	Not Answered
Business	2	13	14
Civil Society	8	6	14
Development Industry	1	9	2
Policy and Planning	8	19	13
Total	19	47	43
% of Respondents Answering Question	29	71	

Q37a. Should we set the fee for that (processing agreements) or an upper limit allowing authorities the flexibility to set their fee within clear parameters?

6.4.3 The consultation asked whether the fee should be set for processing agreements or whether authorities should have flexibility to set their fee within clear parameters including an upper limit. There were 59 comments on whether the fee for processing agreements should be set or have an upper limit to allow flexibility. The themes are described below in descending order of comments received.

Fees May Discourage Use

- **Business and development industry:** several respondents from both business and development industry groups believe introducing an additional charge for entering into a processing agreement would potentially disincentivise their use.
- **Civil Society:** for one respondent processing agreements are a voluntary element of the processing of an application, as much for planning authorities' convenience as for applicants' and charging a fee may discourage their use and reduce efficiency.
- **Policy and Planning:** several see processing agreements as a tool that can benefit the handling of an application for both parties and charging for this could discourage the use of a helpful application management tool.

Set Fee

- **Business, civil society, policy and planning:** for several business respondents, if the Scottish Government were to adopt an additional charge for entering into a processing agreement, consistency across all authorities would be key and a flat rate should be set by Ministers. A few civil society and a few policy and planning respondents would like the fee to be set nationally. This would ensure consistency across authorities.

Local Authority Discretion

- **Civil Society:** a few respondents would let local authorities set their own fees as the fee should reflect their costs.
- **Policy and Planning:** for several respondents, authorities should have the discretion to decide whether to charge and the discretion to determine what that charge should be to reflect local circumstances.

Should be Covered by Existing Fees

- **Business, civil society:** several business respondents and a civil society respondent think that processing agreements should be covered by the fee payable upon submission of a planning application. Hence, it should be included within the procedure leading up to the submission of a planning application.
- **Development Industry:** one respondent suggested that authorities could offer an applicant a planning application fee tailored to their specific project and they could use the processing agreement negotiations to more accurately calculate the timescales and a customised planning fee for their project. This supports the idea of an enhanced project management service, which is considered under Q43.
- **Policy and Planning:** a few respondents consider that project management and programming of an application are an integral part of the process and should therefore not levy an additional charge.

Other observations

- **Business:** for a few respondents, if a local planning authority does not comply with the requirements of the Agreement, there should be a mechanism for the fee to be repaid to the developer.
- **Civil Society:** one respondent would not like to see a fee set and feels planning is becoming a revenue raising service for the Council rather than a service to the community.
- **Development Industry:** a few respondents believe if a charge is introduced it should be automatically and fully refundable if, for any reason, the decision time first agreed requires to be extended.
- **Policy and Planning:** several respondents consider that the introduction of a fee would be counterproductive and unreasonable. Key agency input during the drafting of processing agreements would assist in their resource allocation.

6.5 Non-material Variations

6.5.1 Applications for planning permission can be varied after submission with the agreement of the planning authority. This includes planning permission in principle.

Q38. Where a non-material variation is required, should an authority be able to charge for each change which is made to per request?

6.5.2 The consultation asked where a non-material variation is required, should an authority be able to charge for each change which is made or per request. The table below sets out respondents' views. None of the options attracted a majority view, but charging 'per request' received the most support from 47%

of respondents answering the question. There was limited (15%) support for a charge on a 'per change' basis.

- 6.5.3 If the charging options (per change and per request) are combined, there is general support (62%) for the introduction of a non-material variation fee. No charge was favoured by 38% of respondents.

Where a non-material variation is required should an authority be able to charge for each change which is made? Or per request?				
	No charge	Per change	Per request	Not Answered
Business	13	1	5	11
Civil Society	3	6	7	12
Development Industry	8		3	1
Policy and Planning	3	4	19	14
Total	27	11	34	37
% of Respondents Answering Question	38	15	47	

Q38a. Should we set the fee for that (non-material variations) or an upper limit allowing authorities the flexibility to set their fee within clear parameters?

- 6.5.4 There were 59 comments on whether the fee for non-material variations should be set or have an upper limit to allow flexibility. The themes are described below in descending order of the number of comments received:

Per Request

- **Business:** several respondents stated that if charges are to be introduced for non-material variations, they should be per request. The fee should be kept to a minimum and linked to a service level agreement. A small fee per request was suggested, such as Section 96A amendments in England (i.e. £25 for householder, £195 for others).
- **Civil Society:** for a few respondents, a per request charge would make sense, so that developers are encouraged to group small requests together.
- **Development Industry:** it is suggested that a Planning Authority should be able to charge a nominal sum per request, however the first request should be free. Any changes thereafter should merit a flat fee of £50 per request.
- **Policy and Planning:** several respondents consider that on balance the fee should be per request rather than per change.

No Charge

- **Business:** the majority of businesses responding to the question feel non-material variations should not be charged for by definition. These variations are generally simple, non-contentious changes being clarified for sound reasons and they should not be brought into the charging regime.
- **Development Industry:** for a few respondents, no charge should be payable for non-material variations on the basis they are non-material and should be dealt with quickly and efficiently.
- **Policy and Planning:** one respondent would like there to be no charge for non-material variations.

Set Fee

- **Business:** a few respondents would like a flat rate set by Scottish Ministers.
- **Civil Society:** for a few, regulations should set this fee, with clear guidelines for authorities.
- **Development Industry:** for a few respondents there should be a nominal flat fee.
- **Policy and Planning:** several respondents believe regulations should set the fee to create consistency.

Flexibility Required

- **Civil Society and policy and planning:** a few civil society respondents and several policy and planning respondents consider authorities should be given the flexibility to set their own fees to reflect local circumstances.

Other observations

- **Business:** a concern was expressed at the removal of the free second application submission.
- **Civil Society:** for one respondent a charge per change will encourage the applicant to get it right first time.
- **Policy and Planning:** several respondents consider an upper limit should be identified with authorities allowed to set their own fee within that. Each change made should be chargeable to incentivise applicants to, as far as possible, accurately prepare proposals rather than retrospectively make changes at a later stage.

6.6 Monitoring Conditions

6.6.1 The use of conditions can improve the effectiveness of managing development and enhance confidence in the planning system. In some cases, the terms of the condition require monitoring throughout the construction phase or ongoing use of the development. Where this is the case it has been suggested that authorities should be able to levy a charge for undertaking this monitoring.

Q39. Should authorities be able to charge for carrying out monitoring of conditions?

6.6.2 The consultation asked if authorities should be able to charge for carrying out the monitoring of conditions. The table below sets out respondents' views with the majority (64%) supporting the ability of authorities to charge for carrying out the monitoring of conditions. While a majority of civil society and policy and planning respondents who answered the question supported the proposal, the majority of business and development industry respondents opposed the proposal.

Should authorities be able to charge for carrying out the monitoring of conditions?			
	Yes	No	Not Answered
Business	4	12	13
Civil Society	14	1	13
Development Industry	1	7	4
Policy and Planning	24	4	12
Total	43	24	42
% of Respondents Answering Question	64	36	

Q39a. Should a fee for monitoring be limited to certain types of monitoring requirements?

6.6.3 The consultation asked if a fee for monitoring should be limited to certain types of monitoring requirements. The table below sets out respondents' views with a slight majority (53%) supporting the fee being limited to certain types of monitoring requirements. Of those answering the question, a larger number of respondents in the business, civil society and development industry groups opposed the fee being limited to certain types of monitoring. The overall support for the proposal was driven by the number of respondents from policy and planning.

Should a fee for monitoring be limited to certain types of monitoring requirements?			
	Yes	No	Not Answered
Business	5	7	17
Civil Society	7	8	13
Development Industry	1	5	6
Policy and Planning	18	8	14
Total	31	28	50
% of Respondents Answering Question	53	47	

Q39b. What should this be limited to?

6.6.4 There were 49 comments on what the fee for monitoring of conditions should be limited to. The themes are described below in descending order of comments received.

Complex Developments/Issues

- Business: one respondent considers this should be limited to significant aspects and not technical breaches.
- Civil Society: for a few respondents it should be limited to larger developments and include fees for monitoring any potentially significant environmental impacts and also any restoration or environmental mitigation/enhancement work that is carried out over the long term.
- Policy and Planning: many consider that there is a case for charging for certain types of monitoring, particularly major developments, EIA, minerals, energy-related and large-scale developments.

External Monitoring

- Business: several respondents note that it is not uncommon for local authorities to charge for monitoring mineral (non-coal) extraction sites. Monitoring is usually contracted out by local authorities and concern has been raised that consultants are undertaking monitoring or requesting monitoring data that is outwith planning controls. It is suggested that it be clarified that monitoring undertaken in accordance with authorisations/permits that fall within the statutory control of other regulatory authorities cannot be charged for by planning authorities.
- Civil Society: for one respondent, monitoring should not be met by public funds but should be undertaken independently.

- **Development Industry:** one respondent notes that in instances where aspects of a development require to be monitored (e.g. tree protection), costs are incurred appointing an arboriculturist to oversee works on-site. The scope of this is agreed with the Council who receive a report at the end confirming compliance. The professional conduct and associated accreditations of those involved mean that it is in the developer's interest to ensure condition compliance.
- **Policy and Planning:** a few respondents note that there is a process in place whereby Planning Monitoring Officers are employed at the expense of the developer to monitor development on site through a Section 75 agreement. This has been confined to windfarms and mineral extraction to date.

Other observations

- **Business:** for one respondent a nominal fee could be acceptable in some circumstances if this leads to an improvement in monitoring standards, whereas several others do not feel it is appropriate for Planning Authorities to charge for carrying out the monitoring of conditions.
- **Civil Society:** a few respondents suggested there should be no limit as this may hinder flexibility.
- **Development Industry:** for one respondent, the use of unnecessary monitoring conditions should be discouraged. Where they are absolutely necessary, the planning authority – or other monitoring party – should undertake this work as part of their core function.
- **Policy and Planning:** a few respondents felt the fee needs to reflect the particular application and the requirement for monitoring so a limit may not be appropriate. Several respondents highlight the importance of planning authorities being properly resourced to monitor conditions and it is noted that it would be helpful for the Scottish Government to provide guidance on the types of circumstances where this approach would be applicable, and the manner in which it should operate.

Q39c. How should the fee be set?

6.6.5 There were 47 comments on how the fee for the monitoring of conditions should be set. The themes are described below in descending order of comments received.

National Flat Rate or Scale

- **Business:** several respondents consider, in the interests of transparency and to ensure there is a level playing field for industry, the fee should be set at a national level.

- Civil Society: a few respondents consider it appropriate to make the fee proportional to the size of the development or the planned number of visits.
- Policy and Planning: several respondents consider the fees should be set on a sliding scale depending on the nature and complexity of the planning application up to a maximum fee (from major application down to single house developments).

Full cost recovery

- Civil Society: several civil society, several policy and planning a development industry respondents consider the fee should reflect the authority's actual monitoring costs. If authorities need to incur monitoring fees, then these should be recoverable.

No Fee

- Business: several respondents consider there should be no additional fee for monitoring because, if this is required, the local planning authority is able to secure monitoring costs through appropriate Planning Agreements.
- Civil Society: one respondent considers there should be no fee for charities.
- Policy and Planning: one respondent notes that it is the prerogative of the planning authority to add conditions so it would be holding the developer to ransom if they then charged a fee to monitor these conditions. The resourcing of monitoring planning conditions should be rolled into the resourcing of planning enforcement.

6.7 Discharge of Conditions

6.7.1 It has been suggested that requests to discharge conditions may not receive adequate resource and priority within authorities to ensure these are turned around within reasonable timescales. In England, there are fees associated with the discharge of conditions attached to planning permissions. This is based on £85 per request and is refundable if the planning authority has not responded within 12 weeks.

Q40. Do you think there should be a fee payable for the discharge of conditions?

6.7.2 The consultation asked whether a fee should be payable for the discharge of conditions. The table below shows that a majority (55%) of respondents felt a fee should be payable for the discharge of conditions, primarily from the civil society and policy and planning groups. The introduction of a fee for the discharge of conditions was not supported by the business and development industry groups.

Do you think there should be a fee payable for the discharge of conditions?			
	Yes	No	Not Answered
Business	5	16	9
Civil Society	12	3	13
Development Industry	2	8	2
Policy and Planning	22	6	12
Total	41	33	35
% of Respondents Answering Question	55	45	

6.7.3 There were 69 comments on whether a fee should be payable for the discharge of conditions across the following themes. The themes are presented in descending order of the number of comments received:

No Additional Fee

- Business: many respondents consider that the discharge of conditions forms part of the planning application determination process, for which fees are already considerable.
- Civil Society: a few respondents believe the cost of planning should encompass all aspects of the planning process and consider if there was an additional fee there would, potentially, be a perverse incentive for planning authorities to impose conditions that required discharge.
- Development Industry and Policy and Planning: several respondents from both development industry and policy and planning groups feel planning application fees are designed to cover all of the matters which a planning authority will need to consider in order to make its decision.

Similar to English System

- Business: several respondents believe it should mirror the English system in terms of cost per request (this can be multiple conditions in one application) and a refund if not responded to in 12 weeks.
- Development Industry: several respondents consider any fee which is introduced should be a token administrative charge only, and charged on a per-request basis, not per-condition.
- Policy and Planning: several respondents feel the English system would be appropriate.

Cost Recovery Fee

- Civil Society: a few respondents feel such fees should be used by an authority to facilitate the discharge of conditions and reflect the actual costs of provision.
- Development Industry: one respondent believes that the fees charged by the planning authorities should correlate with their effort relating to that project.
- Policy and Planning: several consider that the satisfaction and discharge of planning conditions can often, particularly with complex cases, require considerable time and effort and believe the application fee currently does not cover this cost.

Other observations

- Business: any new fee should also result in a significant improvement in service.
- Civil Society: a fee may be appropriate, though it should avoid a perverse incentive to set conditions to potentially generate income. However, charging for monitoring or discharge may incentivise applicants to resolve issues earlier.
- Development Industry: any new fee should result in a significant improvement in service and should be refundable if the authority has not responded within the relevant timeframe.
- Policy and Planning: it is important to encourage as much of the detail as possible to be included in the initial submission. The introduction of a fee per condition would encourage this.

6.8 Planning Agreements

6.8.1 Planning agreements have a limited, but useful role to play in planning, they can however, involve lengthy negotiations and add significantly to timescales. Processing agreements or pre-application discussions can be used to establish what will be expected from any agreement.

Q41. Do you think planning authorities should be able to charge for the drafting of planning agreements?

6.8.2 The consultation asked whether planning authorities should be able to charge for the drafting of planning agreements. The table below sets out respondents views and shows that the majority (59%) of respondents supported the ability of authorities to charge for the drafting of planning agreements. Support for the proposal was mainly from the civil society and policy and planning groups with business and development industry respondents opposing charging for the drafting of planning agreements.

Do you think that Planning Authorities should be able to charge for the drafting of planning agreements?			
	Yes	No	Not Answered
Business	2	10	17
Civil Society	11	4	13
Development Industry	3	5	4
Policy and Planning	20	6	14
Total	36	25	48
% of Respondents Answering Question	59	41	

6.8.3 There were 60 comments made about charging for planning agreements across a range of themes. The themes are presented in descending order of the number of comments received:

Cost Recovery Fee

- Civil Society and policy and planning: many respondents in the policy and planning group and several respondents from the civil society group support charging for the drafting of planning agreements in recognition of the need to resource this potentially complex area of work.

Should be Covered by Existing Fees

- Business: several respondents understand that the administrative costs of preparing a Section 75 agreement are intended to be covered by the planning application fee and consider this would be adequately addressed by the other proposed increases in fees.
- Civil Society: for a few respondents, the process is an all-embracing entity and any planning agreement fees required should be embodied in the overall fee structure.
- Development Industry: several respondents would uphold the principal, previously clarified by the Chief Planner, that the administrative costs of preparing a Section 75 agreement are intended to be covered by the planning application fee.
- Policy and Planning: a few respondents consider the increase in fees for applications is expected to cover the time involved in preparing agreements.

Other observations

- Business: There should only be a fee paid for drafting planning agreements if planning authorities could meet the required service level

agreements. A few respondents would urge the Scottish Government to remove any provision for making a separate charge for planning agreements so that local authorities are incentivised to use whichever method is more appropriate (conditions or Section 75 Agreements) rather than what is likely to generate additional revenue.

- Civil Society: a few respondents believe the fee would be appropriate for larger, complicated sites.
- Development Industry: it is noted that some authorities already charge for the drafting of legal agreements. It is suggested that the system would benefit from using uniform legal agreements as a template.
- Policy and Planning: several respondents consider that it is appropriate that authorities legal costs for negotiating planning agreements falls outwith the scope of the planning fee payable by applicants to meet the cost of the planning service

Q41b. If so, how should this be calculated?

6.8.4 The consultation asked how the fee should be set if authorities can charge for the drafting of planning agreements. There were 29 comments on how any charge should be calculated and these are set out below by theme. The themes are described in descending order of comments received.

Cost Recovery Basis

- Civil Society: several respondents consider planning authorities should record officer time spent on planning agreements and charge accordingly.
- Policy and Planning: many respondents consider they should be able to charge applicants for the full legal costs in drafting legal agreements. It is noted that defining specific fee levels may not provide enough income to cover the additional costs associated with providing the necessary expertise when drafting more complex agreements.

National Fixed Fee

- Civil Society: one respondent suggests the fee could be 10% of the fee payable upon submission of a planning application.
- Development Industry: one respondent suggests there should be a limit to the charge of £5k.
- Policy and Planning: a few respondents consider any fee should be set by the Scottish Government. Views offered include a minimum flat fee of £1k to be increased per actual work carried out if the flat fee is exceeded and it should be calculated as a percentage of the application fee.

6.9 Masterplan Consent Area

6.9.1 Planning authorities can use Masterplan Consent Areas (MCA) as part of a proactive, place-making approach to planning and consenting. In order to put a MCA scheme in place, the planning authority will analyse the site, consult, prepare a masterplan, and set out the type of development consented along with any necessary conditions.

6.9.2 Development that is in line with the MCA scheme could be brought forward without the need for a planning application. An authority would effectively grant up-front consent for planned development, so there is benefit to potential investors in terms of adding certainty and removing much of the risk. In order to allow planning authorities to recoup some of the cost of establishing MCA schemes there is a proposal to bring in provisions for discretionary charging.

Q42. Should an authority be able to charge for development within a MCA to recoup the costs involved in setting one up?

6.9.3 The consultation asked whether an authority should be able to charge for development within a MCA (building or changes of use) in order to recoup the costs involved in setting one up. The majority of respondents did not answer this question, but of those who did, a substantial majority (87%) supported the proposal to be able to recoup the costs involved in setting up a MCA. There was support from all groups.

Should an authority be able to charge for development within an MCA (building, or changes of use) in order to recoup the costs involved in setting one up?			
	Yes	No	Not Answered
Business	1		28
Civil Society	13	2	13
Development Industry	3	1	8
Policy and Planning	25	3	12
Total	42	6	61
% of Respondents Answering Question	87	13	

6.9.4 There were 47 comments on whether or not planning authorities should be able to charge for development within an MCA in order to recoup set-up costs. The themes are described below in descending order of the number of comments received

Cost Recovery Acceptable

- **Business:** one respondent considers fees for development within MCAs would be anticipated if this process were to replace the traditional consenting model for renewables.
- **Civil Society:** for several respondents this sounds a good idea and there should be a charge as it will help both the community and the developer.
- **Policy and Planning:** many respondents believe there should be scope for recovery of costs with regard to MCAs with some suggestions that the fees should be left to the discretion of the planning authority to reflect their costs at a local level.

Would Undermine Purpose

- **Business and Development Industry:** one business and a few development industry respondents believe a fee of this nature would risk undermining the planning authorities' determination to stimulate development in these areas.
- **Civil Society:** a few respondents consider charging a fee for development within a MCA would seem to undermine part of the purpose of a MCA which is to make development straightforward.
- **Policy and Planning:** one respondent is opposed to the fee and considers that MCAs provide a valuable tool to promote development and economic growth in targeted areas where development might not otherwise happen.

Other observations

- **Business and Development Industry:** for a few respondents from both business and development industry groups, any fee should be less than would be payable under the normal planning application route, given the removal of the administrative burden is one of the principles behind the creation of the MCA scheme. The fee should not be designed to fully recoup the planning authority's costs.
- **Civil Society:** a few respondents have some concern over the way that MCAs will operate and whether full scrutiny of the issues will be facilitated in this process.
- **Policy and Planning:** several respondents believe it is not clear how such a fee would be calculated and how it would be charged appropriately to developers.

Q42a. Should the Fee or an Upper Limit be Set in the Regulations

- 6.9.5 The consultation asked whether the Scottish Government should set a fee or an upper limit in the regulations. The majority of respondents did not answer this question, but of those who did, a majority (58%) supported the setting of a fee or upper limit in the regulations. Business and civil society respondents answering the question tended to support the proposal with development industry and policy and planning respondents being evenly split on whether the fee or an upper limit should be set in regulations.

Should we set the fee or an upper limit in the regulations?			
	Yes	No	Not Answered
Business	1		28
Civil Society	7	3	18
Development Industry	2	1	9
Policy and Planning	9	10	21
Total	19	14	76
% of Respondents Answering Question	58	42	

6.10 Enhanced Project Managed Applications

- 6.10.1 Scottish Ministers are interested in improving the way that major developments are processed by authorities, from conception through to delivery. This would involve taking on a more corporate project management role. It is proposed that there could be a new mechanism and fee category for applications which will be subject to an Enhanced Project Managed Service. The preferred approach is for the applicant and the authority to come to an agreement on the time and resources required to determine the application, including the management and co-ordination of other consents and licences.

Q43. Should authorities be able to offer and charge for an enhanced project management service?

- 6.10.2 The consultation asked if authorities should have the ability to offer and charge for an enhanced project management service. The table below shows that a slight majority (52%) of respondents opposed the proposal. All groups were relatively evenly split on the issue except the development industry group which clearly opposed the proposal.

Should the ability to offer and charge for an enhanced project managed service be introduced?			
	Yes	No	Not Answered
Business	5	7	17
Civil Society	8	5	15
Development Industry	1	6	5
Policy and Planning	15	13	12
Total	29	31	49
% of Respondents Answering Question	48	52	

Q43a. How should this process work?

6.10.3 The consultation sought views on how the process for offering and charging for an enhanced project management service should work. There were 60 comments across a range of themes which are described below in descending order of the number of comments.

Creation of a Two-tier System

- **Business:** several respondents believe a two-tier system should not be necessary if the service is adequate. Such a system will undoubtedly lead to poorer service delivery than developers are already experiencing.
- **Civil Society:** several respondents stated that it seems wrong in principle that an applicant should be able to buy priority in processing of applications and consider this to be to the detriment of meaningful public involvement and proper scrutiny.
- **Development Industry:** for a few respondents, the focus must be for the planning service to deliver quality decisions within the statutory timescales for all applications and not just the few who choose to pay additional fees.
- **Policy and Planning:** several respondents feel this process has the potential to create a two-tier planning system whereby those that are able, can pay to have a different service from other applicants.

Other observations

- **Business:** a few businesses believe this will enable Scottish Ministers to achieve their target of improving planning to an efficient and effective level. Others would only agree if there was genuinely exceptional service provided as a result.

- Civil Society: one respondent considers this would make the process much clearer and allow communities to get involved.
- Development Industry: a few respondents would support a fee if it resulted in demonstrably enhanced service, but the concern would be that this enhanced service would be limited by the ability and resources of statutory consultees to match the level of enhanced service.
- Policy and Planning: several respondents feel that it is a discretionary service and it should be a matter for the discretion of the planning authority to set fees if it chooses to provide the service.

Q43c. What, if anything, should happen in the event of failure to meet timescales?

6.10.4 There were 34 comments on what should happen in the event of a failure to meet the timescales agreed. The themes are described below in descending order of comments received

Penalty Clauses/Refund

- Business: several respondents consider there should be a refund/partial refund to the applicant as he/she will have paid for a service that has not been delivered.
- Civil Society: several respondents believe that unless there are mitigating circumstances penalty clauses are appropriate.
- Development Industry: several respondents consider that if timescales aren't met the full fee should be automatically refundable unless both parties agree to a new timescale.
- Policy and Planning: for a few respondents, it should also be a matter for the parties to any such arrangement to determine action and agree 'penalty clauses' in the event of failure to meet timescales. Others consider if there has been a demonstrated failure on the part of the local authority to deliver what was agreed at the outset, the difference between the enhanced fee and the standard fees should be refunded.

Other observations

- Business: one respondent supports the idea of developers being able to hold back a proportion of the planning application fee until service is delivered on time.
- Civil Society: it is suggested that nothing be done as timescales may be subject to delay from both parties.
- Development Industry: rather than penalties, incentives could potentially be included to meet statutory or otherwise agreed target timescales.

- Policy and Planning: it is suggested that the reasons will always be case specific, and it is counter-productive to try and come up with a national penalty system.

6.11 Self/Custom Build Registers

6.11.1 The Planning (Scotland) Act 2019 introduces a requirement for planning authorities to prepare, maintain and publish a list of people who have registered with the authority that they have an interest in acquiring land for self-build housing. The purpose of the list is to provide an evidence base of the level of demand for self-build housing. The consultation notes that councils in England are able to attach charges to the registers to reflect cost-recovery of managing and fulfilling the registers as well as local connection tests.

Q44. Should authorities be able to charge for adding or retaining people on the register of interested people?

6.11.2 The consultation sought views on whether planning authorities should be able to charge for adding or retaining people on the register of people interested in land for self-build housing. There was a slight majority (54%) of people in favour of authorities being able to charge, primarily from the policy and planning group. Business and civil society respondents answering the question were evenly split with the development industry opposed to the proposal.

Do you think charging for being added or retained on the register of interested people should be included in the list of services which Planning Authorities should be allowed to charge for?			
	Yes	No	Not Answered
Business	1	1	27
Civil Society	5	5	18
Development Industry		2	10
Policy and Planning	14	9	17
Total	20	17	72
% of Respondents Answering Question	54	46	

Q44a. Should there be a restriction on the amount that can be charged?

6.11.3 The consultation sought views on whether there should be a restriction on the amount that can be charged for being added or retained on the register. There was a majority (58%) of respondents in favour of there being a restriction on the amount that can be charged with support from all groups responding.

Should there be a restriction on the amount that can be charged?			
	Yes	No	Not Answered
Business			29
Civil Society	5	3	20
Development Industry	2		10
Policy and Planning	11	10	19
Total	18	13	78
% of Respondents Answering Question	58	42	

6.11.4 There were 29 comments on the fees that could be charged for being added to the register of people interested in acquiring land for self-build. The themes are described below in descending order of the number of comments.

Nominal Fee

- **Civil Society:** one respondent suggests there should be a small, flat fee (e.g. £100) which is redeemable when a planning application is submitted for a self-build development.
- **Policy and Planning:** several respondents consider there should be a nominal flat rate per request (e.g. £50) to cover admin costs and ensure that there is a genuine interest in being added to the register.

Other observations

- **Civil Society:** a few respondents consider there should be no fee charged as maintaining the register should be part of the statutory planning service and should not be onerous if set up appropriately. On the other hand, several respondents believe any fee charged should be controlled to avoid being a revenue generating activity.
- **Development Industry:** one respondent considers that applying charges to this category of development is likely to have the effect of constraining delivery in this sector, which plays a small but important role in the overall delivery of housing land within housing market areas.
- **Policy and Planning:** several respondents consider it should be left to the discretion of the planning authority to set the fee while others believe the cost of setting up and maintaining the register appears to be minimal and therefore charging a fee appears unreasonable.

6.12 Charging for Appeals

6.12.1 One of the options considered in the consultation is the potential for charging for appeals against planning application decisions. The Scottish Government believes it is important to ensure that the planning system is appropriately resourced. Scottish Ministers, through DPEA play a crucial role in determining

applications through appeals and the consultation proposed that this should be appropriately resourced through fee income.

6.12.2 If, following this consultation, fees for appeals are to proceed, further consultation will be undertaken on the detail of the fee levels and other fee arrangements. The consultation sought a range of views on charging for appeals.

Q45. Do you think, in principle, that fees should be charged for appeals to DPEA?

6.12.3 The table below sets out respondents' views on whether fees should be charged to DPEA. The majority (63%) felt that, in principle, fees should be charged for appeals to DPEA. While the majority of civil society and policy and planning respondents answering the question supported the proposal, the majority of business and development industry respondents were opposed to the proposal.

Do you think that, in principle, fees should be charged for appeals to DPEA?			
	Yes	No	Not Answered
Business	1	15	14
Civil Society	15	3	10
Development Industry	4	7	1
Policy and Planning	25	2	13
Total	45	27	37
% of Respondents Answering Question	63	37	

Q45a. Should we limit the circumstances in which a fee can be charged for lodging an appeal?

6.12.4 There were 62 comments on whether the circumstances should be limited in which a fee can be charged for lodging an appeal. Of these, 15 answered 'No' and 4 answered 'Yes'. The remainder responded according to the following themes which are shown in descending order of comments received.

Fee Would Hinder Impartiality

- **Business:** many respondents consider that the right of appeal is an essential element of checks and balances in a fair system and in ensuring access to justice, any fees which are charged for appeals must be proportionate. The costs of submitting an appeal are already great. If there were further significant fees, an applicant may be coerced into accepting unreasonable demands or conditions.

- Development Industry: several respondents do not support fees for planning appeals. It is crucial that the independent appeals system remains impartial and without cost to consider an application that has potentially been determined incorrectly.
- Policy and Planning: one respondent considers that there should not be a charge for appeal/review as people should have a free right of appeal.

Cost Recovery – Full or Admin Only

- Civil Society: several respondents note that appeals can result in considerable costs incurred by the DPEA, planning authorities and statutory agencies and wider stakeholders and, therefore, it seems reasonable that there is a mechanism to allow fees to be charged to help contribute towards costs.
- Policy and Planning: several respondents consider the principle of a charge to cover costs associated with the administration of the process would not be unreasonable.

Other observations

- Business: for a few respondents any potential fee structure must be directly related to achieving good standards of service in regard to timescales. In the interest of fairness, applications for a local review should not be omitted from fee arrangements.
- Civil Society: it is noted that the local community should have the right to appeal, not just the developer.
- Development Industry: it is suggested the fee rate should be based on the type of development and method of determination or that the planning authority should reimburse the DPEA for the cost of appeals that they lose.
- Policy and Planning: a few respondents consider there should be no limit on the circumstances and the fee system should be applied to all appeals.

Q45b. In what circumstances do you think a fee should be paid for lodging an appeal?

6.12.5 There were 43 comments on the circumstances in which a fee should be paid for lodging an appeal. The themes are described below in descending order of the number of comments.

All Appeals

- Civil Society: several respondents consider all appeals should be charged.

- Policy and Planning: many respondents consider the fee should apply in all circumstances.

No Fees

- Business: one respondent does not support the overarching principle of appeal fees.
- Development Industry: several respondents do not feel that there is any case where a fee should be paid for an appeal.

Other observations

- Business: possibly where an application is explicitly at odds with a development plan or if there was greater consistency and better decision-making, so appeals were only necessary in exceptional cases.
- Civil Society: where the application has changed extensively, or the original application was poorly presented.
- Development Industry: when a proposal is contrary to the development plan.
- Policy and Planning: if fees are not to be charged universally then they should be charged where a proposal does not accord with the development plan.

Q45c. Do you think that the fee should be refunded in the event of a successful appeal?

6.12.6 The consultation sought views on whether the fee should be refunded in the event of a successful appeal. The table below shows that the majority (69%) of respondents answering the question opposed the proposal of refunding the fee in the event of a successful appeal. Of those who answered the question, the majority of civil society and policy and planning respondents opposed the refunding of the fee while the majority of business and development industry respondents supported the proposal.

Do you think that the fee should be refunded in the event of a successful appeal?			
	Yes	No	Not Answered
Business	8	2	19
Civil Society	2	13	13
Development Industry	4		8
Policy and Planning	3	22	15
Total	17	37	55
% of Respondents Answering Question	31	69	

Q45d. If so, should this follow the same process as is currently set out for awarding costs?

6.12.7 The consultation asked if fees were refunded, should this follow the same process as is currently set out for awarding costs. There were 34 comments and of these, 5 answered 'Yes'⁸ and 2 answered 'No'⁹. The remainder responded according to the following themes

No - Costs Still Incurred

- **Civil Society:** a few respondents consider that fees should not be refunded. The fee is to pay for the appeal process, which is separate from the application.
- **Policy and Planning:** several respondents consider that regardless of whether the appeal is upheld or dismissed the same level of resource is required to handle and process that appeal and it would be counter-productive to reimburse fees.

Other observations

- **Business:** a few respondents suggest arrangements for award of costs should be reviewed with a view to making them less off-putting to those applicants whom they are designed to assist.
- **Development Industry:** a few respondents do not support the overarching principle of appeal fees. Other suggestions include fees should be refunded automatically in the event of a successful appeal without any further conjecture.

⁸ 3 business, 1 civil society, 1 development industry

⁹ 2 policy and planning

- **Policy and Planning:** An appellant can claim costs against a planning authority if it has acted unreasonably. If a planning authority was found to have acted unreasonably an appellant could presumably claim the appeal fee cost as part of any expenses claim.

Q45e. What categories of appeals should be considered for charging?

6.12.8 The consultation asked what categories of appeals should be considered for charging. There were 34 comments across the themes described below with

All Categories

- **Civil Society:** several respondents consider all categories of appeals should be charged as they all incur costs which should not be borne by the tax payer.
- **Development Industry:** one respondent suggests there should be a standard fee for local or major development.
- **Policy and Planning:** many respondents consider all categories of appeals should be charged, with a few suggesting the fee should be proportionate and could be related to a percentage of the original planning application fee.

Other observations

- **Business:** one respondent states they are not in support of the overarching principle of appeal fees.
- **Civil Society:** one respondent thinks there should be no charging, whereas another suggests fees should only be charged for poorly presented applications.
- **Development Industry:** a few respondents consider there should be no fee paid to lodge and appeal.
- **Policy and Planning:** one respondent opposes the introduction of a fee for appeals to the designation of listed buildings and scheduled monuments, another considers if the submission of a planning application fee was not required due to disability then no fee should be payable in the event of an appeal. It is also suggested that major applications, enforcement notices and planning obligation appeals should be considered for charging.

Q45f. Do you think that a fee scale should be provided in relation to appeals to Local Review Bodies (LRB) and, if so, should the arrangements differ from appeals to DPEA?

6.12.9 The consultation sought views on whether a fee scale should be provided in relation to appeals to LRBs and, if so, should the arrangements differ from appeals to DPEA. There were 45 comments on whether the fee scale for appeals to LRBs should differ from appeals to DPEA. The themes are described below in descending order of comments received.

Yes – Same as DPEA

- Civil Society: several respondents agree and consider if it is considered appropriate to charge for that service the fee scale should be set at a national level and charging should not be discretionary.
- Policy and Planning: many respondents agree that a fee should be provided in relation to LRB appeals and that it should be the same as appeals to DPEA.

Other observations

- Business: a few respondents disagree with the proposal. Another restates their opposition to appeal fees in principle.
- Civil Society: one respondent suggests fees should not be charged on the same basis as (DPEA) appeals. Others suggest the fees should reflect actual costs.
- Development Industry: a few respondents disagree with the proposal and others restate their opposition to appeal fees in principle.
- Policy and Planning: one respondent disagrees because the resource implications are less onerous than an appeal to the DPEA. Another considers it may prove simpler to refund LRB fees in the event of a successful outcome as all monies (for LRB and the original planning fee) will have been paid to the planning authority.

6.13 Reducing and Waiving Fees

6.13.1 Another new provision introduced in the Planning Act is the ability for authorities to waive or reduce a planning fee. The Scottish Government believes that authorities should have discretion to use this power where they consider appropriate. They expect to set out in regulations the procedures authorities would need to follow to allow them to waive or reduce fees.

Q46. Do you have any suggestions as to the circumstances in which authorities could waive or reduce a planning fee?

6.13.2 The consultation sought views on the circumstances in which authorities could waive or reduce a planning fee. There were 57 comments relating to the appropriate circumstances across all groups. The themes are described below in descending order of comments received.

Where Community or Environmental Benefit

- **Business:** one respondent considers that a reduced or waived fee should apply to developments which accord with the Scottish Government's ambitions of meeting climate change targets.
- **Civil Society:** many respondents consider that projects that benefit the community and the environment should have fees reduced.
- **Development Industry:** a reduction in a planning fee could be appropriate for planning applications for development on sites allocated within an adopted Local Development Plan.
- **Policy and Planning:** several respondents would like to see reduced fees for charities and community groups.

Not Appropriate

- **Business:** a few respondents disagree with the proposal that individual authorities should be put in the position of setting different practices for reducing/waiving fees.
- **Civil Society:** one respondent considers that waiving or reducing a planning fee should not be permitted.
- **Development Industry:** one respondent considers the current system where initial resubmissions have the fee waived if submitted in certain timescales or community councils pay half of the fee should be maintained.
- **Policy and Planning:** many respondents disagree with the proposals and consider discretionary powers to waive fees would bring uncertainty to the fee structure and would appear inconsistent with the aim of making the planning system cost neutral.

Other observations

- **Business:** one respondent felt the introduction of the ability of planning authorities to reduce or waive fees should be regulated, and good advice provided to authorities, to prevent inconsistency of approach and potential inequality. A few respondents (including one from development industry) felt that any decision to waive or reduce fees should be at the

cost of the planning authority having weighted up the potential public benefit gain.

- **Civil Society:** a few respondents felt that fees should be waived in certain circumstances e.g. where service levels have not been met, where advice given has changed between the pre-application and full application stage.
- **Development Industry:** A few respondents highlighted a number of circumstances where fees should be waived or reduced including a lack of communication from the planning authority, slow processing of the application and assessment not in accordance with processing agreement. Another respondent felt a reduced fee was appropriate following a paid pre-application enquiry.
- **Policy and Planning:** several respondents think it should be left to local discretion, whereas a few others think parameters should be set at a national level.

Q46a. Should the maximum reduction allowed be set out in regulations?

6.13.3 The consultation sought views on whether the maximum reduction allowed should be set out in regulations with responses set out in the table below. The majority of respondents did not answer the question, but of those who did, there was a majority (57%) in support of the maximum reduction being set out in the regulations. Support was primarily from the civil society and policy and planning groups with business respondents opposed and the development industry respondents evenly split on the proposal.

Should the maximum reduction allowed be set out in regulations?			
	Yes	No	Not Answered
Business		2	27
Civil Society	9	5	14
Development Industry	2	2	8
Policy and Planning	10	7	23
Total	21	16	72
% of Respondents Answering Question	57	43	

6.13.4 There were 32 comments on whether the maximum reductions should be set out in the regulations across a range of themes. Of these, 17 answered ‘Yes’ and 13 answered ‘No’ and the themes are described below in descending order of comments received.

Yes – Consistency and Clarity

- Civil Society: several respondents think the maximum reductions should be set out to provide transparency and consistency across all planning authorities.
- Development Industry: one respondent considers this would provide a clearer way forward.
- Policy and Planning: several respondents agree with the proposal and consider if such provisions were to be introduced the maximum reduction should be set out in regulations and the basis for any reduction to maintain confidence in the planning system and to provide a clear framework for local authorities.

No - Local Discretion

- Business: one respondent can see no need for a maximum reduction to be set out in regulations, given the financial hit of any waiver or reduction will be borne by the local authority. Local authorities should be capable of making that judgement call.
- Civil Society: several respondents consider local authorities should have discretion, in order to meet their local needs.
- Development Industry: a few respondents disagree and consider at least in the near term, that it should be up to each individual authority to make their own arrangements so as to allow the market to discover what arrangements may be beneficial and whether they actually work.
- Policy and Planning: several respondents consider this should be at the authority's own discretion as circumstances can be different for different authorities.

7. Other Issues

7.1 Introduction

7.1.1 The consultation sought views on a range of other issues including retrospective applications, incentives, EIA, hybrid applications and Scottish Government services which are set out in this section.

7.2 Q47. Retrospective Applications

7.2.1 Retrospective applications can often be more intensive and more controversial than other applications. There can be local frustration/tension where people are perceived to be abusing the system. This can particularly be the case where a development is granted retrospective permission. However, not all retrospective applications are the result of what might be deemed “bad practice”. The Scottish Government believes that authorities should be able to exercise some discretion in whether the surcharge is applied or not

Q47. Should the surcharge be set at 100%?

7.2.2 The consultation sought views on the level of the surcharge and whether authorities should set out the reasons why the surcharge has been applied or not in each case. The table below sets out respondents’ views on whether the surcharge should be set at 100%. The majority (55%) of respondents support the surcharge being set at 100% with support primarily from the civil society and policy and planning groups. Respondents from business and development industry were opposed to the proposal.

Should the surcharge be set at 100%?			
	Yes	No	Not Answered
Business	3	7	19
Civil Society	9	6	13
Development Industry	1	3	8
Policy and Planning	19	10	11
Total	32	26	51
% of Respondents Answering Question	55	45	

7.2.3 There were 34 comments on whether or not the surcharge should be set at 100%. The main themes are described below in descending order of comments received.

Supportive of Surcharge at 100%

- Civil Society: A few respondents felt it was essential to ensure all parties comply with the Planning Act.
- Policy and Planning: Several respondents felt that setting the fee at 100% would act as a deterrent and encourage applicants to apply properly. It was also felt that the fee would be more reflective of the work required to process these applications. One policy and planning respondent also felt the fee should be monitored to assess whether the number of retrospective applications decreased. If there was no reduction in applications, the fee should be increased.

Opposed to Surcharge at 100%

- Business, Development Industry and Policy and Planning: several respondents felt that a 100% surcharge would be punitive and introducing this fee could further discourage submission.
- Business and Policy and Planning: a respondent from each group felt that there should be no surcharge.

Other Observations

- Policy and Planning: a few policy and planning respondents suggested alignment with building standards where the principle of charging a higher fee for works that have already started is well established. A similar surcharge is considered appropriate to incentivise applicants to establish whether permission is required before undertaking works and to apply for permission before starting works.
- Policy and Planning: several policy and planning respondents highlighted that the problem with a surcharge for retrospective applications is that it could prevent the resolution of enforcement cases where the increased fee becomes a deterrent to potential applicants. Hence, a lower surcharge (20%) was suggested by one respondent.

Q47a. If not 100%, what level should the surcharge be set?

7.2.4 There were 12 comments on the level at which the surcharge should be set from respondents who felt 100% was inappropriate. All but one suggestion was from policy and planning. The levels suggested were

- 10% or 20% - 2 responses.
- 50% - 5 responses.
- 150% - 3 responses.
- Normal fees plus a penalty.

- A sliding scale of surcharges, dependent on the type and size of development e.g. none or minimal surcharge for householder development to a larger surcharge for industrial development.

Q47b. Should authorities need to set out the reasons why the surcharge has been applied or not in each individual case?

7.2.5 Authorities will need to apply discretion when applying this surcharge. The consultation asked if authorities should need to clearly set out the reason why the surcharge has been applied or not in each individual case. The table below sets out respondents' views with the majority (68%) in support of the reasoning for a surcharge being applied or not in each case. All groups supported the proposal, but policy and planning was more evenly split than other groups.

Authorities will need to apply discretion when applying this surcharge. Should authorities need to clearly set out the reasons why the surcharge has been applied or not in each individual case?			
	Yes	No	Not Answered
Business	10		19
Civil Society	11	5	12
Development Industry	3	1	8
Policy and Planning	14	12	14
Total	38	18	53
% of Respondents Answering Question	68	32	

7.2.6 There were 39 comments on whether the reasons for the surcharge should be set out in each case across the themes described below, in descending order of comments received.

Support Discretion - Transparency

- Civil Society: a few respondents stated that transparency is essential, and all charges should be clear.
- Business: a respondent supported the use of discretion, but the reasons should be clearly set out.
- Policy and Planning: several policy and planning respondents felt that it could be difficult to apply discretion. The planning authority would have to be fully satisfied that a genuine mistake had been made by the developer in not applying for planning permission and that it would be unreasonable to apply the full surcharge. The reasons for applying discretion would also need to be set out in the interests of transparency.

Support Discretion - Consistency

- **Civil Society:** a respondent highlighted that discretion in reducing surcharges needs to be applied consistently and setting out the reasons would demonstrate consistency.
- **Policy and Planning:** several policy and planning respondents felt that would be preferable if the surcharge was a statutory requirement or national guidance was in place to help local authorities justify their stance.

Do Not Support Discretion

- **Civil Society:** a few respondents felt that everyone understands that planning permission is required and therefore they should be penalised. One respondent suggested there should be no retrospective applications and charges resulting from these practices should be higher than normal fees.
- **Business:** a respondent (who did not answer the closed question) felt that determining whether the applicant made a 'genuine mistake' was a highly subjective test and given that the authority would be the beneficiary of any decision to impose a surcharge it risks undermining the integrity of the planning system.
- **Development Industry:** a respondent did not support any surcharge for retrospective applications unless it can be proven that an individual/group has intentionally abused the planning system.
- **Policy and Planning:** several respondents considered that it would be very difficult to make a judgement on whether a 'genuine mistake' has been made and therefore the use of discretion is not supported. It could also lead to further conflict, disagreement and delay. As a result, the surcharge should be fixed and apply in all cases. In contrast to most other responses which focus on the performance of planning authorities, these responses focus on the behaviour of applicants.

7.3 Incentives

- 7.3.1 An amendment was lodged during the Planning Bill which sought to define that an applicant would be entitled to a refund if there had been an unreasonable delay in processing their application. The amendment defined an unreasonable delay as an application which has not been determined within 26 weeks or another agreed timescale
- 7.3.2 Planning Authorities have previously expressed concern about the fairness of introducing refunds particularly where delays could lie outwith their control. It is also recognised that potentially having to repay fees will add additional administrative burdens and costs and could introduce the need for arbitration.

Q48. Do you consider the use of rebates, discounts or other incentives, a useful tool in delivering a more efficient service?

7.3.3 The consultation sought views on whether the use of rebates, discounts or other incentives are a useful tool in delivering a more efficient service. The majority of respondents did not answer the question but the views of those who did are shown in the table below. Of those answering the question, the majority (56%) of respondents opposed the use of rebates, discounts or other incentives as a tool in delivering a more efficient service, primarily in civil society and policy and planning. Business and development industry respondents were, in the main, in favour of the use of rebates, discounts and other incentives in delivering a more efficient planning service.

Do you consider the use of rebates, discounts or other incentives, a useful tool in delivering a more efficient service?			
	Yes	No	Not Answered
Business	8	1	20
Civil Society	4	6	18
Development Industry	5		7
Policy and Planning	4	20	16
Total	21	27	61
% of Respondents Answering Question	44	56	

Q48a. If so, what would you consider to be an effective discount, rebate or other incentive?

7.3.4 There were 40 comments on what would be considered an effective discount, rebate or other incentive across the themes are described below, in descending order of comments received.

Disagree with Penalties

- Civil Society: a few respondents consider all the options take time to administer and it is not cost effective.
- Development Industry: one respondent considers that it is not clear that the described penalty would be constructive in improving planning authority resourcing and service levels, and so is considered unhelpful.
- Policy and Planning: many respondents disagree as very often delays in decision-making are due to reasons outwith the control of the planning authority.

Agree with Penalties

- **Business:** several respondents support the use of incentives and note determination timescales need to improve. The use of rebates, discounts and other incentives should be considered to ensure delivery of an efficient planning service, particularly if the level and scope of planning fees is to increase.
- **Civil Society:** a few respondents agree, but it is noted that they should not become over elaborate.
- **Development Industry:** a few respondents consider that the use, or threat, of rebates would be a useful incentive to assist in delivering a more efficient planning service.
- **Policy and Planning:** several respondents support the principle, with one interested in exploring how incentives could be used to stimulate the submission of fully complete applications, particularly for major applications and for some of the larger local proposals.

Q48b. Given the success of ePlanning, do you think it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved?

7.3.5 Given the success of ePlanning, the continuing increase in its use and the savings which are made to both an applicant and authority in submitting an application electronically, the consultation sought views on whether it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved. The table below shows that the majority (55%) of respondents answering the question are opposed to an increased fee for applications submitted on paper. All groups with the exception of policy and planning tended to oppose the increased fee.

Given the success of ePlanning, the continuing increase in its use and the savings which are made to both an applicant and authority in submitting an application electronically, do you think it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved?			
	Yes	No	Not Answered
Business	2	12	15
Civil Society	6	9	13
Development Industry	2	5	5
Policy and Planning	18	8	14
Total	28	34	47
% of Respondents Answering Question ¹	45	55	

7.3.6 There were 58 comments on whether it is appropriate to apply an increased fee for submitting a paper application due to the additional work involved. The comments were made across a number of themes which are described below in descending order of comments received.

Not Appropriate

- **Business:** a few respondents are concerned this will unfairly disadvantage applicants who do not have access to the necessary resources to submit applications electronically. A few noted that whilst ePlanning has been successful, further improvements should be made to the service in order to ensure it is fit for purpose - the current 5mb limit on file size should be increased to improve user experience. A few also highlighted that some sectors are unable to fully utilise ePlanning and should not be penalised for this.
- **Civil Society:** several respondents are concerned that not every applicant has computer ability or access.
- **Development Industry:** several respondents note that ePlanning is fine for small projects but does not allow full applications packages to be submitted in their original size due to file restrictions.
- **Policy and Planning:** several respondents are concerned this could disadvantage those not able to make electronic submissions.

Appropriate

- **Business:** one respondent notes that, should a fee be charged, it would be essential for an opportunity to be given to users of the system to engage and influence the changes that take place to ensure that the system best reflects the users.
- **Civil Society:** several respondents support the proposal noting the use of ePlanning provides a more streamlined and efficient means of communication.
- **Development Industry:** one respondent would support the introduction of an additional fee for applications not made electronically on the ePlanning portal, providing that the applicant is otherwise not in any way prevented from submitting their entire application via ePlanning.
- **Policy and Planning:** many respondents consider it reasonable to impose an administration fee to cover the additional costs of paper submissions and it is noted this would also act as a financial incentive for applicants to make e-submissions.

7.4 Advertising Fee

- 7.4.1 It has been suggested that any change in planning fees should be used to ensure that everything required of a planning application is paid upfront. A single fee to absorb all other costs and charges, including recovering the costs related to publishing planning applications in local newspapers would solve any cost recovery issues experienced by authorities.
- 7.4.2 The solution proposed is for a small percentage increase to be added to the planning fee to ensure the cost of advertising is recovered without the need for recharging applicants and pursuing payment, which leads to delays within the system and processing times of the application.

Q49. Do you consider there should be a single fee?

- 7.4.3 The consultation asked whether there should be a single fee with the results shown in the table below. The majority (60%) of respondents agreed with the proposal to have a single fee covering all costs and charges. While business, civil society and development industry respondents tended to support the proposal for a single fee, policy and planning respondents tended to oppose the single fee.

Do you consider there should be a single fee?			
	Yes	No	Not Answered
Business	7	3	19
Civil Society	11	3	14
Development Industry	4	2	6
Policy and Planning	11	14	15
Total	33	22	54
% of Respondents Answering Question	60	40	

Q49a. How do you think the cost of advertising should be recovered?

- 7.4.4 There were 50 comments on how the cost of advertising should be recovered across the themes described below, in descending order of the number of comments received.

Part of a Single Planning Fee

- Business: several respondents welcome the proposal to include advertising fees as part of the planning application fee, rather than having two separate fees.
- Civil Society: several respondents suggest the cost should be upfront and contained within the planning fee.

- Development Industry: one respondent considers in principle, overheads such as advertising fees should be recovered through the planning fee, so if these are not presently included in the proposed fees, then the fees ought to be increased accordingly in those instances where advertising fees are genuinely incurred by the planning authority.
- Policy and Planning: many respondents support the idea of a single fee and consider the costs associated with advertising applications should be covered by a small percentage increase to the planning application fee. However, that increase should be over and above the increases proposed through this consultation.

Move Away from Print Media

- Business: several respondents questioned the need and merit in advertising planning applications in local newspapers and would suggest that there are cheaper and more beneficial alternatives such as the use of site notices or creating a dedicated webpage on planning authorities' websites.
- Civil Society: a few respondents noted that hard-copy printed newspapers are not used by many so may not be an effective advertising source.
- Policy and Planning: many respondents suggested that the government should consider whether continuing to require that some applications are still advertised in newspapers is effective or appropriate and suggest more use could be made of e-planning and social media.

Cost Recovery

- Business: a few respondents suggested advertising costs should be passed through to the applicant on an at-cost basis.
- Development Industry: a few respondents consider the fees charged by the planning authorities should reflect the authority's costs incurred in relation to that project.
- Policy and Planning: several respondents note that as advertising fees differ across the country, it may be prohibitive to set a single advertising fee.

Other observations

- Civil Society: several respondents suggested there should be a set fee for advertising.
- Development Industry: the current system where developers have to pay the advert fee, where required, prior to the release of the consent should be maintained.

- Policy and Planning: although it may be helpful to have a single fee rather than planning application fee plus advertising fee and would save time requesting advert fees, it may be simpler to require the advert fee at validation.

7.5 Environmental Impact Assessments (EIA)

7.5.1 The technical information contained within an EIA report can be substantial. Specialist skills and expertise may be required either within the authority or externally. Some authorities have indicated they wish to see the requirement for an EIA being a trigger for attracting an enhanced fee.

Q50. Do you consider that submission of an EIA should warrant a supplementary fee in all cases?

7.5.2 The consultation asked whether the submission of an EIA should warrant a supplementary fee. The table below shows that the majority (66%) of respondents answering the question, opposed a supplementary fee for the submission of an EIA. Business and development industry strongly opposed the supplementary fee, civil society tended to oppose the fee and policy and planning tended to support the introduction of a fee.

Do you consider that submission of an EIA should warrant a supplementary fee in all cases?			
	Yes	No	Not Answered
Business		20	9
Civil Society	5	8	15
Development Industry	1	8	3
Policy and Planning	18	11	11
Total	24	47	38
% of Respondents Answering Question	34	66	

7.5.3 There were 69 comments on whether the submission of an EIA should warrant a supplementary fee in all cases across the themes are described below. The themes are presented in descending order of comments received.

Part of Planning Process/Fee

- Business: many respondents consider a supplementary fee is not warranted as there is likely to be a significant planning fee associated with such applications already. In addition, it is noted that applicants already incur significant additional costs where an EIA is required.
- Civil Society: several respondents consider the submission of an EIA is a necessary part of applications and should not be treated as an extra. As

such the costs involved in dealing with EIA submissions should be included in the overall fee charged to applicants.

- **Development Industry:** several respondents note that applicants already incur significant additional costs where an EIA is required and the costs of considering EIA reports should be anticipated and covered by the fee rates for planning applications.
- **Policy and Planning:** several respondents consider that developments requiring an EIA would usually have a significant fee already which should cover the amount of assessment required.

Cost Recovery

- **Civil Society:** several respondents consider it takes time to review an EIA therefore it is about cost recovery.
- **Development Industry:** one respondent believes that the fees charged by planning authorities should reflect their costs incurred in relation to each application.
- **Policy and Planning:** many respondents reported that when there is an EIA provided, there is likely to be an additional work and it may be necessary for authorities to employ specialist advisers.

Other observations

- **Business:** one respondent considers additional fees should only be charged for applications which are not major applications, as these will already be subject to a significant fee.
- **Civil Society:** a few respondents are unsure and consider that it will be important that this does not influence the decision on whether an EIA is needed.
- **Policy and Planning:** one respondent reports that a supplementary fee is considered appropriate in cases where a Section 42 application requires an EIA. The charge should be equal to the category of fee that the proposal would have generated if a detailed application had been submitted.

Q50b. If so, what might an appropriate charge be?

- 7.5.4 There were 24 comments on what an appropriate charge might be for a supplementary fee for an EIA. The themes are described below.

No Charge

- Business, Civil Society, Development Industry: several respondents contend there should be no additional charge as it is already covered by the application fee.

Cost Recovery

- Civil Society, Development Industry: a few civil society and one development industry respondent consider the charge should be based on the amount of work involved in assessing the EIA.
- Policy and Planning: one respondent advises that any surcharge be based upon the estimated additional costs of processing an EIA development and suggests this could potentially be streamlined to include advertisement costs as a single payment.

Other observations

- Policy and Planning: a range of charges are suggested from £600 to £10,000. Others suggest the charge should depend on the size and nature of the application rather than being a flat fee and there should be a minimum fee.

7.6 Hybrid Applications

7.6.1 Fees for PPP are calculated at half the fee for full planning permission. In some circumstances an application has been submitted for PPP which provides additional details that would normally be considered through an application for AMSC. This has been unofficially referred to as a hybrid application.

Q51. Do you think that applications for PPP should continue to be charged at half the standard fee?

7.6.2 The consultation sought views on whether applications for PPP should continue to be charged at half the standard fee. The majority (59%) of respondents did not answer this question, but of those who did, the majority supported PPP applications being charged half the standard fee. There was clear support from business and development industry respondents, with civil society and policy and planning respondents more evenly split on the proposal.

Do you think applications for planning permission in principle should continue to be charged at half the standard fee?			
	Yes	No	Not Answered
Business	5		24
Civil Society	7	6	15
Development Industry	6	2	4
Policy and Planning	11	12	17
Total	29	20	60
% of Respondents Answering Question	59	41	

- 7.6.3 The “hardcopy” of the consultation asked if there should be a different fee for hybrid applications as described in paragraph 7.6.1 above. However, this question was missing from the online version and hence, there are no quantitative results.
- 7.6.4 While the majority of respondents favoured PPP continuing to be charged at half the standard rate, it is noted that the review of individual fees in Section 4 (Q5 to Q27) did not really support this view.
- 7.6.5 There were 29 comments on PPP and hybrid applications across the themes described below. The themes are shown in descending order of the number of comments received.

Not Supportive of Proposals

- Business: one respondent does not agree with the idea of a different fee for a hybrid application. The fee structure should remain the same and be based on PPP/ AMSC or full planning permission.
- Civil Society: a few respondents disagreed and suggested that it is essential that differing levels of charges are not utilised by applicants to short circuit the process and avoid the full costs of genuine open applications. As such hybrid applications should not be allowed.
- Development Industry: a few respondents disagreed and suggested that applications for PPP require a full assessment of the suitability of the proposals and, therefore, charging half a fee for a PPP application does not reflect the level of assessment required.
- Policy and Planning: several respondents consider there is still a great deal of work involved in PPP applications, it is not “half” the work of a detailed application. Unless there are calculations demonstrating the proportion of work involved in a PPP compared to a full permission, this

could be amended to 75% or 80% in order to ensure that resources are in place for what can be highly complex applications.

Supportive of Proposals

- **Business:** a few respondents agreed with the lower fee for PPP and for clarity would suggest hybrid applications have a category of their own or are clearly defined as falling within the PPP fee category or full application fee category.
- **Civil Society:** a few responded 'Yes'.
- **Policy and Planning:** several respondents agree that hybrid applications should attract a different fee, noting a hybrid application contains information relevant to a full planning application and needs to be assessed in that context. It is recommended that hybrid applications are charged at the full fee.

Other observations

- **Civil Society and Policy and Planning:** a civil society respondent suggested PPP should be charged at the full cost of a planning application and AMSC applications should be free. This would simplify the system. A policy and planning respondent suggested the fee for a PPP application should be increased and that might allow for a reduced fee to be charged for any subsequent AMSC application.
- **Policy and Planning:** a respondent suggested that planning authorities should consider whether it is appropriate to accept such 'hybrid applications,' or whether they are in fact full planning applications.

7.7 Charging for Scottish Government services

7.7.1 All applications submitted through the Planning Portal in England which attract a planning fee of £60 or more incur a service charge of £20.83 (+VAT). The income is retained by the Planning Portal to cover the costs of delivering the service and to invest in improvements.

7.7.2 Scottish Government would use any income from a service charge to develop its services including:

- The range of free-to-use content and interactive guidance to explain planning.
- Free-to-use technical and legislative content for planning and building professionals.
- A dedicated customer support team.
- The planning application service including increasing maximum file size, e-enabling further application types etc.

Q52. Should the Scottish Government introduce a service charge for submitting an application through eDevelopment?

7.7.3 The consultation sought views on whether a service charge should be introduced for submitting an application through eDevelopment. The table below shows that the majority (66%) of respondents did not support the introduction of a service charge. While all groups had some support for the proposal, they tended to oppose the introduction of a service charge.

7.7.4 There are no additional comments on this question as it was only a “closed” question.

Should the Scottish Government introduce a service charge for submitting an application through eDevelopment (ePlanning and eBuilding Standards)?			
	Yes	No	Not Answered
Business	1	9	19
Civil Society	5	6	17
Development Industry	4	6	2
Policy and Planning	10	17	13
Total	20	38	51
% of Respondents Answering Question	34	66	

8. Consolidated Impact Assessment

8.1 Introduction

8.1.1 The consultation sets out a consolidated impact assessment and consideration of the proposals on Island Authorities and poses a series of questions to address these issues.

8.2 Business and Regulatory Impact Assessment (BRIA)

Q53. Do you have any comments on the BRIA?

8.2.1 The consultation asked if respondents had any comments on the BRIA. There were 11 comments although some related to individual applications rather than the planning performance and fees policy. Relevant responses are summarised below.

- Business: Of the six responses from businesses:
 - several in the minerals industry offered the following response: “There is no apparent BRIA to support this consultation - the paragraph included in the consultation is inadequate to constitute an impact assessment.”
 - one energy business responded “As a regulated business, our costs are ultimately recovered from electricity consumers across GB and any increases to our operational costs, such as an increase in planning fees, will ultimately be borne by the GB consumer. Therefore, any increase in fees needs to be proportionate, evidence based and clearly justified. This is not taken into consideration as part of the BRIA.”
- Civil Society: Of the five civil society responses, comments included:
 - “The BRIA considers only the cost of the headline increase in fees. It does not consider the additional difficulties that would arise from introducing fees for new items and of the consequent increase of complexity in the system. It should do.”

8.3 Equality Impact Assessment (EQIA)

8.3.1 A draft EQIA was published in advance of Stage 3 of the Planning Bill and did not provide any direct evidence on matters pertaining to performance or fees. The Scottish Government aims to use this consultation as a means to explore any potential equality impacts.

Q54. DO you agree with our conclusion that a full EQIA is not required?

8.3.2 The consultation asked if respondents agreed with the conclusion that a full EQIA is not required. The table below shows that the majority of respondents did not answer the question. Of those who did, there was substantial support for the conclusion that a full EQIA is not required. Support was from all the major groups

Do you agree with our conclusion that a full EQIA is not required?			
	Yes	No	Not Answered
Business	2		27
Civil Society	8	4	16
Development Industry	3		9
Policy and Planning	13	1	26
Total	26	5	78
% of Respondents Answering Question	84	16	

8.3.3 There were 12 comments on whether or not a full EQIA is required which are summarised below.

Agree: Full EQIA Not Required

- Civil Society: of the four civil society responses, comments included:
 - “Such an assessment should be carried out, particularly in relation to residential developments, to ensure that no such impact occurs. Such assessments are particularly relevant in the matter of "affordable" housing.”
- Policy and Planning: Of the three policy and planning responses, comments included:
 - “Yes, but you should wholly disregard the proposal to charge for paper applications as that has an equality impact on areas and persons in areas with poor broadband and some sectors of society who are not IT savvy.”
 - “Conclusion appears robust.”

Disagree: Full EQIA is Required

- Civil Society: of the four civil society responses, comments include:

- “One or more of the proposals relates to the way in which authorities and the public will communicate. It would therefore be appropriate to consider if there are any equalities implications arising from these.”
 - “The increased complexity of the system is likely to impact most upon people who have the least access to advice or resources to deal with the planning system. I suggest that people with protected characteristics are likely to be disproportionately represented in the group most affected. I consider therefore that further investigation is required in terms of impact upon equalities.”
- Policy and Planning: one respondent does not agree with the conclusion and feels that a full EQIA is expected.

Q55. Do you have any comments on the EQIA?

8.3.4 There were 5 further comments on the EQIA from civil society respondents, but they were suggesting that applications should be subject to EQIA rather than the planning performance and fee policy.

8.4 Strategic Environmental Assessment (SEA)

8.4.1 The Planning Performance and Fee Regimes are not intended to be used to promote or discourage certain types of development and fees should only seek to recover the costs of the service provided. Therefore, the Scottish Government does not envisage the proposed changes having any direct environmental impacts.

Q56. Do you agree with our conclusion that a full SEA is not required?

8.4.2 The consultation sought views on the conclusion that a full SEA is not required. The table shows that the majority (81%) of respondents answering the question agreed with the conclusion. Business, development industry and policy and planning respondents all supported the conclusion, but civil society was evenly split on the conclusion that a full SEA is not required.

Do you agree with our conclusion that a full SEA is not required?			
	Yes	No	Not Answered
Business	3		26
Civil Society	6	6	16
Development Industry	3		9
Policy and Planning	13		27
Total	25	6	78
% of Respondents Answering Question	81	19	

8.5 There were 12 comments on whether or not a full SEA is required, but as with other aspects of the impact assessment, some of the comments related more to individual applications (e.g. EIA) rather than to the planning performance and fee policy (e.g. SEA). Relevant responses are summarised below.

Agree: Full SEA Not Required

- Policy and Planning: both respondents accept the conclusions presented.

Disagree: Full SEA is Required

- Civil Society: of the six civil society responses, comments included:
 - “The logic in many of the fee structures that larger developments should be charged proportionately less than smaller developments on a per unit basis should be examined. Larger developments which might be expected to have cumulatively greater impacts, and therefore require resource to assess and manage, even with some economies of scale.”

Did Not Answer Closed Question

- Policy and Planning: one respondent notes that a SEA pre-screening determination under the Environmental Assessment (Scotland) Act 2005 was made to this effect in January 2020.

8.5 Children’s Rights and Wellbeing Impact Assessment (CRWIA)

8.5.1 A draft CRWIA was published in advance of Stage 3 of the Planning Bill and did not provide any direct evidence on matters pertaining to performance or fees. The Scottish Government aims to use this consultation as a means to explore any potential impacts on children’s rights.

Q57. Do you agree with our conclusion that a full CRWIA is not required?

8.5.2 The consultation sought views on the conclusion that a CRWIA is not required. The table shows that the majority (83%) of respondents answering the question agreed with the conclusion. All groups tend to support the conclusion.

Do you agree with our conclusion that a full CRWIA is not required?			
	Yes	No	Not Answered
Business	2		27
Civil Society	8	4	16
Development Industry	3		9
Policy and Planning	12	1	27
Total	25	5	79
% of Respondents Answering Question	83	17	

8.5.3 There were 10 comments on whether a full CRWIA is required, although a few related to individual applications rather than the planning performance and fee policy. Relevant responses are summarised below.

Agree: Full CRWIA Not Required

- **Business:** one respondent states that they are not sure they understand the question.
- **Policy and Planning:** two respondents state that they support the conclusion.

Disagree: Full CRWIA is Required

- **Civil Society:** one respondent made the same point as made under EQIA. “The increased complexity of the system is likely to impact most upon people who have the least access to advice or resources to deal with the planning system....I consider therefore that further investigation is required in terms of impact upon children’s rights and wellbeing.”

8.6 Fairer Scotland Duty Assessment

8.6.1 Scottish Government recognises that the public sector is key to delivering a fairer Scotland and this new duty is intended to help make sure that the sector takes full account of socio-economic disadvantage when key decisions are being made.

Q58. Do you agree with our conclusion that a full Fairer Scotland Duty assessment is not required?

8.6.2 The consultation sought views on whether respondents agreed with the conclusion that a full Fairer Scotland Duty assessment is not required. The majority of respondents did not answer this question, but of those who did, the table below shows a substantial majority (76%) agreed with the conclusion. There was support from business, development industry and policy and planning respondents with civil society respondents evenly split regarding the conclusion.

Do you agree with our conclusion that a full Fairer Scotland Duty assessment is not required?			
	Yes	No	Not Answered
Business	1		28
Civil Society	6	6	16
Development Industry	3		9
Policy and Planning	12	1	27
Total	22	7	80
% of Respondents Answering Question	76	24	

8.6.3 There were 10 comments on whether or not a full Fairer Scotland Duty assessment is required and these are summarised below.

Agree: Full Fairer Scotland Duty assessment Not Required

- Civil Society: one respondent agrees with the conclusion and believes that it is covered by the NPF outcomes.
- Policy and Planning: two respondents state that they support the conclusion.

Disagree: Full Fairer Scotland Duty assessment is Required

- Civil Society: of the six civil society responses, comments include:
 - “Fairness should be transparent to all to allay concerns.”
 - “Our own research on public experiences of the planning system identified a number of issues around inequality. The revision of the fee and application structure may be an opportune moment to test the Fairer Scotland approach.”
 - “Developers and planning authorities should take into account any means for alleviating poor socio-economic status within their area, including strategic working to lower fuel poverty.”

Not Answered Closed Question

- Business: one respondent stated they do not understand what a Fairer Scotland Duty assessment is.

8.7 Islands Proofing

8.7.1 During the Places, People and Planning consultation the Scottish Government identified two issues which would affect Island Authorities: Proposal 17 Investing in a better service; and Proposal 18 Performance. No island-specific recommendations were made in relation to either issue.

Q59. Do you have any comments which relate to the impact of our proposals on the Islands?

8.7.2 The consultation asked if respondents had any comments which relate to the impact of the proposals on islands. There were 8 comments on the impact of the proposals on the islands which are summarised below.

- Business: one respondent believes the planning system should encourage, not discourage, new industry to the islands.
- Civil Society: opinions differ between those that think the islands should come under the same control and those that argue the work involved in dealing with planning applications for developments in the Islands is likely to be less than for applications for the mainland.
- Development Industry: one respondent believes what is proposed will restrict developments on the Islands.
- Policy and Planning: the two respondents disagree with one stating it should be the same process as it could introduce complications, while the other notes that the current performance reporting process is time consuming, resource intensive and impacts significantly on the resource and capacity of smaller planning teams where staffing is needed to deal with front line services.

Appendix A: List of Respondents

List of Respondents

Group	Respondent
Business	<p>Aggregate Industries UK Limited Asda Stores Ltd Association of Scottish Shellfish Growers Breedon Northern Ltd British Aggregates Association British Holiday and Home Park Association CEMEX UK Operations Ltd EDF ERG UK Holding Ltd. Homes for Scotland Independent Renewable Energy Generators Group (IREGG) LAW SOCIETY OF SCOTLAND Mineral Products Association Scotland Mowi Scotland Limited Red Rock Power Limited RES Group Scottish Land & Estates Scottish Property Federation Scottish Renewables Scottish Salmon Producers' Organisation Scottish Sea Farms Shetland Mussels Ltd Solar Trade Association SP Energy Networks - Land and Planning SSE Renewables SSEN Transmission, operating as Scottish Hydro Electric Transmission (SHE Transmission) Tarmac Vattenfall Watchman & Co</p>
Civil Society	<p>Ten Individuals Architectural Heritage Society of Scotland Broom, Kirkhill and Mearnskirck Community Council Built Environment Forum Scotland Chartered Institute of Ecology and Environmental Management Coupar Angus Community Council Environment LINK (supported by Froglife, the National Trust for Scotland, Planning Democracy, RSPB Scotland and the Scottish Wild Land Group) Floor Makerstoun Nenthorn and Smailholm Community Council Forehill, Holmston, Masonhill Community Council Inchinnan Community Council Lamancha, Newlands and Kirkurd Community Council Leith Central Community Council Minto Hills Conservation Group Northmaven Community Council Planning Democracy</p>

	<p>Rosemount and Mile End Community Council RSPB Scotland Scone & District Community Council The National Trust for Scotland</p>
Development Industry	<p>AMS Associates Ltd. BDW Trading Limited Ennoviga Solar Ltd Gladman Developments Ltd HFD Construction Group Limited Persimmon Homes Scottish Planning Consultants' Forum (SPCF) Selgovia Limited Stewart Milne Homes Strutt & Parker Taylor Wimpey Wallace Land Investments</p>
Policy and Planning	<p>Aberdeen City Council Aberdeenshire Council Angus Council Argyll and Bute Council City of Edinburgh Council Clackmannanshire Council Comhairle nan Eilean Siar COSLA Dumfries & Galloway Council Dundee City Council East Ayrshire Council East Dunbartonshire Council East Renfrewshire Council Falkirk Council Building Standards & Development Management Fife Council Glasgow City Council Heads of Planning Scotland (HOPS) Health and Safety Executive Historic Environment Scotland Loch Lomond & The Trossachs National Park Authority Midlothian Council Moray Council North Ayrshire Council, as Planning Authority North Lanarkshire Council Perth & Kinross Council Renfrewshire Council Royal Incorporation of Architects in Scotland RTPI Scotland Scottish Natural Heritage Scottish Public Services Ombudsman Shetland Islands Council SOLACE South Ayrshire Council South Lanarkshire Council sportscotland Stirling Council</p>

The Highland Council
The Society of Local Authority Lawyers and Administrators in Scotland
(SOLAR - The Planning Law and the Property & Infrastructure Subgroups)
UNISON
West Dunbartonshire Council



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