



**ANALYSIS OF RESPONSES TO 'RIVERS,
LOCHS, COASTS: THE FUTURE FOR
SCOTLAND'S WATERS'**

Final report to the Scottish Executive

Dr Andrew Farmer
Claire Monkhouse

Institute for European Environmental Policy
Dean Bradley House
52 Horseferry Road
London SW1P 2AG

January 2002

CONTENTS

Chapter		Page
1	Introduction	3
2	General analysis	4
3	Chapter 3: River Basin Management in Scotland	6
	3.1 Number of river basins	6
	3.2 Cross-border issues	7
	3.3 Seaward limits	9
	3.4 Lead responsibility for implementation	9
	3.5 Imposition of a general duty on all public authorities and specific duties where they are relevant	11
	3.6 How to involve all interested parties in the process	12
	3.7 Role for Community planning	14
	3.8 Role of new technology	14
	3.9 That the lead authority should be required to consult and take account of relevant public authorities	15
	3.10 That the lead authority should be required to set up a consultative forum	16
	3.11 Role of Scottish Ministers in approving river basin management plans	17
	3.12 Interaction with the land use planning system	17
4	Chapter 4: Delivering Environmental Improvements	20
	4.1 Delivery through existing legislation	20
	4.2 New controls to sit alongside existing systems or to subsume them	20
	4.3 Additional means to reduce the regulatory burden	21
5	Chapter 5: Controlling Point Source Pollution	24
	5.1 That all point sources should be subject to regulation	24
	5.2 A unified regulatory regime (covering COPA and the Groundwater Regulations)	25
	5.3 New offence for failing to comply with a condition to be attached to a consent	25
	5.4 The value of the call-in procedure	26
	5.5 Improving the control of point source pollution	27
6	Chapter 6: Control of Diffuse Pollution	29
7	Chapter 7: The System for Abstraction Control	32
8	Chapter 8: The Impoundment Control Regime	35
9	Chapter 9: Control of Engineering Operations	37
10	Chapter 10: Pricing	39
11	Chapter 11: Monitoring	41
12	Conclusions	43
Annex I	List of Respondents	44
Annex II	Abbreviations	47

1 Introduction

The Institute for European Environmental Policy (IEEP) was asked by the Scottish Executive to undertake an analysis of responses to the Scottish Executive's consultation document 'Rivers, Lochs, Coasts: The Future for Scotland's Waters', which provides the initial proposals for transposition and implementation of the 2000 EU water framework Directive (2000/60/EC).

This report provides an initial overview analysis of the sources of the responses received. It then provides a more detailed summary structured according to the individual issues and questions raised in the consultation paper.

2 General Analysis

Consultation papers were sent to a total of 385 different consultees. A further 21 consultees requested copies. 110 responses were received by the Scottish Executive. This included 27 responses from organisations and individuals to which copies were not specifically sent. Thus around a quarter of those which were sent the consultation paper, responded. These responses were received from a wide variety of different types of organisations and individuals. For the purposes of analysis the organisational responses were placed into eleven categories, such as local authorities or environmental NGOs. A full list of respondents and categories is given in Annex I. The percentage of responses by each group is given in the following table.

Category	Number of responses received	Percentage of total responses
Local authorities	23	20.9
Fishery organisations	21	19.1
Industry	13	11.8
Personal responses	11	10.0
Public bodies	9	8.1
Environmental NGOs	7	6.4
Academic	6	5.5
Independent consultants	5	4.5
Water Industry	4	3.6
Land use	4	3.6
Leisure sector	3	2.7
Agricultural sector	2	1.8
Legal sector	2	1.8
Total	110	100.0

It is important to note that the total number of responses from each sector does not necessarily reflect the interest of that sector in the issues raised in the consultation paper. The responses also reflect the number of organisations of that type which occur, or have interests, in Scotland. For example, there are many more local authorities in Scotland than major players in the water industry.

It is also important to note that the categories are created to assist analysis and that this must not be seen to hide divergent interests within those categories. For example, industry organisations range from large power companies to whisky distilleries. While they are likely to have similar concerns in relation to the economic viability of their businesses, in detail they may differ on specific issues. This analysis has, therefore, sought to highlight both the general views of the sector (where that is possible – and it often has been) as well as attributing many specific comments and divergence among respondents.

The range of responses received shows a very good distribution across all relevant stakeholder groups. Indeed, there are no obvious significant gaps in the nature of the respondents. Consideration of the range of organisations in each response category demonstrates that a wide range of interests have made their views known. Not every local authority, industry, etc, responded, but this is to be expected. Perhaps the only possible gap is the lack of response from the local authorities in northern Scotland and the Northern and Western Isles. It may also be noted that only one aquaculture industry representative responded. The water framework Directive has significant consequences for the management

of coastal waters in northern and western areas and activities such as aquaculture can be important for local economies. It is, therefore, not clear whether the issues that would be raised in this area have been captured in the consultation process.

The following sections provide an analysis to individual questions raised in the consultation paper. This analysis follows the structure of the consultation paper itself (beginning with Chapter 3 where responses are first requested). Thus each of the main questions/issues raised will be examined in turn. Each is briefly introduced (for a full discussion see the original consultation paper). This is then followed by specific comments according to the categories of respondents. Each section then concludes with a summary which seeks to crystallise the responses to the Scottish Executive's proposals. Some respondents followed the structure of the consultation paper. Others provided more general comments addressing the range of subjects covered. As the consultation paper raised issues concerning most aspects of water management in Scotland, it has been possible to analyse these more general (or additional) comments within the framework provided by the consultation paper. However, one specific area raised by a number of environmental NGOs that does not fit readily into the consultation paper structure is the need to ensure the protection and enhancement of wetlands as the Directive is implemented. This relates to pollution control (point and diffuse), abstraction and basin management issues. The NGOs also stress that this is not just an environmental protection issue, but also a potential opportunity to solve certain problems, such as through reed bed creation for pollution control.

3 Chapter 3: River Basin Management Planning in Scotland

This chapter outlined the basic planning requirements of the water framework Directive (WFD) and sought responses on a range of issues relating to the number of river basin districts (RBDs) that would produce River Basin Management Plans (RBMPs), competent authorities and participatory arrangements. The analysis of responses to this chapter will follow the specific questions raised.

3.1 Number of river basins

The WFD requires that RBDs are based on river basins. While single basins may form the basis for RBDs for the large rivers of continental Europe, Scotland has very many small catchments. The WFD allows for small catchments to be administered together. The consultation paper sought views on how many RBDs there should be in Scotland and gave a preference that there should be three.

Of the public bodies responding, only three (SEPA, British Waterways and the Scottish Coastal Forum) support the proposal for three RBDs. SNH ('strongly') and the National Museum of Scotland proposes 15 RBDs.

Of the 24 local authorities that responded there was a roughly even divide on support for three RBDs or not. There is concern in Ayrshire and Dumfries and Galloway that river basins would be arbitrarily divided. There is also support for one RBD for Scotland, for example North Lanarkshire considers that this would be no more 'remote' than three RBDs.

The environmental NGOs (ENGOS) largely disagree with the proposal for three river basin districts, although it is supported by the River Leven Trust. SWT accepts the proposal as long as sub-divisions are based on ecologically coherent units, although it questions the coherence of the proposed RBD for Highland and Grampian. Most of the remaining ENGOS all support one RBD with sub-basin planning, except for CSCT which supports 15 RBDs. WWF is concerned that commitment to sub-basin planning is not clear and that it may become ad-hoc. Such planning must play an important role.

Water Industry respondents differ in their views. West of Scotland Water supports the proposed three RBDs, but East of Scotland Water does not. The latter is concerned that the size will deter public involvement.

Industry respondents are generally supportive of the proposal for three river basins districts in Scotland. However, the CBI and the SCDI suggest that the Scottish Executive should consider a single basin.

Responses from the agricultural sector did not support the proposal for three RBDs, The NFU proposes one and SAC propose 15.

Responses from the land use sector were mixed. The RICSS supports one RBD. The SLF and Crown Estate question the boundaries, both in terms of the divisions on the larger RBDs (eg coastal waters) and the need for sub-basin plans at catchment level.

Most responses from the fisheries sector disagree with the proposal for 3 RBDs. Support was only forthcoming from the Freshwater Fisheries Laboratory and the joint response of the

Salmon and Trout Association and the Scottish Anglers National Association. A number of responses support one RBD for Scotland, although the Nith District Fishery Board proposes 5 RDBs.

Few responses for the leisure sector comment on this. Dumbarton Motor Boat and Sailing Club consider 15 to be more appropriate.

A number of academic organisations disagree with the proposal for three river basin districts. Views vary from 1-5, but there is clearly a concern that the boundaries of three districts would be for administrative convenience and not related to obvious catchment based design. The University of Dundee stressed the need for the boundaries of river basin districts to match with coastal cell management units identified in the Coastal Cells of Scotland work.

Independent consultants disagree on this issue, either supporting three or stressing that the number should be based on natural systems.

Most responses from private individuals support the proposal for three RDBs.

In summary there is a little more support for three RBDs than for other solutions. However, there is significant support that there be one RBD for Scotland (including organisations as different as SNH, CBI and NFU Scotland). A few respondents favoured a larger number of smaller RBDs. However, many respondents stressed the need for sub-basin (ie catchment-level) planning as this will be the key not only to achieving integrated management, but the point at which local involvement and participation is practical. The relationship between river basin planning and local planning/participation is not readily appreciated by some respondents. A number recognise the importance of the local dimension and indicate that the number of larger scale RBDs is less important than getting these local processes 'right'. The key issues in this regard are:

- whether larger scale water management planning in Scotland would be better undertaken at a national level or as larger 'regional' RBDs;
- that local, catchment planning is essential;
- that effective units for water management are only one consideration - others being the links to other administrative systems (eg see 3.10) and participatory processes (see 3.5);
- that a system which divides Scotland into more than one RDB must critically examine the boundaries between RDBs, especially ensuring water bodies are not divided between them;
- that the chosen system must be compatible with arrangements for cross-border catchment administrative issues (see 3.2).

3.2 Cross-border issues

The catchment of river courses does not follow the English/Scottish border and, therefore, arrangements must be made to address the management of these water bodies in an integrated way. The consultation paper sought views on this.

The Environment Agency considers that management of the Tweed and Tyne cross border catchments should be undertaken by Scottish and English authorities respectively. This is generally supported by SEPA. However, further discussion is required on the Solway. The Scottish Coastal Forum considers that the Solway RBD could build on the Solway Firth

Partnership involving the current institutions. SNH highlights the need for joint management of cross-border RDBs with all relevant interests involved.

Of the local authorities only Falkirk Council expressed a view and this was to ensure that the views of the relevant Scottish local authorities are taken fully into account.

The ENGOs support the need for integrated cross-border arrangements. WWF stresses that such bodies must build on existing fora established in the Solway and Tweed. The SWT proposes that the Solway RDB includes the whole of Dumfries and Galloway.

Water Industry respondents had few comments. East of Scotland Water would wish to see the Tweed catchment include in RBD 2 and RPS Water Services considers that cross-border catchments should be administered according to where the majority of the catchment lies.

Few industry respondents had views on this issue. Both the Malt Distillers Association and the Chemical Industries Association favour the Tweed Catchment being incorporated into the appropriate Scottish RDB. The CIA favour the Solway to be incorporated into the appropriate English RDB. However, the Malt Distillers Association also acknowledge the case for separate RDBs for each of these catchments.

The NFU Scotland stresses that co-ordination is essential.

The respondents from the land use sector support integrated management for the cross-border basins, requiring co-ordination of activities between SEPA, the Environment Agency and others.

Fisheries sector respondents support the proposal for separate RDBs for cross-border catchments. They state that either full integration of activities by relevant authorities is undertaken or that a body separate from SEPA and the Environment Agency is created to lead.

The respondents from the leisure sector did not comment on this issue.

Academic organisations stress the need for full cross-border integration, including suggestions that the Environment Agency or SEPA (or even a new body) has competence over the relevant districts.

Where independent consultants expressed a view, they consider that cross-border basins should be placed under the control of an authority either in England or Scotland.

Where responses from private individuals commented upon this they were supportive of integrated management of cross-border basins.

In summary, all respondents that commented agreed with the need for integrated management arrangements for cross-border water bodies, requiring close collaboration between relevant authorities. A number argued that the limited cross border nature of the Tweed and Tyne catchments may be best accommodated by lead authorities from Scotland and England respectively. However, the Solway requires joint administration. Many highlighted the arrangements for partnership that currently exist and stressed the need that new arrangements must build upon these and not lead to duplication.

3.3 *Seaward limits*

The WFD applies to coastal waters up to 1nm from the land. However, the consultation paper proposed that in Scotland this be extended to 3nm, being consistent with SEPA's regulatory functions. The paper sought views on this.

All public bodies that responded support the 3nm limit, although the Scottish Coastal Forum states that legislation should allow for an extension to 12nm if necessary.

Local authorities are generally supportive of a 3nm limit, except for Scottish Borders Council which considers that it should be 1-2nm.

Where the ENGOs have commented, they support a 3nm limit for the RDBs.

Water Industry respondents support the 3nm limit, although clarification is needed in relation to the 12nm limit for priority substance control.

Most industry respondents replied to this question and all that did supported the proposal for a 3nm limit for the RDBs.

There were no responses on this issue from the agricultural sector.

The respondents from the land use sector support 3nm, but they generally also stress the need for flexibility, including consideration of extension to 12nm if necessary.

Fisheries sector respondents support the 3nm proposal. However, consideration will need to be given to cross-border issues if England adopts a different limit and consideration should also be given to further extension of the limit to ensure all aquaculture is included.

From the leisure sector only Dumbarton Motor Boat and Sailing Club comment, supporting the 3nm proposal.

Where academics expressed a preference, it was for the 3nm limit.

Where independent consultants expressed a preference, it was for the 3nm limit.

Responses from private individuals made few comments on this issue, but stressed the implications for monitoring, etc, from extended seaward limits.

In summary almost all respondents supported the proposed 3nm limit. A few indicated that the limit should extend further (either to 12nm or 'as necessary' to ensure regulation of activities that might affect ecological status).

3.4 *Lead responsibility for implementation*

In meeting the requirements of RBMPs a lead authority will be required. The consultation paper proposed that SEPA be the lead authority. It sought views on this.

Almost all of the public bodies agree that SEPA should take the lead in implementation. The NMS is undecided, given the scope of the WFD and whether a new authority is created. SEPA states that it recognises that its role can only be implemented in partnership with other authorities. British Waterways states that it should be fully involved given its management interests.

Local authorities generally, but not completely, express support for a lead from SEPA. However, this must be undertaken in close consultation with local authorities. Where there is support for a single RDB some consider that the Scottish Executive might lead. The Glasgow and Clyde Valley Structure Plan Joint Committee also consider that local authorities may be better placed to deliver sub-basin plans.

All of the ENGOs that responded support the proposal that SEPA be the lead authority. However, specific issues raised include:

- the need for SEPA to have increased powers, eg on marine issues;
- SEPA must be adequately resourced;
- the need for effective partnerships of a wide range of authorities;
- the need to integrate as well as simplify water management arrangements in Scotland;
- that there should be a WFD Dialogue Group/River Basin Forum consisting of all relevant interests.

Water Industry respondents differ in their views. Most support the proposed role for SEPA, but West of Scotland Water considers that a National Water Forum should be the competent authority. If SEPA is given the role, it argues that a government led steering group be responsible for decisions that impact on costs.

Most industry respondents support the proposal that SEPA be the lead authority. Only Alcan Smelting and Power UK questioned the propriety that the same body set objectives and act as 'policeman'. However, others also had qualifications to make to this. In particular, responses noted that:

- there must be input from appropriate local authorities;
- SEPA must have sufficient resources;
- SEPA currently has limited environmental responsibilities (eg compared to the Environment Agency) and, therefore, it must be clear how they would be empowered to regulate discharges over which they currently have no control;
- SEPA's lead should not obscure the social and economic impact of the Directive.

There were mixed views from the agricultural sector. The SAC supports the proposed role for SEPA (with adequate input from others), but NFU Scotland states that SEPA should only lead on technical issues and that competence should rest with the Scottish Executive.

The land use sector all support the proposed role for SEPA. However, there is general agreement that it cannot meet the requirements of the WFD alone. It will need additional resources and must co-ordinate activities with other bodies.

Fisheries sector respondents support the proposal that SEPA be the lead authority. However, they stress this must be undertaken in partnership and that significant additional resources be

made available. The Nith District Fisheries Board states that all such Boards are self-financed and thus have limited resources to contribute.

From the leisure sector most support a role for SEPA, but Dumbarton Motor Boat and Sailing Club considers that a new authority is necessary.

The Open University proposes that a small organisation responsible to Ministers is created which can delegate competence in different areas to SEPA, local authorities, etc. However, most, though not all, academic institutions support a lead role for SEPA.

The responses from legal respondents were mixed. The Faculty of Advocates supports the role for SEPA, but only if it has sufficient resources. UKELA considers that the Scottish Executive should lead on the RBMP process, SEPA on licensing and SNH on monitoring.

Independent consultants have mixed views of this. There is concern that SEPA has limited experience in some areas, particularly ecological management and that strong links to SNH are required.

All responses from private individuals that commented upon this support the proposal that SEPA become the competent authority. However, this will require a number of changes to its structure and duties. Comments also stress the need for local bodies and participation at the catchment level and sufficient resources for SEPA.

In summary the proposed role for SEPA received wide support from organisations within most of the sectors. However, a few, eg NFU Scotland, argue that the Scottish Executive should lead. This would be possible with one RBD in Scotland. A very few proposed that a new body be given the role, eg a National Water Forum. However, many supporting the role for SEPA stressed that it has insufficient resources at present to implement the WFD and that additional resources, training and powers will be needed.

3.5 Imposition of a general duty on all public authorities and specific duties where they are relevant

Even with a lead authority there will be a vital role for many other public bodies in the planning and delivery of the requirements of the WFD. The consultation paper, therefore, sought views on whether a general duty should be imposed on public bodies to achieve this.

All of the public bodies which expressed a view support this proposal. SEPA proposes a number of specific duties on the lead authority itself and other public bodies. These concern duties on consultation and participation in plan preparation and duties on implementation once the plan is finalised.

Where local authorities expressed a view all except West Dumbartonshire support this proposal. However, they seek clear guidance on what would be required.

The ENGOs support this, RSPB stating that there should be a reciprocal duty on SEPA to participate in local authority plan development.

Water Industry respondents support this proposal.

Of the industry respondents only Innogy commented on this issue. It is concerned that this should not lead to delays and increased costs in decision making. Different authorities must adopt consistent policies and data should be pooled.

The land use sector respondents generally supported this proposal, although the SLF are concerned about the resources and skill levels in these public bodies.

Fisheries sector respondents, where they commented, support the proposal, but are concerned about the resource implications.

Respondents from the leisure sector did not comment upon this issue.

Of the academic institutions only ICE Scottish Hydrological Group commented upon this, supporting the proposal, stating that public bodies should also be given specific duties alongside a general duty.

The Faculty of Advocates also supports this proposal.

Where independent consultants expressed a view they were supportive of this proposal.

Responses from private individuals made few comments on this, but these were supportive of the proposal.

In summary, almost all respondents support the proposal, with only one local authority opposing it. There is concern that such duties should not slow down decision making and that the resource implications for the relevant public bodies be determined and addressed.

3.6 How to involve all interested parties in the process

A wide range of organisations have significant interests in water body management and it is important that these are as fully involved as possible in river basin planning and in the implementation of RBMPs. The consultation paper sought views on how this might be best achieved.

Public bodies support full involvement. The use of consultative fora is important and SNH stresses the need for local involvement. Expert bodies should supply information as is reasonably required.

Few local authorities expressed a view on this. Angus Council highlighted the problem of consultation overload and the difficulties of engaging the public at the RBD level. However, Argyll and Bute Council considers that consultation at the sub-basin level will have more resonance with the public. Stirling Council stresses the need for full consultation with sectoral interests, eg farming, forestry and leisure.

The ENGOs fully support community involvement. However, SWT questions whether the issue is fully recognised in the consultation paper and WWF states that the Scottish Executive should conduct a participation strategy. Participation would be facilitated by sub-basin planning. It requires full transparency and must involve all aspects of the planning process. It will also be necessary to enhance the skills and capacity of SEPA and others to ensure participation.

Water Industry respondents see the need for public information promotion, the costs to be born by the lead authority. A dedicated website for feedback would be useful.

Few industry respondents replied to this question. The Malt Distillers Association and Chemical Industries Association both support the need for consultative panels or fora. However, both argue that the size of each RDB will be too large to ensure local issues are fully taken account of. Thus local (catchment) panels should be established which the lead authority should be required to consult. These could be based around the old River Purification Board Areas. The Malt Distillers Association considers that members should be appointed by the Minister and have representation from local authorities and statutory bodies. Alcan Smelting and Power UK stresses the need for industry to be actively involved in criteria setting and appeals procedures.

NFU Scotland stresses that it is essential to involve farmers and land managers in the participatory processes. This includes a need for open information, a role for MSPs and local government. The NFU argues that farmers should not be alienated by unsubstantiated comments about their contribution to diffuse pollution.

The respondents from the land use sector stress the need for accountability and consultation and SEPA will need actively to involve local public, private and voluntary sectors.

Few fisheries sector organisations commented on this. The Association of Salmon Fisheries Boards considers that SEPA has limited experience of consultation and participation and that additional resources and training will be required. A number of respondents also stressed their specific roles (including statutory) and that they would need to be involved in the RBMP process.

The respondents from the leisure sector highlight the need to include their organisations in fora and consultations.

The Faculty of Advocates considers that an appropriate model would be that of the preparation of a structure plan. It is important that consultation is real and not simply a public relations process.

Macaulay stresses the need for stakeholder involvement and that this must be achieved through local catchment based initiatives. This is difficult, but the Scottish Executive should establish a network of best practice examples.

Responses from private individuals expressed concern of the potential remoteness of three RDBs from individuals and the problem of consultation overload. It will be important for effective transparency and to include people well before the stage of a draft RBMP.

In summary respondents supported as full involvement as possible in the RBMP process. Many highlighted the requirement that representatives from their sectors should be included. A wide range of respondents noted a number of problems. There is the danger of 'consultation overload' and at the RBD level much participation may feel 'remote'. They stressed the need for participation at the sub-basin level. Some argued for boards with members appointed by Ministers. A very few indicated specific mechanisms for participation, eg the use of web-based resources.

3.7 Role for Community planning

Community planning is one planning mechanism at the local level. The consultation paper sought views on what role this might have in the RBMP process.

The public bodies did not comment upon this.

Few local authorities commented on this. There is concern that the scale of RBMPs make them remote from community planning. However, where possible and practical integration with the community planning process is seen as beneficial.

RSPB considers that community planning process addresses financial rather than environmental issues, but it would welcome involvement of the competent authority in this process.

About half of the industry respondents commented upon this, all of which supported the proposal.

NFU Scotland considers that the scope for community planning is limited. However, local government is probably well placed to service local consultation and that involvement of those managing Local Agenda 21 processes would be valuable. Local authorities must, however, be given the necessary resources to do this.

Fisheries and leisure sector organisations did not comment upon this.

EnviroCentre stresses the need for involvement and that both SEPA and local authorities should lead and that planning guidance should be issued on this.

Academic and industry respondents made no comment on this issue.

In summary very few comments were received on this issue. Some questioned whether community planning is able to address relevant issues and SEPA's current limited role in the process may pose problems. Resource issues would also need to be addressed.

3.8 Role of new technology

Participation over the many issues to be addressed in RBMPs will be difficult to achieve and the consultation paper sought views on how new technology might facilitate this.

British Waterways considers that the internet will be beneficial for communication with the public.

Of the local authorities only Angus Council and Edinburgh City Council commented upon this, supporting the use of new technologies in information dissemination. Angus Council stresses, however, the need to ensure compatibility of systems across Scotland.

The ENGOs, industry and agricultural respondents made no comment on this issue, except for the Forth Estuary Forum which states that the use of websites, etc, will encourage participation at low cost.

Fisheries sector organisations did not comment upon this, except for the Nith District Fishery Board which considers it useful where appropriate.

Respondents from the leisure sector did not comment upon this.

Of the academic respondents only ICE Scottish Hydrological Group comments that IT provides significant opportunities for dissemination and consultation, including through the use of GIS. A similar point is made by EnviroCentre.

In summary few respondents commented upon this. However, all that did supported the role of internet based resources, especially as these were readily available and are cost-effective.

3.9 That the lead authority should be required to consult and take account of relevant public authorities

In ensuring full participation the consultation paper sought views on whether the lead authority be required to consult all relevant public authorities.

The public bodies support extensive consultation, including with those not 'directly' involved in the RBMP process.

Where local authorities expressed a view all support a need for the lead authority to consult. However, the City of Edinburgh Council does not consider that this would safeguard interests and the Scottish Executive should consider mechanisms to overcome this problem, eg an inquiry before an independent reporter.

The RSPB and NTS support this proposal.

Water Industry respondents support this proposal.

Industry respondents also supportive this. They also suggest that industries should play a role as more active participants in the processes.

Agricultural and fishery sector respondents, where they commented, are supportive of the proposal.

The respondents from the land use sector also support this proposal, especially ensuring the participation of land managing interests.

Respondents from the leisure sector did not comment upon this.

Of the academic respondents only the University of Dundee commented, supporting the proposal.

Where independent consultants responded they are supportive of this.

Of the few responses from private individuals that comment on this, all agreed with the proposal.

In summary, all respondents which commented, across many sectors, supported this proposal. There was some concern that this might still not achieve full integration of views into the lead authority's decision making and that some independent review process might be needed.

3.10 That the lead authority should be required to set up a consultative forum

The consultation paper sought views on a specific participatory mechanism, ie that the lead authority be required to establish a consultative forum.

The public bodies generally support this, but consider that they should not duplicate existing fora, eg those established for some estuaries.

Local authorities express general support for this. However, the following points should be noted:

- fora at a sub-basin level will be important especially for certain interest groups which would feel remote at the RBD level;
- some agencies could act as a 'watch dog' for others;
- given the range of consultation currently in place, consideration should be given to integration of the forum with other such bodies;
- all information from the forum, eg minutes, should be available.

The ENGOs support this proposal.

Water Industry respondents support this proposal, but it is important that the correct representation occurs.

Industry respondents supported this proposal. However, Innogy stressed that this forum must supplement rather than replace public consultation, in particular playing a role at an earlier stage than formal consultation on a draft RBMP. British Paper Industry also stresses that such fora must build upon existing Boards and Trusts.

Agricultural respondents are supportive of this proposal.

Fisheries sector organisations are supportive of this proposal. However, they state that a number of fora already exist and that additional fora must be integrated with these where possible in order to reduce bureaucracy.

Academic respondents support consultation. However, a number of fora currently exist (eg the Focus on Firths) and it is important not to re-invent existing practice and that fora are as local as possible (ie not only at the level of the RBD).

Where independent consultants responded they are supportive of this and that this must include the public and not just interest groups.

Responses from private individuals support the need for a forum, but they stressed that it must not be a 'talking shop' and that local consultation bodies would be more effective than one at the RBD level. It will be important to retain the sense of ownership from the large voluntary sector in this area.

In summary respondents were supportive of this proposal. However, they stressed that the forum should not take the place of direct consultation, that it should not be a talking shop and that it should build on, rather than duplicate, existing consultative bodies. A number of respondents also highlighted the need that representation on the forum should include all relevant interests and sought clarification as to how members would be selected. To improve participation a number also suggested that such bodies should be established at the sub-basin level.

3.11 Role of Scottish Ministers in approving RBMPs.

Once a RBMP has been drafted and amended following consultation, a question remains as to which body gives final approval to the plan. The consultation paper sought views on whether this should be the role of Scottish Ministers.

Few public bodies commented upon this. Those that did are supportive and SNH states that it may be appropriate for Ministers to be involved at an earlier stage to resolve major differences.

Few local authorities expressed a view on this issue, with some supporting and others rejecting the proposal. There is concern that such approval overlaps with similar approval for structure plans and the roles of each plan should be clear and, if possible, planning cycles should be harmonised.

Most of the ENGOs support the proposed role for Ministers, except for WWF.

Where Water Industry respondents expressed a view they support this proposal.

Approximately half of industry respondents comment on this issue, supporting the proposal.

The Scottish Landowner's Federation also supports this proposal.

Of the leisure sector, Dumbarton Motor Boat and Sailing Club supports the proposal.

Where fisheries sector organisations comment on this, all are supportive of the proposal.

Only two responses from private individuals comment on this, one supportive, the other not.

In summary, there were mixed responses to this proposal. Sectors such as the water industry, fisheries and leisure sectors were generally supportive. However, other sectors were more divided. Local authorities highlighted the need to integrate with similar approval processes for the structural planning process and SNH argued that involvement of Ministers should take place at an earlier stage.

3.12 Interaction with the land use planning system

River basin planning will address a very wide range of potential pressures on water bodies and develop programmes of measures to address these. Many of the issues raised overlap significantly with those considered in land use planning. Similarly, many of the participatory mechanisms discussed above also overlap with land use planning processes. The consultation

paper, therefore, sought views on how the new river basin planning processes would interact with the land use planning system.

Public bodies stress the need for integration with the land use planning system and partnership with local authorities. SNH considers that the current consultation is vague and that clearer proposals are required. Links between the systems will need to be made clear to ensure consistency of approach, timing, etc, and that local authorities would play a key role. SEPA states that the Scottish Executive's Review of Strategic Planning must take full account of the requirements of RBMPs. A key issue will be the control of development to meet objectives of the WFD, thus specific duties will need to be placed on relevant authorities. This can be achieved by a variety of mechanisms, eg an obligation to introduce RBMP requirements into development plans. SNH considers the role of sub-basin plans to be unclear and that they should be developed where authorities (including SNH) consider them relevant.

Local authorities stress the need for integration of RBMPs and land use planning. Many see a number of difficulties although Falkirk and City of Edinburgh Councils both state that they see no difficulty with integration into the current system. Local authorities expressed a number of concerns, including:

- the relationship between statutory planning requirements and RBMPs needs to be much more clearly defined;
- the six-year cycle under the WFD is at odds with the five-year cycle of development planning - this should be reviewed;
- there should be clear guidance issued on consultation arrangements with SEPA;
- the role and relationship with non-statutory plans (eg local BAPs) is unclear;
- there will be significant resource issues.

The ENGOs argue for much greater integration with the land use planning system. This includes:

- revised planning guidance;
- integration with other EU Directives, especially the SEA Directive;
- integration of non-statutory plans into river basin plans;
- integration of flood prevention;
- integration of integrated coastal zone management;

Water Industry respondents highlight the need for integration as multiple regimes seem to be in place. Clear guidance is needed on how these fit together. Integration will be facilitated by sub-basin planning.

Of the industry respondents, Innogy commented upon this stressing that SEPA must not second-guess development planning policies, but also that a more strategic approach to development planning is needed, making decisions less *ad hoc*. The British Ports Association stated that RBMPs must cross reference to environmental sections in development plans.

Agricultural respondents consider this to be critical. There is a need for full integration and avoidance of duplication, such as proposed in 'A Forward Strategy for Scottish Agriculture'.

The Scottish Landowners' Federation states that RBMPs should provide a framework for development planning. Integration will be enhanced if sub-basin plans are produced at the local level.

Few fisheries sector organisations comment upon this, stating that integration with land use planning is important.

Respondents from the leisure sector did not comment upon this issue.

The Faculty of Advocates stresses that integration between the two systems is essential. There are a range of current statutory duties and guidance, but it is difficult to make clear proposals until draft legislation is forthcoming. UKELA also states that integration with other policy areas is important.

In summary all respondents stressed the need to integrate the two planning systems. Some see problems in doing this, others less so. A number of issues immediately arise, such as the need to synchronise the planning cycles, the need for guidance from the Scottish Executive, the avoidance of duplication and integration with non-statutory plans. A number of respondents reserve judgement (especially on specific issues) until more detail proposals on this question are forthcoming.

4 Chapter 4: Delivering Environmental Improvements

The objectives of the WFD can be achieved through a variety of mechanisms. These might include additional regulatory powers and use of mechanisms such as voluntary agreements or education. The consultation paper discussed a number of issues relating to this, including how new mechanisms should be integrated with those already in place. This section will analyse responses according to specific questions raised.

4.1 *Delivery through existing legislation.*

A wide range of regulatory mechanisms is currently in place in Scotland. The consultation paper sought views on how far these mechanisms would be able to deliver the requirements of the WFD.

Few local authorities expressed a view on this. Scottish Borders Council consider that new legislation will be needed, although Stirling Council stresses the need to use existing legislation wherever possible.

Of the industry respondents, the British Ports Authority considers that delivery is possible through existing legislation. Scottish and Southern Energy questions whether this is the case.

British Waterways states that existing legislation is not sufficient particularly relating to abstraction and engineering.

The RICSS considers that existing legislation is not sufficient for delivery.

Academic, agricultural and fisheries sector respondents made no comment on this issue.

In summary, relatively few respondents commented on this. Most considered that existing legislation is not sufficient to deliver the objectives of the WFD, especially in some areas such as abstraction. However, a number stressed the need to use existing legislation where possible.

4.2 *New controls to sit alongside existing systems or to subsume them*

Where new controls are developed to meet the requirements of the WFD, it will be important that these are integrated into existing measures. This could be achieved by them sitting alongside existing measures or subsuming them. The consultation paper sought views on this.

SEPA welcomes the proposals for new control regimes, as a number of regulatory gaps exist. These must be simple and clear. This is best achieved through primary legislation.

Stirling Council considers that there may be a case for extending planning controls to all river engineering works. Farm reservoirs also require greater control. New legislation could be used to clarify current overlapping roles, etc. However, new legislation should only be used if it brings real environmental benefits.

The ENGOS consider that new controls will be necessary. SWT considers that a full review of current policy mechanisms should be undertaken to facilitate this. NTS considers that new powers are required. WWF's view is that the transposing legislation should give powers to the

Scottish Executive to amend existing legislation as necessary to ensure compliance with the WFD.

Only two industry respondents replied to this question and both stated that new controls should only be introduced where they are needed.

Academic, agricultural and fisheries sector respondents made no comments on this issue.

EnviroCentre considers that existing controls are insufficient and that the use of instruments such as general binding rules is necessary.

In summary, a wide range of respondents stated that new controls would be needed. At this point few comments were received on their relationship to existing legislation, although this issue was discussed by respondents in more detail below.

4.3 Additional means to reduce the regulatory burden

There has been an increasing number of regulations affecting water users and those whose activities might impact upon water bodies. The potential for new controls under the WFD might increase this number. Given pressures on a wide range of businesses (and other activities) it is recognised that there is a need to keep the regulatory burden to a minimum. This can relate to both the objectives of the controls and the administrative arrangements implementing them. The consultation paper sought views on how to reduce this regulatory burden.

The public bodies welcome proposals that controls should be proportionate, risk-based and simple. SEPA supports the need for single licenses, effective abstraction and impoundment regimes and measures that would allow a more comprehensive approach to water management. Phased introduction will be necessary to ensure reduced uncertainty, investment, etc. SNH questions whether regulation is always appropriate and whether incentivised action would encourage improvements (eg for diffuse pollution). SNH supports proposals for single licenses, general binding rules and a sliding scale of notification. However, SNH considers that the application of measures and determination of objectives remain unclear. British Waterways supports the promotion of codes of practice and the need to set realistic targets and use derogations if necessary. The use of management standards and protocols to achieve integration rather than legislation would be beneficial

Local authorities expressed a range of views, including the following which may reduce the regulatory burden:

- improved use of effective codes of practice;
- 'streamlining' licenses;
- controls should be made proportionate to the environmental risk;
- use of general binding rules;
- registration as an alternative to licensing should not be viewed as less 'serious';
- standards of excellence should be required;
- compliance assessment of new controls should not be another burden on local authorities;
- it is important to provide early warning to companies of the implications of new controls.

The ENGOs support the need to reduce the regulatory burden, eg by single licenses, and consider that certain developments, such as using the multi-functional role of wetlands, can bring wider socio-economic benefits. WWF considers that the strong regulatory approach advocated by the Scottish Executive seems to run counter to this. All ENGOs support the use of supplementary measures to run alongside regulation. However, they stress that the following need to be carefully considered in any assessment:

- that SEPA considers proposals workable;
- that the current level of fines is recognised as too low and should be increased to act as a deterrent;
- consideration should be given to using income from fines as part of a restoration fund;
- provision of information can assist regulatory activity;
- the definition of 'insignificant' should be examined carefully, including in site specific instances;
- encourage the use of incentives as well as regulation;
- there should be stronger proposals to apply retrospectively new regulatory regimes where the current regime is inadequate;
- legislation on restoration will need to be clear on what this means, costs and where responsibilities occur;
- transparency is vital.

Water Industry respondents support proposals to integrate licenses, eg with IPPC and controls such as general binding rules. Controls should be selectively deployed and penalties in place for non compliance. The potential for further self-regulation should be explored. Appeals should also be simple and fair.

Generally, industry respondents devoted a significant proportion of their responses to this issue. Most support the principles outlined in paragraph 4.8, ie that controls must be proportionate to the risk and that because industrial discharges are easier to identify they are not necessarily the most appropriate to target. Specific comments include:

- the need to ensure an effective interface with IPPC;
- use of general binding rules is 'attractive';
- controls should not be phased in at dates earlier than is required under the Directive;
- need for a simple and fair appeals procedure.

Industry respondents did not agree about a combined discharge/abstraction licence. Innogy, however, supports this and other respondents stress the need for 'streamlining'. However, the Malt Distillers Association considers that discharge and abstraction are separate issues and should be separately permitted. Scottish and Southern Energy stress the need for the Scottish Executive to give clear guidance on abstraction regulation in particular as, otherwise, the regulatory burden may become intolerable.

NFU Scotland stresses the current increasing burden upon farmers and that they are rarely able to pass on costs to consumers. It argues that the costs of implementing any new measures should be financed by public expenditure. The SAC stresses the need to make existing measures work before new ones are introduced. These include current codes of practice, education, etc. Also the use of incentives (eg under the CAP) must be fully explored.

The Scottish Landowner's Federation considers that deployment of new measures should be selective and that regulatory activity by SEPA must be proportionate and never to the competitive disadvantage of Scotland's land managers. Controls must only be introduced where needed and implementation of the WFD must not be 'gold plated'. The RICSS also considers that controls should be deployed carefully and that regulatory approaches should be appropriate to the catchment. Clear guidance should be given to SEPA on this. The use of single licenses would be beneficial. Bidwell Property Consultants consider that a full right of appeal is needed.

Fisheries sector organisations were generally supportive of single licenses. However, there is concern about the full implications of cost recovery. The British Trout Association also seeks clarification of 'environmental risk', if this is to be used to direct regulatory activity.

Of the leisure sector, Sport Scotland considers that controls should be selective and deployed where needed and must be proportionate to the risk.

Academic respondents generally consider that correct implementation may not result in a significant increased burden and that the combination of different types of licence and the use, where appropriate, of deemed consents will support this objective.

The Faculty of Advocates welcomes the recognition of a simple and fair appeals system. The use of Sheriff Courts is questioned, favouring appeals to Ministers under the planning acts.

Where independent consultants expressed a view it is to caution against a system which would result in differing approaches across Scotland. While it is important to be flexible and proportionate, those regulated are especially aware of the need for a level playing field.

Responses from private individuals stress the need for simple measures, effective and fair appeals and no rules 'for the sake of it'. They also promote the need for a proactive approach from water users, not simply a reaction to regulation.

In summary, most respondents provided a range of supportive comments on reducing the regulatory burden. Many are supportive of simplified approaches to regulation, in particular the use of single licenses covering different regimes (including IPPC) and standard conditions, eg the use of general binding rules. Many also support alternative non-regulatory mechanisms, such as voluntary agreements, education, etc. Respondents stated that regulatory controls, if needed, should be fair and proportionate to environmental risks – a number were concerned that controls may be introduced that 'gold plate' the WFD. Many also highlighted the potential costs of new regulations and sought assurances that resources would be forthcoming to meet these.

5 Chapter 5: Controlling Point Source Pollution

Point source pollution can have significant ecological impacts on water bodies. However, a wide range of controls exist to regulate these. However, further controls may be needed and reforms may be required to the current system. This chapter discussed these issues and sought views on a number of specific questions.

5.1 *That all point sources should be subject to regulation*

While major point sources of pollution are regulated, some are not subject to such controls. The consultation paper sought views on whether all point sources should be subject to regulation.

The public bodies generally support this approach. SEPA specifically welcomes proposals to allow consideration of assimilation capacity, on reviews of consents, allowing sector wide rules and standard licence conditions for fish farming. Further relevant comments by SEPA are found in section 5.5.

Of the local authorities only Angus Council expressed a view and this was supportive of the proposal. It particularly stresses the need adequately to regulate fish farming.

The ENGOs generally support the proposal, which will assist consistency, although there is concern about the large number of potential sources. These could be regulated using general binding rules. Also alternative solutions, such as the use of reed beds, should be more fully explored.

Water Industry respondents generally support this proposal, although emergency discharges may need to remain exempt. An appropriate control regime for intermittent discharges will need to be formulated. East of Scotland Water has concerns over the use of BAT as it is unclear what this means for waste water discharges.

Few industry respondents commented upon this. However, the Chemical Industries Association stressed that total phase out of the discharge of certain substances must be a 'last resort' and linked to a timetable taking account of social and economic factors.

The Scottish Landowner's Federation accepts this proposal, but it is important to implement regulation to minimise bureaucracy.

Fisheries sector respondents are supportive that all point sources be subject to prior regulation.

Scott Wilson Consultancy group considers that it is also important to establish a lower limit for discharges below which licences are not necessary, eg for trivial activities.

Agricultural respondents did not comment on point source pollution.

In summary, most respondents were supportive of the proposal. However, concern was expressed over implications for trivial point sources and the potential for increases in bureaucracy with only minor benefits. A number of respondents made specific reference to the need for additional regulation for fish farming. Respondents highlighted the need for

simpler regulation for smaller sources, eg the use of general binding rules, and for innovative solutions to pollution control.

5.2 A unified regulatory regime (covering COPA and the Groundwater Regulations)

One specific means to simplify regulation would be to unify the regulatory regime covering COPA and the Groundwater Regulations. The consultation paper sought views on this.

Public bodies generally support this proposal.

Of the six local authorities that expressed a view, all support the development of a unified regime.

This is supported by all of the ENGOs.

Water Industry respondents support this proposal.

Industry respondents had mixed views on this. Highland Spring and BP Grangemouth both support the proposal, but the Malt Distillers Association does not.

Respondents from the land use sector are generally supportive of a unified regime.

Fisheries sector respondents are supportive of this proposal.

Where academic respondents expressed a view, all were supportive of a unified regime.

The Faculty of Advocates supports this proposal, but considers that continual amendment of COPA is leading to a legislative framework that lacks coherence.

EnviroCentre is also supportive of the proposal.

Responses from private individuals are generally supportive and make reference to existing legislation as well as the need to take account of the forthcoming WFD daughter Directive on groundwater.

In summary, there is widespread support for the development of a unified regime, although it will be important that a coherent framework is produced.

5.3 New offence for failing to comply with a condition to be attached to a consent

The consultation paper sought comments on whether a specific new offence be introduced for failing to comply with the conditions of a consent.

SEPA and SNH both support this proposal.

All local authorities that expressed a view supported this proposal as it currently is a gap in enforcement policy. However, it will be important to ensure responses are proportionate and transparent and the policies are widely known.

This is supported by all of the ENGOs, although it must be linked with adequate monitoring.

East of Scotland Water does not support this view.

This issue resulted in mixed responses from industry respondents. The Malt Distillers Association opposes the proposal, stating that a civil fixed penalty system would be more appropriate. The Chemical Industries Association and BP Grangemouth both consider that it is reasonable, but warn against it being applied over zealously and that detailed guidance should be issued. Innogy are more supportive, stating that this approach would be in line with that taken in England and Wales.

Fisheries sector respondents are supportive of this proposal, except for the British Trout Association which view this as an excessive reaction to a minor problem.

Of the academic respondents only the University of Dundee commented, supporting the proposal for a new offence.

UKELA also supports the introduction of the offence - but only if it is used.

In summary, respondents from many sectors support the proposed new offence, although some water industry and industry respondents did not. A few respondents thought such an offence already existed.

5.4 The value of the call-in procedure

Where disputes remain on some regulatory decisions, these can be called-in for determination by the Minister. The consultation paper sought views on the value of this procedure.

The NTS and SWT consider this to be useful, providing the necessary route of appeal for third parties.

Water Industry respondents consider this to be a useful mechanism. It helps resolve conflicts, but it should be restricted to significant issues.

Of the industry respondents only the Malt Distillers Association, the Chemical Industries Association and the British Paper Industry commented upon this, all of which thought the procedure to be of value.

Few fisheries sector respondents commented upon this, but those that did are supportive.

Of the academic respondents only the University of Dundee commented, supporting this procedure.

The Faculty of Advocates considers this of value if exercised. However, previous experience has shown that it has rarely been utilised and that parties affected by consents issued by SEPA feel 'let down' by the process.

There were few responses from private individuals, but these support the procedure, but there is concern that it should be 'ring-fenced' for significant issues.

In summary, most respondents across many sectors support the value of the call-in procedure. However, a number stressed that it should only be used for significant cases and one expressed concern about the failure of the procedure in the past to have achieved anything.

5.5 *Improving the control of point source pollution*

The consultation paper concluded chapter 5 with a request for general comments on the way to improve the control of point source pollution.

SNH states that simplification and improved clarity of the regulatory system is important. The relationship between the roles of SEPA and local authorities also needs to be clarified. The Water Environment Bill will need to address pertinent issues relating to freshwater fisheries as well. SEPA strongly supports the proposals for improved control. SEPA considers that it may be appropriate to give powers to require a public water authority to provide sewerage where environmental damage occurs from private facilities. SNH also supports the necessary changes to legislation and proposals for controls on fish farming. British Waterways stresses that any new regime must continue to recognise flows from canals and reservoirs as natural, not 'discharges', and that discharge from vessels will continue to be exempt under COPA.

Few local authorities commented on this. Key issues raised include:

- that applicants have the responsibility for advertising;
- that a review procedure is important and that other interested parties be informed of such reviews;
- that application of BAT would require appropriate back-up;
- that the cumulative impacts of discharges to sewer should be taken account of;
- that applicants should bear the cost of administrative charges;
- it is uncertain how road salting, etc, would be taken account of;
- that a wider number of issues need to be taken account of in assessing sustainable carrying capacity.

The ENGOs state that consents should be based on the carrying capacity of the environment. RSPB considers that the current regime has a general presumption in favour of granting a consent and that a more precautionary approach should be adopted. The expansion of the system to include aquaculture is important and heavily stressed by most of the ENGOs. WWF considers that the use of 'softer' options to support objectives is important and supports the view that connection to the public sewer should be at the polluter's cost.

Water Industry respondents have a number of specific comments:

- caution against applicants being responsible for their own advertising;
- for trade effluent there needs to be incentives to remain with the sewerage system;
- careful consideration needs to be given to the application of BAT;
- support for the use of the carrying capacity concept;
- support for the proposal that discharges can apply for a review and no charge be made for minor changes.

Industry respondents made a number of detailed comments on the issues raised in the consultation paper. These included:

- the review period for consents should remain fixed as this improves commercial stability;
- costs for activities such as advertising are reasonably to be met by the operator;
- BAT definitions under the WFD must be consistent with IPPC BAT definitions;
- a focus upon BAT also allows environmental issues other than water quality to be addressed;
- there is concern over the proposal for the regulator to have discretion to vary licence conditions - this should be subject to independent appeals processes;
- there is general concern about the implications for the phase out of priority substances - this must be based upon demonstrable environmental harm, rather than, for example, the increasing sensitivity of analytical procedures.

The RICSS supports the proposals in the consultation document. The SLF argues that there is a need for flexibility and that the use of BAT (eg for fish farming) and carrying capacity concepts would be beneficial. However, the issue of cost is important. The SLF would also support measures to refine and improve the administrative system.

Fisheries sector respondents are particularly concerned about the impacts of fish farming. The Association of Salmon Fisheries Boards considers that COPA is not suitable for such regulation and that new methods, such as BAT taking account of cumulative impacts should be developed. It is also important to include parasites in the definition of pollution. A precautionary approach is needed. Scottish Quality Salmon welcomes the concept of a general binding rule and the Freshwater Laboratory stresses that SEPA will need to conduct additional research on ecological impacts in order to inform regulation.

Academic respondents stressed the need that regulation must be linked to ecological impacts. This must take account of other sources and regulatory changes should enhance the use of the polluter pays principle in practical terms.

EnviroCentre considers that granting SEPA additional powers could improve environmental protection. Scott Wilson Consultancy Group also states that adequate regulation of fish farming is a necessity.

In summary, respondents raised a range of issues relating to improving the control of point source pollution. In a number of cases there was significant consensus across different organisations. Many stressed the need for controls to be related to the environmental problems that they might cause, in particular there was widespread support for the use of carrying capacity assessments to determine the level of 'acceptable' pollution. Related to this is the need to take account of cumulative impacts in regulation. Simplified approaches were again stressed, such as standard conditions and unified licenses. The development of BAT will be important, although guidance and consistency is needed. The control of point sources can also be achieved using mechanisms other than direct regulation and this should be explored.

6 Chapter 6: Control of Diffuse Pollution

Diffuse pollution can also pose a threat to the ecological quality of water bodies. This chapter discussed the background to the problem, which is subject to less vigorous controls at present than point source pollution. The consultation paper sought comments on a number of issues on the control of diffuse pollution. This analysis considers the responses on different aspects of this issue together.

SEPA welcomes the proposals but considers that they need significant development. The use of SUDS is vital and institutional responsibilities in this regard need to be formalised. For agricultural and forestry diffuse pollution flexible and proportionate tools are needed, including development of codes of good practice, auditing of their effectiveness, provisions for their enforcement, enforcement powers for SEPA (eg to issue works or protection/stop notices) and the creation of land management contracts. SNH considers that action will need to focus both on the sources and the protection of the water bodies themselves. Improved use of incentive schemes and cross-compliance is important and best practice should be formalised as statutory general binding rules. SEPA must have 'last resort' powers (eg land management orders) if significant problems arise. The SUDS Scottish Working Party suggest registration under SUDS general binding rules. SEPA also notes that new rules must dovetail with any additional action required by the nitrates Directive. British Waterways notes that its dredging will assist in removing some historical pollution.

Local authorities expressed a range of views on this issue, including:

- that current good practice be promoted;
- SUDS is proving effective, but there are difficulties in securing expertise for verification;
- use of codes of practice, etc, in agriculture and forestry are lax and need to be made enforceable - statutory force is required where there is resistance to co-operation and compliance;
- the inclusion of a plan for high risk areas in RBMPs could help enforcement;
- there is a need for additional resources;
- farm diversification would assist pollution reduction and may create wildlife habitat;

The ENGOS express considerable concern about the impacts of diffuse pollution and the RSPB and SWT consider that proposals in the consultation paper are weak and that the problems in the agricultural sector are not adequately highlighted. Controls on diffuse pollution from agriculture and forestry are long over-due. However, the ENGOS recognise the need for greater use of education and training and use of incentives where possible, eg the NTS and SWT argue for greater use of payments through schemes under the CAP. However, SWT argues that SEPA must have adequate powers where necessary. NTS and SWT welcome initiatives such as SUDS and wish to see their continuation. WWF also highlights the importance of groundwater and argues that the Scottish Executive should ensure all groundwaters are adequately incorporated and protection in RBMPs prior to any adoption of a groundwater daughter Directive under the WFD. It also considers that agriculture should be brought within a formalised planning system. NTS also notes that acid rain remains an important source of diffuse pollution and seeks clarification of the way that this is to be considered in relation to the WFD. The CSCT highlights problems from forestry run-off and, therefore, the need to promote good forestry practice.

Water Industry respondents welcome proposals to tackle diffuse pollution. East of Scotland Water highlights the fact that leakage from the sewerage system is also a source of diffuse pollution. There is general concern about agricultural pollution, but also a recognition of a need to demonstrate cause and effect. The North of Scotland Water Authority states that it would be difficult to influence landowners. Education, etc, is effective, but additional powers may be needed. It may also be appropriate to consider that a certificate of technical competence is required before landowners can apply pesticides, fertilisers or organic waste. There is strong support for SUDS.

Industry respondents had limited responses to this issue. They stress the need for careful demonstration that diffuse pollution problems occur and that the first measures to be used should be voluntary in nature. The Chemical Industries Association stated that the use of economic instruments has been disappointing. The CBI specifically supports the views of NFU Scotland, stressing that implementation of the Directive must take account of the 'precariousness' of the current agricultural sector in Scotland. The British Ports Association states that implementation of new waste management plans in 2003 will help reduce diffuse pollution in ports.

The SAC states that improved understanding of diffuse pollution is needed and that improvements in farm management are required. The range of current information provision needs improvement and incentives provided. The NFU is concerned about the prospect of licensing and argues that it is unnecessary for those involved in Farm Assurance Schemes. Promotion of good practice and incentives is important and any additional measures should be publicly financed.

The respondents from the land use sector consider that while controls will be needed these should be based upon promotion of good practice and provision of advice and use of incentives. The SLF argues that use of regulation will not encourage land managers to respond positively. The RICSS states that integration with other measures is vital, eg in the development of Land Management Contracts as proposed in the Forward Strategy for Agriculture.

Few fisheries sector respondents commented on this issue. The Association of Salmon Fishery Boards and the Dee District Salmon Fishery Board support the concept of giving statutory force to codes or practice, supported by 'soft' measures. The Nith District Fishery Board states that best practice should be promoted at a basin level and that an integrated water and land management plan be developed. The Forth Fisheries Foundation considers that current grant aid schemes to farmers should be extended to take urgent action on diffuse pollution. The Association of Scottish Shellfish Growers stresses the importance of action on microbial diffuse pollution.

Of the leisure sector, Sport Scotland would support action to reduce pollution from recreation where a significant impact is proven.

Academic respondents acknowledge the problem, but stress the need for significantly more information to be available on sources and impacts. Macaulay stresses the need for effective education and information in both rural and urban areas to achieve reductions in diffuse pollutants.

Of the legal respondents, the Faculty of Advocates considers that a sensible approach would be to give statutory force to codes of good practice. However, UKELA considers that the issue is best managed by encouraging good practice through economic incentives and through land use planning.

Responses from independent consultants state that additional measures are needed, but that a farm licensing system would be a major burden to farmers and the regulator.

Responses from private individuals generally support controls on diffuse pollution and support the provision of statutory force to codes of practice for farmers and full accounting for inputs on farms.

In summary, many respondents representing a wide variety of sectors recognised the need for actions to reduce diffuse pollution. NFU Scotland stressed the need to take account of the current economic climate in agriculture and expressed concern over any unnecessary controls. Many respondents considered that current codes of practice should be made statutory and most supported the need for actions other than direct regulation, including education, use of farm support systems and cross-compliance. A number of respondents highlighted problems with the current assessment of diffuse pollution issues, indicating that more research is needed, particularly before any controls are put in place. For urban diffuse pollution, many stressed the value of SUDS, wishing to see its controls retained or strengthened.

7 Chapter 7: The system for Abstraction Control

The WFD has the aim of ensuring sustainable water levels in the natural environment to support continued water use. The ecology of surface water bodies - and the health of groundwater bodies - depends on adequate quantities of water. An abstraction control regime will be required and the consultation paper sought views on the proposed nature of the regime.

The public bodies generally support the proposals. SEPA does not see the need for time limited licenses as in England and Wales, nor for fixed period reviews. SEPA should have powers to amend licenses as necessary. SNH supports the proposal for new powers for SEPA, but their relationship to its other regulatory approaches needs to be clarified.

Few local authorities commented on this issue, but all those that did are supportive of the proposed system for abstraction control. However, some stress the importance that controls be linked to emergency planning and to requirements for flood defence.

All of the ENGOs strongly support proposals for a system of abstraction control and development of water resource management strategies. They consider that this is essential to achieve protection of wetlands and other habitats. Most support the 20m³/day threshold, but WWF considers this to be arbitrary and that an indicative threshold should be set to be used in catchment-based assessments. Key issues raised include:

- a precautionary approach should be applied, eg assessments should include a 'buffer' to allow for extreme conditions;
- there is a need for monitoring and enforcement;
- concerns that 'in perpetuity' licenses will not be adequately monitored;
- the need to consider cumulative impacts;
- the RSPB advocates a stronger system, ie the potential for license revocation without compensation and that the abstraction charge should reflect water availability;
- water resource management strategies should take account of the needs of restoration;
- SNH should be a statutory consultee and be supported to undertake further research;
- notification of abstraction is supported;
- support the need for information provision from users.
- important to consider other water users, eg recreational, in assessments.

Water Industry respondents accept the need for abstraction controls, especially in areas where quantitative problems exist, although the system must apply equally and fairly to all – public and private. The new system must also learn from lessons gained previously, eg from Water Orders issued by the Scottish Executive. However, it is unclear how the proposals fit with existing and other controls, eg would there be three registers - discharges, abstractions and combined? It is important to develop a methodology to determine the impacts of controls on all industry sectors. It will also be important to determine how the proposed regime would affect competition in the water industry. Thus there may be a need for different approaches between existing and new abstractions. Where SEPA prepares water resource management strategies the need for environmental protection will also need to take account of the need for adequate supply of high quality water for communities. The proposed threshold of 20m³/day is generally reasonable. East of Scotland Water supports the requirement to notify all abstraction. There is general support for information provision, although East of Scotland

Water is concerned at the potential costs of this and West of Scotland Water considers this should apply only to those abstractions above the 20m³/day threshold. RPS Water Services stresses that decisions on abstraction must take account of all water users.

Industry respondents made a variety of responses to this issue. SCDI states that the implications of costs to industry must be examined. Major water users offered different responses. For example, Highland Spring does not oppose abstraction licences, but seeks long-term licences to ensure commercial stability. The Malt Distillers Association, however, considers that most distillery abstraction has no environmental impact and should be exempted (or be with a designated heavily modified water body). Scottish and Southern Energy are concerned about the potential impact on business and, given their geographic interests, about consistency of approach across Scotland. It also considers the 20m³/day threshold to be 'ridiculously small' given its water use. Innogy also stresses the needs of small hydro developers. Industry respondents question the threshold relating to application. Scottish Power suggest that the threshold should vary depending upon the relative abstraction compared to water body volume and the CBI proposes that water users should be informed if they require a licence rather than being required to apply automatically. Alcan Smelting and Power UK states that provision of even basic information will be costly and has significant concerns about any need for extensive data collection. The British Paper Industry also states that additional charges for installations covered under IPPC is unjustified (indeed joint permits with IPPC should be used wherever possible).

There were few comments from agricultural respondents. In particular the SAC argues against the 20m³/day threshold (based on drier areas of Scotland), stating that average farm requirements are 400m³/day and that Farm Quality Assurance Schemes may increase abstraction. There is a need to be flexible on this issue. NFU Scotland also states that some problems could be overcome with assistance in the creation of ponds and wetlands on farms to supply water, with knock-on benefits for wildlife.

Respondents from the land sector support a regime that is simple and deals with problems that arise. The RICSS considers that information provision from the agricultural sector may be too burdensome at present. Both the RICSS and SLF support the proposed threshold, but the SLF also argues for flexibility in the use of thresholds to take account of the sensitivity of individual water bodies. The SLF also states that abstraction must be considered alongside other issues, eg in relation to concentrations of pollutants.

Fisheries sector respondents generally agree with a system of abstraction control. However, the following issues were raised:

- the 20m³/day threshold may be too high in some instances (a concern raised by many respondents);
- that the use of variable thresholds may be more appropriate;
- notification is important;
- abstraction should be monitored on an ongoing basis;
- single water use application may be appropriate for fish farming;
- clarification is needed on implications for current water users;
- applications must take full account of potential impacts on fish populations;
- particular consideration should be given to the implications for low flows in summer;
- reviews will be essential, especially taking into account the consequences of climate change;

- the cumulative effects of abstraction are important;
- the consequences of abstraction of water for cooling purposes in power generation must also be addressed.

There was little comment from the leisure sector and this concerned specific instances of water use and its relationship to maintaining important visitor and community facilities.

Academic respondents welcome the proposals for abstraction control, although they stress the need for more information on how this would work in practice as well as improved information on abstraction in Scotland before licences can be issued. There is general support for thresholds (although the University of Dundee considers 20m³/day as too high), but they should be relative, not absolute, depending on the risk to the environment. ICE Scottish Hydrological Group proposes that Water Resource Management Strategies should be sufficient comprehensive also to address leakage control, drought orders, etc.

UKELA considers that all abstractions should be within the scope of the proposed controls, but that certain categories be treated as having been given 'deemed consent'. A national guideline threshold could be adopted, but there must be flexibility locally.

EnviroCentre supports the proposal, but argues that it will need to be phased in gradually. It supports the 20m³/day threshold and that notification of abstraction should be a legal obligation.

Few responses from private individuals were received. Most support proposals for abstraction controls, although there is a question over the proposed threshold being able to control all detrimental impacts. However, there is also a question of where the burden of proof of impact lies. One response considers that abstraction by private householders should be exempt.

In summary, while a number of specific concerns were raised, widespread support for a broad abstraction control regime was expressed. A number of water users were concerned about the implications for their businesses/activities and sought assurances that controls would be linked to real environmental impacts. Respondents generally supported the need for water resource management strategies as a means to provide a strategic overview of issues and to take account of cumulative abstractions. A number of respondents, including SEPA, opposed the introduction of time-limited licenses such as are used in England and Wales, although the environmental NGOs were concerned about how well these would be monitored. There was also disagreement about the proposed threshold of 20m³/day. While a number of organisations supported this, others were concerned that this might still fail to control some damaging abstractions and, conversely, that it may still over regulate others with no impact. A wide variety of respondents also stressed the need to integrate any abstraction controls into other areas, such as single licenses, flood defence, etc.

8 Chapter 8: The Impoundment Control Regime

Impoundments may be of varying size and potential impact on the environment. These can change the nature of the water body significantly, including at some distance from the impoundment. The consultation sought views on these issues and on what control regime would be appropriate.

Both SNH and SEPA agree that impoundments and abstractions should be managed together. SEPA welcomes the use of thresholds and recommends that a new regime replace existing controls. British Waterways considers that canals should not be classified as impoundments.

Few local authorities commented on this issue, only Angus Council and South Ayrshire Council stating agreement with the proposed regime, with no comment from others. Agricultural impoundment is seen as a growing issue and impoundment measures must take account of wider environmental requirements. Falkirk Council noted that it has problems with impoundments that are no longer used.

NTS and WWF both support a combined approach to the management of abstractions and impoundments. The Forth Estuary Forum considers that legislation in this area is difficult and that it must be well researched and clear. The ENGOs consider that a comprehensive approach is required, including that assessments should apply to all new impoundments, not just those above a certain threshold. NTS supports controls on operation as well as construction and, together with WWF, it supports the requirements for operators to provide information. RSPB and SWT note that impoundments will be designated as heavily modified water bodies and it will be important to develop best practice on their management.

The Water Industry recognises the need for an impoundment regime. However, a number of issues arise, including:

- that the threshold for impoundment should be based on volume, not rate of abstraction, ie impoundments with no abstraction should be included;
- any thresholds, if adopted, should be subject to a pilot study first;
- there is concern about the potential administrative costs of information provision and it will be necessary to bring all relevant information together for it to be effective;
- simplified procedures, eg general binding rules, are welcomed;
- phased implementation would be pragmatic;
- the consultation paper makes no reference to unused licenses or those retained for drought years – there is concern that the four year review (with potential revocation) used in England and Wales would be introduced to Scotland;
- decisions must be based on environmental risk.

Industry respondents had limited comments on the issues discussed in this chapter. Scottish Power supports the proposals that owners/occupiers of large impoundments should apply for a determination and that controls should apply to operation as well as construction. The Malt Distillers Association support a catchment-based approach to controls and that a single licence for multiple impoundments is desirable. The regime should complement other existing regimes. Alcan Smelting and Power UK stresses the need for exemptions under Article 11 of the WFD to be available. It also states that provision of even basic information will be costly and has significant concerns about any need for extensive data collection. Scottish and Southern Energy has larger concerns, ie that the proposed threshold is too small

and that it has no expertise for information provision on environmental impacts. It is strongly of the opinion that controls listed in the Scheme Agreements should remain in place. Innogy questions the distinction between impoundment and engineering works and proposes that the two control regimes should be united.

Agricultural respondents did not comment on this issue.

Respondents from the land use sector are generally supportive of the proposals.

Fisheries sector respondents are concerned about the impacts of impoundments and welcome a regulatory regime. In particular the Association of Salmon Fishery Boards questions the real environmental value of some small hydro electric plants compared to the impacts that they may have, eg on migratory fish. The Nith District Fishery Board states that an impoundment regime is a good reason for keeping the Fisheries (Electricity) Committee. The latter Committee considers that planners are not best placed to enforce conditions and that firm agreements prior to construction are required.

The University of Dundee supports the proposal for impoundments and abstractions to be managed together.

UKELA supports a unified regime with abstraction controls. It also notes that the proposed threshold is unclear, ie whether it concerns abstraction or reduced flow below a dam.

Where independent consultants commented, they supported the proposal for a single regime on abstraction and impoundment.

Few responses from private individuals commented upon this, but these support a regime integrated with that of abstraction control. It will be important that the regime acts to reduce the damage caused by impoundments. However, the ecosystem value of impoundments themselves should also be recognised.

In summary, respondents were generally supportive of a unified regime to control abstraction and impoundments and that controls on the latter are important. A number of issues need to be resolved, however, including disused impoundments, unused licenses, emergency controls, etc. Few commented upon the proposed threshold and, where they did, there was little support. Some argued that all impoundments should be controlled as small impoundments can still cause significant impacts, others suggested the threshold to be too low, or that it should be based on volume not discharge rate. A number stressed that any control system should be simple, eg using general binding rules.

9 Chapter 9: Control of Engineering Operations

Engineering operations can have a variety of impacts on the ecological quality of waters. The consultation paper sought views on what controls would be appropriate in this area.

SEPA supports the proposal for a comprehensive regime. The regulator should have powers to facilitate habitat restoration works. However, it is unclear how a new regime would integrate with other existing controls. The use of general binding rules and codes of best practice will offer certainty and simplicity to developers. SEPA is unclear if it is intended to be the regulator for this regime, although it considers that it may be most appropriate. The Scottish Coastal Forum stresses the need for reducing duplication and clarifying responsibilities. British Waterways stresses its need to retain control of their engineering operations. This could be achieved by use of a general protocol. The current code of practice should also be sufficient.

Local authorities are generally supportive of such a regime. Scottish Border Council notes that the River Tweed Commissioners currently have the power to prosecute those who undertake unpermitted engineering works and proposes that this be extended to other parts of Scotland. Significant questions remain over definitions and integration within the planning system (eg not all engineering works currently require planning permission and the proposed procedures are similar to prior notification under planning legislation). The proposals raise questions in the finance of design, restoration and maintenance work. The promotion of good practice will also be important.

The ENGOs welcome the proposals for a water engineering regime to be put in place to cover environmental impacts of developments. RSPB considers that good practice should be promoted and that these requirements will require a more strategic approach to flood defence. WWF considers that a national strategic flood planning body is established to overcome the lack of a catchment-based approach to planning and current fragmentation of responsibilities. RSPB suggests transferring current responsibilities to SEPA. NPPG7 on Planning and Flooding will also need revision. Where possible soft engineering options should be explored. Restoration issues are important and WWF considers that costs must be met by the body causing damage. However, SWT points out that identification of prior conditions may be difficult, although restoration should be a positive objective for wildlife. SWT also stresses the need to integrate cultural issues within damage assessments.

The Water industry is variable in its response. For example RPS Water Services is generally supportive of the proposals, while East of Scotland Water feels that more information is required. There is concern about the potential costs to water authorities of restoration requirements. Many best practice requirements are already in place and these should be built upon. West of Scotland Water states that the development of threshold criteria would be beneficial and that this is a priority.

Industry respondents had few comments on the issues discussed in this chapter. The Chemical Industries Association questions whether the WFD actually requires the removal of redundant engineering works and stresses the need to weigh up any such removal with the disruption it may cause to habitats. Scottish Power states that controls should be operated within the existing approval system. Scottish and Southern Energy are generally supportive, but seeks clarification on the degree to which existing works have to go through the full notification and control procedure.

The SAC would welcome a system of control which includes measures to protect high quality agricultural land from flooding.

Respondents from the land use sector have a range of views, although they generally see a need for improvement to the existing regime. Issues include:

- the need for sufficient flexibility to reduce administrative burdens;
- that restoration activity is not penalised;
- that notification should not always necessitate control and should only apply to new operations;
- that integration with existing regimes occurs;
- that a 'one stop shop' for consents is introduced;
- the need for best practice guidance.

The Association of Salmon Fishery Boards (supported by other fishery sector respondents) supports a comprehensive, flexible scope for controls. However, it notes that many works are designed for environmental improvements and has a 'direct impact', but regulation seems unnecessary. A notification scheme is important. However, regular maintenance work should be excluded to reduce administration. Historical structures pose problems for fisheries and consideration needs to be given to what should be done about these. It will also be important to reduce conflicts where grant aid is used for agricultural drainage which has impacts on river systems. The promotion of best practice will be important in improving engineering performance.

In the leisure sector Dumbarton Motor Boat and Sailing Club considers that issues should be incorporated into a statutory code of practice.

UKELA suggests that engineering controls be established through land use planning controls, but ensuring any exemptions are compatible with the WFD.

Scott Wilson Consultancy Group supports the approach to managing engineering works within a riparian corridor, but that the definition of a corridor needs to be flexible. EnviroCentre also argues that the competent authority should have powers to restore heavily modified waters bodies if this resulted in major environmental improvements.

Few responses from private individuals commented upon this, but these support the need for controls. There is also support for mitigating and restoration measures. However, there is concern about the relationship with land use planning and where decisions will be made.

In summary, respondents expressed widespread support for controls on engineering works. However, there was concern that the regime be proportionate to any impacts and that simple rules, flexibility and promotion of best practice is important. Significant questions remain concerning disused engineering works and maintenance as opposed to construction. Most works are controlled under the land use planning regime and many respondents questioned how these controls would be integrated. In relation to flood planning a more integrated approach is needed and mechanisms should be put in place to develop a strategic approach.

10 Chapter 10: Pricing

The WFD promotes the concept of full cost recovery for water users. The consultation paper states that the Scottish Executive believes that current water charges do meet the requirements of the WFD, but it seeks views on this and how pricing might assist in meeting environmental objectives.

SEPA notes that there is little time to undertake an economic analysis by the end of 2004. SNH supports the development of a new charging regime, eg a levy system similar to the landfill tax to raise funds for restoration works.

Of the local authorities who responded only Angus and West Dumbartonshire Councils comment on this issue. The latter considers that, given recent water price increases, no further cost increases are justified. The former agrees with the principle of not introducing metering, but does not consider that charges through Council Taxes would affect usage. It argues that there are limits to efficiency savings from industry.

The ENGOs are generally supportive of water pricing. NTS considers that changes should only take place where environmental benefits will occur. WWF considers that pricing must ensure sustainable use, not just efficient use, that greater use is made of demand-side management and that education is vital.

The Water Industry is concerned that pricing proposals make no reference to the future effects of competition in the sector and West of Scotland Water is disappointed that the pricing issues were not more generally explored in the consultation paper. It argues that the implications must be fully taken into account by the Water Industry Commissioner for Scotland. East of Scotland Water disagrees with the consultation paper in its assessment that Scotland complies with the WFD. It argues that while charges are made these fail to act as an incentive to consumers. North of Scotland Water argues that charges should be limited to the efficient and effective exercise of regulatory duties and functions only.

Industry respondents had few comments on the issues discussed in this chapter. Scottish Power supports water pricing that is proportional to the environmental impact and based solely on cost recovery. However Alcan Smelting and Power UK and Scottish and Southern Energy state that water pricing would lead to less efficient power generation and, therefore, that pricing regimes should not apply to hydro-electric power generation. The SCDI considers that, if future analysis were to demonstrate a need, price increases should be phased in over time and early research is important.

NFU Scotland welcomes the statement that current pricing systems are sufficient for compliance with the Directive.

Respondents from the land use sector support water pricing. However, while the SLF welcomes the statement that existing charging is compliant with the WFD, the RICSS does not agree that it provides sufficient incentives. It argues that charges should increase according to their environmental impacts.

The fisheries sector respondents made few comments on this issue. The British Trout Association warns against regulators making up costs to pass on and the Forth Fisheries Foundation does envisage a role for metering in reducing demand.

Academic respondents are supportive of pricing measures, although there is need to improve the robustness of assessment tools and to ensure that environmental objectives are not compromised.

Few responses from private individuals commented upon this. Most were critical of recent price increases and of the lack of transparency on current financing. Rather than price incentives, education would be a better way to promote environmental protection.

In summary, most, but not all, agree that the current pricing system meets the basic requirements of the WFD. There were mixed responses on taking forward price incentives. Many organisations involved with environmental protection were supportive, while many water users expressed opposition or, at least, concern, especially given recent price increases. There was greater consensus on the need to ensure that detailed environmental, economic and social analyses underpinned any changes to the system. SEPA, in particular, warned that detailed analysis within the timeframe of the WFD would be very difficult to achieve.

11 Chapter 11: Monitoring

The implementation of the WFD will require detailed knowledge of the state of the water environment, the pressures upon it and how these change over time. This can only be achieved by comprehensive monitoring systems. The consultation paper sought views on the system generally and on which organisation might co-ordinate monitoring.

The public bodies support a lead co-ordinating role for SEPA. However, a number state that the task is too great for SEPA alone and that partnership and integration of monitoring systems with other bodies (eg SNH) is necessary. A Scottish Monitoring Strategy may be necessary, including identification of gaps. The monitoring requirements will have significant resource implications for SEPA and other bodies, eg SNH, which are involved. British Waterways would wish to discuss monitoring in canals closely with SEPA and develop canal-specific methodologies.

Of those local authorities that commented upon this, all support SEPA being identified as the lead authority. They state that additional resources will need to be made available, that a review of gaps in monitoring be undertaken and that there should be full transparency and partnership.

The ENGOs support a co-ordinating role for SEPA. However, this will require additional resources and a need to work in partnership with other bodies (including much data held by the ENGOs). Data must be made publicly available.

Where comments were received from the water industry they were supportive of a lead role for SEPA. While decisions will be made by SEPA, there is concern about the potential cost implications for the industry. East of Scotland Water recommends a pilot monitoring study to determine methodologies, quality assurance and costs. RPS Water Services is particularly concerned about the cost implications of monitoring under Article 7 of the WFD and that effective data exchange is required. It argues that sub-contracting is one way to reduce costs.

Industry respondents generally agree that SEPA should co-ordinate monitoring activities. However, co-ordination with other bodies holding data, the need for adequate resources and targeting monitoring to meet the requirements of the WFD are all stressed.

The NFU Scotland does not support this role for SEPA, although the SAC does.

Respondents from the land use sector agree on the proposed role for SEPA. However, resources will need to be made available and co-ordination with other bodies will be essential.

The fisheries sector organisations support the proposal that SEPA have a lead role. However, many of the respondents undertake significant monitoring themselves and they stress the importance of the co-ordination of approaches. It will also be important to review monitoring gaps. A monitoring regime would have significant resource implications and the relevant organisations should receive these. In addition alternative sources, such as increased self-monitoring, should be explored.

In the leisure sector Dumbarton Motor Boat and Sailing Club does not support a co-ordinating role for SEPA.

The academic respondents have significant monitoring experience. All support the role of SEPA, except for one, who stresses a role for SNH. Respondents stress the need for an integrated national monitoring framework and strategy, targeted at pressures, etc, including local issues, such as the impacts of jet skis or alien species. Institutions such as the BGS are important repositories of data on, for example, groundwaters.

UKELA does not support the proposed role for SEPA, but considers SNH to be more appropriate given the ecological nature of the WFD.

Responses from private individuals support a lead role for SEPA and recognise the need for an expanded network with integrated information systems.

In summary, almost all respondents supported the proposal for a lead role for SEPA. However, many stressed the considerable monitoring undertaken by other organisations covering many issues (from habitats to chemistry) and that there will be a need for extensive co-ordination, consultation and well established data exchange and dissemination technologies. A number of respondents highlighted that the requirements of the WFD go beyond current monitoring priorities and, therefore, that a wide range of gaps will need to be filled. This will not only relate to specific monitoring locations, but also the development of new methodologies. A number of relevant organisations expressed willingness to assist in this.

12 Conclusions

The consultation paper resulted in a large number of responses from many different stakeholder sectors. With few exceptions these seem to represent most of the range of views which the Scottish Executive would have sought prior to taking forward additional proposals on the transposition and implementation of the WFD.

Across many areas the proposals in the consultation paper received significant or reasonable support, although often there was a small minority opposed to specific measures.

The proposal which found least support was that for three RBDs in Scotland. Many views were expressed, but there was considerable wide ranging support for a single RBD, as well as specific concerns about the location of boundaries.

The consultation proposed that SEPA be the lead authority for a range of issues. Generally this was supported, although SEPA lacks support from some organisations. Even where it is supported, there is some concern that it may come to have too much power and there were a number of mechanisms proposed to balance this (eg the role of consultative bodies, Ministers, etc).

The WFD will require additional controls across a wide range of areas in Scotland. There was little concern about proposed controls on point source pollution, especially if the opportunity was taken to simplify regulation. Even where there is little traditional control, eg diffuse pollution, abstraction, etc, many respondents were supportive of controls. However, while the need for action in particular circumstances is acknowledged, the flexibility offered by the WFD for 'softer' measures is strongly supported and it is important to consider where these would be appropriate (eg on costs, likely success and potential for delivery of good ecological status).

In conclusion, the prospect of new controls is not generally popular with those which may be affected. Consultation responses express concern particularly where the details of potential controls regimes have yet to be worked out and, therefore, uncertainties remain. However, the prospect for radical changes to many aspects of water management in Scotland has received significant support, at least in principle in some cases. Many respondents also highlighted their willingness to participate in further discussion on specific measures as they are developed.

ANNEX I

This table provides a list of all organisations and individuals which responded to the Scottish Executive's consultation paper 'Rivers, Lochs, Coasts: The Future for Scotland's Waters'. The table also indicates which category respondents were assigned for the purposes of summarising the responses.

Organisation	Category
Aberdeenshire Council	Local authority
Alcan Smelting and Power UK	Industry
Andrew Carnduff	Personal response
Angus Council	Local authority
Argyll & Bute Council	Local authority
Association of Salmon Fishery Boards	Fishery organisation
Association of Scottish Shellfish Growers	Fishery organisation
Ayrshire Joint Structure Plan & Transportation Committee	Local authority
Bidwells Property Consultants	Land use
BP Grangemouth	Industry
British Geological Survey	Academic
British Ports Association	Industry
British Soft Drinks Association	Industry
British Trout Association	Fishery organisation
British Waterways	Public body
CBI Scotland	Industry
Central Scotland Countryside Trust	Environmental NGO
Chemicals Industry Association	Industry
Coigach Community Council	Public body
Community Planning in West Dunbartonshire	Local authority
Conon & Nairn District Salmon Fishery Boards	Fishery organisation
Cordah Ltd.	Independent consultant
Council for Scottish Archaeology & Society of Antiquaries of Scotland	Public body
David Shaw	Personal response
Dee District Salmon Fishery Board	Fishery organisation
Dumbarton Motor Boat and Sailing Club	Leisure sector
Dumfries & Galloway Council	Local authority
Dundee City Council - Environmental & Consumer Protection	Local authority
Dundee City Council - Planning & Transportation	Local authority
East Ayrshire Council	Local authority
East Dunbartonshire Council	Local authority
East of Scotland Water	Water industry

EnviroCentre	Independent consultant
Environment Agency	Public body
Esk District Salmon Fishery Board	Fishery organisation
Faculty of Advocates	Legal sector
Falkirk Council	Local authority
Fisheries (Electricity) Committee	Fishery organisation
Forth Estuary Forum	Environmental NGO
Forth Fisheries Foundation	Fishery organisation
Freshwater Laboratory	Fishery organisation
G.Ingram	Personal response
Glasgow & the Clyde Valley Structure Plan Joint Committee	Local authority
Helen Moonie	Personal response
Highland Spring	Industry
Historic Scotland	Public body
ICE Scottish Hydrological Group	Academic
Innogy	Industry
James Cormack	Personal response
Luce District Salmon Fishery Board	Fishery organisation
Malt Distillers Association	Industry
Martyn D Howie	Personal response
NDR (Environmental Services)	Independent consultant
Ness District Fishery Board	Fishery organisation
NFU Scotland	Agricultural sector
North Lanarkshire Council	Local authority
North of Scotland Water Authority	Water industry
Orkney Trout Fishing Association	Fishery organisation
Paul Copestake	Personal response
Perth & Kinross Council	Local authority
Prof Colin T Reid, Faculty of Law, University of Dundee	Academic
Professor David Crichton	Independent consultant
Renfrewshire Council	Local authority
River Clyde Fisheries Management Trust Ltd	Fishery organisation
River Leven Trust	Environmental NGO
River Tweed Commissioners	Fishery organisation
Royal Institute of Chartered Surveyors Scotland	Land use
RPS Water Services	Water industry
RSPB Scotland	Environmental NGO
Ruth Cuthbertson	Personal response
Salmon and Trout Association (Scotland) & The Scottish Angler's National Association	Fishery organisation
Sarah Hendry	Personal response
Scott Wilson Consultancy Group	Independent consultant
Scottish Agriculture College	Agricultural sector

Scottish and Southern Energy plc	Industry
Scottish Borders Council	Local authority
Scottish Coastal Forum	Public body
Scottish Landowners' Federation	Land use
Scottish Natural Heritage	Public body
Scottish Power	Industry
Scottish Quality Salmon	Fishery organisation
Scottish Wildlife Trust	Environmental NGO
Seafish Technology	Fishery organisation
Scottish Environment Protection Agency	Public body
South Ayrshire Council	Local authority
Sport Scotland	Leisure sector
St Andrews Links Trust	Leisure sector
Stirling Council	Local authority
Sustainable Urban Drainage Scottish Working Party (SUDSWP)	Public body
Tay District Salmon Fisheries Board	Fishery organisation
The Atlantic Salmon Trust	Fishery organisation
The City of Edinburgh Council	Local authority
The Crown Estate	Land use
The Macaulay Land Use Institute	Academic
The Moray Council	Local authority
The National Trust For Scotland	Environmental NGO
The Nith District Fishery Board	Fishery organisation
The Open University	Academic
The Paper Federation of Great Britain	Industry
The River Doon Fishery Board	Fishery organisation
The Scottish Council for Development and Industry	Industry
UK Environmental Law Association	Legal sector
University of Dundee	Academic
West Dunbartonshire Council	Local authority
West Lothian Council	Local authority
West of Scotland Water Authority	Water industry
William W Miller	Personal response
World Wide Fund for Nature	Environmental NGO
Zoë Stirton	Personal response

ANNEX II

Abbreviations used in this report

BAP	Biodiversity Action Plan
BAT	Best Available Techniques
BGS	British Geological Survey
BP	British Petroleum
CAP	Common Agricultural Policy
CBI	Confederation of British Industry
CIA	Chemical Industries Association
COPA	Control of Pollution Act
CSCT	Central Scotland Countryside Trust
ENGO	Environmental Non-Governmental Organisation
EU	European Union
IPPC	Integrated Pollution Prevention and Control
NFU	National Farmers' Union
NGO	Non-Governmental Organisation
NMS	National Museum of Scotland
NPPG	National Planning Policy Guidance
NTS	National Trust for Scotland
RBD	River Basin District
RBMP	River Basin Management Plan
RICSS	Royal Institute of Chartered Surveyors Scotland
RSPB	Royal Society for the Protection of Birds
SAC	Scottish Agricultural College
SCDI	The Scottish Council for Development and Industry
SEA	Strategic Environmental Assessment
SEPA	Scottish Environment Protection Agency
SLF	Scottish Landowners' Federation
SNH	Scottish Natural Heritage
SUDS	Sustainable Urban Drainage
SWT	Scottish Wildlife Trust
UKELA	United Kingdom Environmental Law Association
WFD	Water Framework Directive
WWF	World Wide Fund for Nature