

Report to Partnership Meeting 13 April 2017

CONSULTATION

People, Places and Planning Consultation

PURPOSE OF REPORT

The purpose of this report is to seek approval from Members for HITRANS response to the Scottish Government's People, Places and Planning consultation exercise.

Background to People, Places and Planning Consultation

In 2015 Ministers commissioned an independent panel to undertake a review of the planning system. The review included opportunities to get involved through both written and oral evidence and an online discussion forum. Since then we have been working with a wide range of stakeholders, including community representatives, public and private sectors, to explore potential changes to the planning system.

Ministers signalled in the Programme for Government that a Planning Bill would be brought forward early in the Parliamentary Session (Year 2). To enable that, consultation on the key components of the legislation has been scheduled for 10 January to 4 April 2017.

The consultation paper provides details of proposed changes to the planning system in Scotland and seeks respondent's views on them.

In the Consultation the Scottish Government outline four key areas of change and 20 specific proposals within these areas, not all of which are of direct relevance to RTPs and in that regard the rest of the report focuses on proposals and question of greatest appropriateness to RTPs:

- Aligning Community Planning and Spatial Planning (Proposal 1)
- Regional partnership working (Proposal 2)
- Infrastructure Planning, Funding and Innovation (Proposals 13, 14 & 15)

However, there are other aspects of the 20 proposals that have relevance for the regional transport partnerships and our community planning partners.

HITRANS officers have prepared a detailed response to the consultation paper. This has been informed by discussions with colleagues at other RTPs and has been considered and commented on by Partnership Advisors when they met on 23 March and subsequent comments that have helped shape the final document. The consultation period past on 4 April but the Partnership Director secured agreement from Scottish Government that we could submit the

draft final response before the deadline but submit changes made through the Board process to ensure the final response had the full endorsement of the Partnership Board.

The draft final consultation response is included as Appendix A to this report.

RISK REGISTER

RTS Delivery

Impact - Neutral

Comment – This consultation response does not have a direct implication on the RTS.

Policy

Impact - Neutral

Financial

Impact – Neutral.

Equality

Impact – neutral.

Comment – There are potential positive Equality impacts from the outcomes of the Consultation but no impacts from this consultation response.

RECOMMENDATIONS

1. Members are asked to note the report.
2. Members are asked to consider the response included as Appendix A to this report.
3. Members are asked to approve the response or suggest changes to the detail of the response.

Report by: Ranald Robertson
Designation: Partnership Director
Date: 4th April 2017
Background Papers: Appendix A – People, Places and Planning Consultation Response



Places, People and Planning consultation: HITRANS Response

Key Question A: Do you agree that our proposed package of reforms will improve development planning? Please explain your answer.

The Highlands and Islands Transport Partnership (HITRANS) is the regional transport partnership (RTP) for most of the Highlands and Islands. Our partner Councils are Argyll and Bute, Highland, Moray, Orkney Islands and Eilean Siar (Western Isles).

HITRANS broadly agree that the proposed package of reforms will improve development planning. Regional planning is important and should have a strong presence in both city regions and rural regions.

An absence of regional planning could place Scotland at a disadvantage in relative terms to other economies with whom we compete for inward investment.

1. Do you agree that local development plans should be required to take account of community planning?

Yes.

As community planning partners HITRANS support Proposal 1 for a statutory link between land-use and community planning. It would seem to offer a clear opportunity to discuss the infrastructure and service delivery requirements of transport, within a context of an outcome-focussed approach which could be beneficial to those stakeholders suffering transport connectivity and accessibility inequalities at present. Integration of spatial and community planning would provide a more holistic approach to planning and service delivery that would work towards well planned developments from a societal perspective. An example of this would be the provision of service centres in locations that have existing transport links to the population being served or where these links can be established from the outset.

Under the Transport (Scotland) Act 2005, all RTPs are required to produce Regional Transport Strategies. In addition to this RTPs have proposed the addition of statutory Regional Active Travel Strategies

2. Do you agree that strategic development plans should be replaced by improved regional partnership working?

It is welcomed that Scottish Government have recognised that strategic planning has an important contribution to make to a successful planning system in Scotland. Regional planning linked to economic growth can be a powerful tool in achieving positive outcomes as evidenced by the increased focus on City Region Growth Deals and on a more macro basis with developments such as the northern powerhouse supported in transport terms through Transport for the North.

Whilst the HITRANS area does not include any Strategic Development Plan body on a regional basis the planning system works well at a local level. However, we would query where rural and smaller (non-SDP) local authorities would 'fit' within regional partnerships. HITRANS welcomes that they (regional partnerships) are not explicitly defined and that their definition is encouraged to be defined regionally. HITRANS would seek clarification on where smaller authorities or rural and island authority groupings, for example, might sit in this new framework.

Irrespective of future governance arrangements, the priority is for partners at any level of regional or local government to be required to engage and collaborate in the preparation of regional and local plans and align funding programmes to coordinate their delivery. Regional partnership working can be improved on and the statutory nature of the regional transport partnership can play a role in any emerging regional partnership arrangements that help bring together local authorities and other community planning partners to work collectively within the Highlands and Islands.

On a sub HITRANS regional basis the Inverness City Region Deal programme board is a good example of how key actors can work together through a governance framework to support economic development planning. Arrangements such retain flexibility and could be a model for regional partnership working across a broad range of functions.

2(a) How can planning add greatest value at a regional scale?

The greatest value Planning adds at a regional scale is to interpret national policy and apply this at a regional level. The Government has set priorities on national inclusive growth. A regional construct around how we will achieve this in a manner that harnesses the potential of often different regional opportunities will help achieve the best outcomes. Cross boundary issues need to be overcome where they have a wider regional impact. Transport networks are a good example as networks are often regionally significant and can have a bottleneck effect on neighbouring local authorities. It is therefore evident that the ability to plan through a regional partnership approach can help optimise outcomes by better linking a range of development interests including, planning, economic development and transportation. Recent national reviews such as the Christie Commission on Public Sector Reform have provided a focus and the building blocks for a stronger, more joined up and extensive approach to prevention, early intervention and a focus on local place, which can be applied across a range of policy areas.

2(b) Which activities should be carried out at the national and regional levels?

Housing, economic development, strategic land-use, transport planning along with a regional over-view of public transport provision, amongst planning of specific modes and activities such as active travel networks, parking would seem to be activities which could benefit from strategic planning at regional levels within the context of a clear national policy context. These should include maintenance and where appropriate the enhancement of existing statutory powers and duties.

2(c) Should regional activities take the form of duties or discretionary powers?

To be fully effective regional activities should take the form of statutory powers and duties. Statutory provisions may need to be supplemented by discretionary powers. The statutory status of the RTP and the RTS can be built on to support improved regional partnership working but discretionary powers will be very important too if regional activity is to properly represent what might be distinct and different needs in the different regions of Scotland.

2(d) What is your view on the scale and geography of regional partnerships?

A coherent approach to the geography of regional partnerships is important. In considering this question HITRANS would suggest there is value in looking at what has developed in the past for regional arrangements including looking at the statutory platform and inclusive geographic coverage offered by the Regional Transport Partnerships. This is not to say that collaboration could not take place on different geographic basis as the importance of cross boundary travel may not feature the same geographic considerations for Planning as will continue to be the case for transport infrastructure and service delivery. For example, in the Highlands and Islands an important role of the RTP is to support cross boundary transport by sea and air which are crucial to the economic development of our island and peninsular communities and are often reliant on infrastructure in a neighbouring local authority area. Again, HITRANS would seek to ensure that the input of smaller, rural and island areas, where good working relations have already been established, are not discounted or lost in the wider regional partnership approach.

2(e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?

The future roles and responsibilities of partners within regional partnership in the future can build upon current practice. There should be a stronger emphasis on delivering regional priorities and there is scope for Scottish Government, agencies and partners to become more involved at this level.

3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?

There should be equal weighting as both reflect national priorities as either a spatial framework or national policy, but neither is a national plan, only regional and local levels have plans. Decision making should also correspond to the proposed second National Transport Strategy (NTS2) and the Strategic Transport Projects Review (STPR) in alignment with the National Planning Framework (NPF4) and other statutory documents such as the emerging Draft Climate Change Delivery Plan (RPP3).

3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?

It would seem appropriate at this stage to await the outcomes of the second National Transport Strategy 2, review of transport governance to enable an aligned response to improve spatial planning policy across a number of sectors but especially focussed on transport and land-use planning integration. While the City Region Deals will require an implementation facility, any future joint team could prepare, monitor and support the development strategy and the projects within these and feed into future iterations of NPF. The NTS2 review of roles and responsibilities can help shape how NPF is prepared and how those areas that do not have a City Region can have their regional / local needs included within NPF.

4. Do you agree with our proposals to simplify the preparation of development plans?

Yes, as long as the role of Key Agencies, including RTPs, are properly reflected.

4(a) Should the plan review cycle be lengthened to 10 years?

Yes, but a lot can change in 10 years and so it should be flexible enough to reflect changing priorities, such as those emerging from the planned review of the NTS and STPR or presumably any national priority identified in future NPFs. Consideration will need to be given to the differing

time scales that may emerge from a variety of statutory planning processes and ensuring that these can be accommodated within a decade long cycle for LDPs. Greater flexibility should apply in relation to the updating of associated plan Action Programmes, which could include review and updating on a shorter timescale.

4(b) Should there be scope to review the plan between review cycles?

See answer to 4(b).

4(c) Should we remove supplementary guidance?

As a lot of change can occur in 10 years, there would seem to be a place for Supplementary guidance as a useful mechanism for defining detailed policy standards and non-statutory advice and requirements especially around issues of transport.

5. Do you agree that local development plan examinations should be retained?

Yes, this ensures the opportunity for scrutiny at the end of the process if there are outstanding issues. However, it is critical in the spirit of prevention and early intervention, that there are also processes in place to ensure earlier scrutiny and engagement by all relevant parties.

5(a) Should an early gatecheck be added to the process?

Yes.

5(b) Who should be involved?

It is important that all key agencies including RTPs are involved if significant transport or accessibility issues are identified by an early gatecheck. This already works well in the Highlands and Islands where HITRANS (and others) are identified at the Major PreApplication Stage as a gate check on development applications. HITRANS welcome the opportunity to develop the existing positive partnership working that has already been developed to support the preparation and implementation of the local development plans in our area which have seen a stronger emphasis on collaboration in recent times, particularly in identifying the need for future strategic infrastructure improvements to support future growth and development. This is a good platform from which to shape regional needs including funding for infrastructure investment.

5(c) What matters should the gatecheck look at?

We welcome the consultation's highlighting of the suggestion that at an early stage an audit of existing infrastructure levels and necessary interventions to be prioritised will be produced. It is especially welcome that the consultation highlights the plan's transport appraisal as a critical issue to address at this earlier stage.

5(d) What matters should the final examination look at?

It would appear critical to have pre and post assessment of critical issues such as transport and community planning, housing and its impact on a regional transport network in terms of travel patterns and resilience of regional infrastructure and services, amongst a number of other key outcomes and statutory assessments.

5(e) Could professional mediation support the process of allocating land?

No comment.

6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?

This area is particularly planning focussed although there could be significant implications in terms of forward planning, site assessment, pre-app discussion e.g. roads requirements, connections etc. for our partner Councils and should the regional transport strategy gain a renewed delivery focus.

7. Do you agree that plans could be strengthened by the following measures:

7(a) Setting out the information required to accompany proposed allocations

No comment.

7(b) Requiring information on the feasibility of the site to be provided

No comment.

7(c) Increasing requirements for consultation for applications relating to non-allocated sites

No comment.

7(d) working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application

Yes, including consulting specifically with the Regional Transport Partnerships.

8. Do you agree that stronger delivery programmes could be used to drive delivery of development?

Yes and it will be critical to discuss and agree how these stronger delivery programmes fit with existing RTS Delivery Plans and other infrastructure investment plans. HITRANS recognise the importance of developing our RTS in collaboration with other regional partners and recognise the value of collaborative partnership working on infrastructure planning and delivery.

8(a) What should they include?

Transport infrastructure / service priorities of national or regional importance as identified in the STPR and Regional Transport Strategies.

Key Question B: Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.

It would appear to be a well-scoped package of proposals to increase the opportunity for communities to engage in planning. However, whether it does increase community involvement, will depend on how these are promoted and implemented and the capacity of communities to engage with the new mechanisms.

9. Should communities be given an opportunity to prepare their own local place plans?

We welcome the proposal to increase local democratic involvement and community engagement but with a clear proviso that this can't be a mandate to promote unreasonable protectionism, or in the absence potentially of regional planning going forward, a singular community veto on important regional strategic infrastructure projects. The action for further research is welcomed to explore options for local place plans and how they can be integrated with strategic planning in order to develop inclusive growth for Scotland.

9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?

If a clear premise of the proposed overall reforms is to take an infrastructure first approach and to progress an audit based evidence base for local development plans but be balanced with local democracy, it would appear that both plans should inform each other effectively on different aspects. It would seem counter-intuitive for local place plans to potentially diminish the approach of infrastructure first by not being informed by these approaches or audits proposed as fundamental for other parts of the planning system. However, place plans are also potentially visionary documents, helping to inform key local choices e.g. local housing allocations by giving a clear local democratic and inclusive view on all aspects of the communities view on development priorities, whilst having clear regard to need for asset protection and local transport accessibility issues.

9(b) Does Figure 1 cover all of the relevant considerations?

Consideration should also be given to:

- Public Sector Equality Duties of the local planning authorities and other public bodies such as RTPs and HIE.
- Participation requests under the Community Empowerment Act 2015.

10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?

There would appear to be potential in seeking to ensure the wider engagement of communities in the preparation of the statutory development plan. There is differing scale and coverage of community councils across Scotland and it would be important to ensure equality and equity of representation for all communities on any statutory development plan. There will clearly be areas where there is less representational capacity in communities and any new duty would need to be resourced in order to build up that capacity.

10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

It could be argued, in terms of the existing Public Sector Equality Duty that local planning authorities and other public stakeholders are already required to promote greater participation in public life for under-represented groups and foster good relations between different people when carrying out their activities, including presumably development planning.

Ultimately, any requirement to involve would need to be reasonable and proportionate, as significant resources can be devoted to participation activities but despite best efforts lead to low levels of engagement at the front-end of the planning process.

11. How can we ensure more people are involved?

Through co-design and other techniques and initiatives, hopefully more people will want to get involved, which may improve confidence in the system.

11(a) Should planning authorities be required to use methods to support children and young people in planning?

Yes. Young people are increasingly better represented through forums such as the Youth Parliament and organisations like Young Scot. Planning authorities and other regional partners should have the flexibility to change engagements practices to reach out to young people and the community planning process should provide a platform for the establishment of arrangements that deliver a consistent approach throughout Scotland's regions.

12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s).

No comment.

12(a) What would be the most effective means of improving this part of the process?

No comment.

12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?

No comment.

12(c) Are the circumstances in which PAC is required still appropriate?

No comment.

12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?

No comment.

13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

No comment.

14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?

No comment.

15. Should current appeal and review arrangements be revised:

15(a) for more decisions to be made by local review bodies?

No comment.

15(b) to introduce fees for appeals and reviews?

No comment.

15(c) for training of elected members involved in a planning committee or local review body to be mandatory?

The current separate Code of Conductⁱ consultation on the relationship between RTPs and wider planning decision making may benefit from a clear focus on any training of elected members involved in a planning committee or local review body.

15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?

No comment.

16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

Delivering development in rural areas has particular issues for which the planning system should recognise and allow more locally responsive policy and delivery mechanisms. Issues including the additional on-cost and accessibility for construction and infrastructure, small scale development not affording economies of scale, and a significantly reduced private sector economy, require locally informed policy provision, or recognition at a national policy framework level of these types of issues and scope for some local direction.

There needs to be greater recognition that the “challenges and opportunities of island communities” are also shared by communities across many parts of the Highlands and Islands due to remoteness and peripherality.

Key Question C: Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.

HITRANS agree that an infrastructure first approach, is a welcome proposal to embed prevention and early intervention principles firmly into spatial planning processes of Scotland at regional, as well as local and national levels. There should be reference to the regional transport strategies within this proposal as the RTS as a statutory document can help set out a delivery plan that can be monitored at a community planning level as well as through any emergent regional partnership arrangements that might have a wider geographic focus than individual community planning partnerships.

HITRANS recognises that the infrastructure first approach will have resource implications for regional partners in terms of forward planning.

17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?

No comment.

18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?

No comment.

19. Do you agree that planning can help to diversify the ways we deliver homes?

No comment.

19(a) What practical tools can be used to achieve this?

No comment.

20. What are your views on greater use of zoning to support housing delivery?

No comment.

20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?

No comment.

20(b) What needs to be done to help resource them?

No comment.

21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?

Yes, existing agencies are capable of undertaking these functions. This will be further refined through the review of transport governance arrangements being undertaken through the current review of the National Transport Strategy.

The consultation paper highlights that the Strategic Transport Projects Review (STPR) should work alongside spatial planning to form an essential part of strategic investment planning at both the regional and national scale. It would be welcomed if in further developments of this proposal there was greater reference to Regional Transport Strategies, as an existing statutorily required regional planning documents which clearly would have a role in a regional audit of transport infrastructure capacity and offer more scope to adequately address regional issues and priorities. This will better reflect regional differences than might be possible in a national document.

22. Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?

Yes it is difficult to conclude other than that more formalised partnership working on a regional basis will do other than provide a more effective focus and better outcomes on infrastructure planning and delivery. The review of transport governance through NTS2 is likely to be the lead mechanism to deliver such an outcome in respect to transport planning and this should consider the relationship with other forms of planning, both spatial and community.

In terms of infrastructure planning and funding it will be fundamental that any arrangements provide a strong focus for a more joined up, sustainable and extensive approach to prevent negative outcomes. The provision of an infrastructure first approach is welcomed, as a clear commitment to early intervention in line with the ethos of the Christie Commission on Public Sector Reform.

22(a) What actions or duties at this scale would help?

Completion of the commitment to review roles and responsibilities in respect to transport delivery will help shape how Regional Transport Partnership can support regional partnership arrangements and through these influence planning and delivery.

23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?

No comment.

24. Do you agree that future legislation should include new powers for an infrastructure levy? If so,

Yes.

An infrastructure levy will enable infrastructure investment and offer a vital funding stream that will allow important projects to progress even in advance of detailed developer commitments. A current example of where such a levy would be useful is the proposed station at Inverness Airport (Dalcross) which will serve the Airport, Business Park and new housing development but requires a substantial local funding contribution.

24(a) at what scale should it be applied?

An infrastructure levy would be useful at both local and regional levels.

24(b) to what type of development should it apply?

All developments that contribute to the need for enhanced infrastructure provision. This will need to recognise the difference between regional and local significance of the project and link how the levy is spent to the development's impacts.

24(c) who should be responsible for administering it?

More information / research is needed before a definitive conclusion can be drawn. If on a regional basis this could be administered through a single regional body or through a joint committee of local authorities, development agencies, regional transport partnerships and others. If retained within existing local authority or city region deal areas existing governance structures could provide the most cost effective administration.

24(d) what type of infrastructure should it be used for?

Ring fenced funding through regional transport partnerships for capital funding of transport projects was removed in 2008. HITRANS would support the inclusion of transport infrastructure within the scope of the infrastructure levy.

24(e) If not, please explain why.

N/A.

25. Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

No comment.

Key Question D: Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.

No comment.

26. What measures can we take to improve leadership of the Scottish planning profession?

A strength of the RTP board is the inclusion of appointed non Council board members who bring a range of specialist skills to add value to the organisational governance of the RTPs. This model would offer potential benefits to Planning.

27. What are the priorities for developing skills in the planning profession?

No comment.

28. Are there ways in which we can support stronger multidisciplinary working between built environment professions?

No comment.

29. How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?

No comment.

30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?

Yes, this would seem in line with the National Performance Framework and the monitoring of national outcomes, and outline a clear national strategic link between community and spatial planning.

30(a) Do you have any ideas on how this could be achieved?

There would appear to be a role going forward for Local Outcome Improvement Plans and Local Development Plans to identify and scope out relevant “planning outcomes” monitoring frameworks, this could fit with the comments raised earlier in the response around Proposal 1.

31. Do you have any comments on our early proposals for restructuring of planning fees?

No comment.

32. What types of development would be suitable for extended permitted development rights?

No comment.

33. What targeted improvements should be made to further simplify and clarify development management procedures?

No comment.

33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?

No comment.

33(b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?

No comment.

33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle?

No comment.

33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?

No comment.

34. What scope is there for digitally enabling the transformation of the planning service around the user need?

No comment.

Additional technical questions

35. Do you think any of the proposals set out in this consultation will have an impact, positive or negative, on equalities as set out above? If so, what impact do you think that will be?

Yes.

There should be positive equality outcomes from the proposals set out in this consultation as the consideration of new ways of regional working should be framed around recognition of communities and interests groups through the Community Empowerment Act and each public bodies Equalities Duties through the Equality Act 2010.

36. What implications (including potential costs) will there be for business and public sector delivery organisations from these proposals?

No comment.

37. Do you think any of these proposals will have an impact, positive or negative, on children's rights? If so, what impact do you think that will be?

Positive if specific recognition is given to Young People as consultees and stakeholders that should be considered in any new and emerging arrangements set out following this consultation.

38. Do you have any early views on whether these proposals will generate significant environmental effects? Please explain your answer.

It would be hoped that by the integration of spatial: transport and land-use and community planning that the prevention of significant environmental effects could be maximised through early intervention activities and the delivery of infrastructure/service first approach for example provision of upfront public transport services or active travel routes for new significant housing or other land-use development.
