

Final Report

Project WFD69

**Interactions and Co-ordination Issues between River Basin
Management Plans and Development Plans in Scotland**

August 2006

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Research contractor

This document was produced by:

Land Use Consultants
37 Otago Street
GLASGOW G12 8JJ

SNIFFER's project manager

SNIFFER's project manager for this contract is:

Callum Sinclair, River Basin Management Planning Manager, Scottish Environment Protection Agency

SNIFFER's project steering group members are:

Neil Deasley, Principal Policy Officer (Planning and Environmental Assessment) Scottish Environment Protection Agency
Lesley Duncan, Principal Policy Officer (Planning), Scottish Environment Protection Agency
Nick Evans, Planning and Development, Scottish Executive
Niall Urquhart, Principal Planner, Clackmannanshire Council
John Esselmont, Senior Policy Officer, Ayrshire Joint Structure Plan & Transportation Committee
Ian Johnson, Structure Plan Manager, Ayrshire Joint Structure Plan & Transportation Committee
Kirsty Irving, Research Manager (WFD), SNIFFER

SNIFFER

First Floor, Greenside House
25 Greenside Place
EDINBURGH EH1 3AA
Scotland
UK

Company No: SC149513
Scottish Charity: SCO22375

www.sniffer.org.uk

EXECUTIVE SUMMARY

WFD69: Interactions and co-ordination issues between River Basin Management Plans and Development Plans in Scotland (June 2006).

Project funders/partners: SNIFFER (Scotland and Northern Ireland Forum for Environmental Research), The Scottish Environment Protection Agency (SEPA) and the Scottish Executive.

Background to research

SEPA and the Scottish Executive commissioned Land Use Consultants (LUC), through SNIFFER, to undertake a preparatory review of the interactions between River Basin Management Plans (RBMPs) and Development Plans in Scotland. The aim of this review was to identify key interactions and opportunities for co-ordinated working between SEPA and planning authorities, particularly in the lead up to preparation of the first RBMPs.

The Water Framework Directive

The Water Framework Directive (WFD) (2000/60/EC) establishes a European-wide framework for the protection, improvement and sustainable use of inland surface water, coastal water and groundwater. The Water Environment and Water Services Act (WEWS) transposes the WFD in Scotland. SEPA is the lead authority for implementing the WEWS Act, working alongside 'responsible authorities' including local authorities, Scottish Natural Heritage (SNH), Scottish Water, The Forestry Commission, national park authorities and district salmon fishery boards.

The WEWS Act introduces a planning system for the water environment, requiring the preparation of RBMPs for River Basin Districts (RBDs). A RBMP will be prepared for the Scotland RBD which covers most of Scotland and further RBMPs for the Solway-Tweed and Northumberland RBDs. The first RBMPs must be produced by December 2009 and must establish environmental objectives for each waterbody to protect and improve the water environment, with a Programme of Measures to progressively achieve the objectives.

Whilst SEPA will lead and co-ordinate the river basin planning process, it must develop an inclusive and collaborative approach to river basin management planning involving other parties. SEPA published a River Basin Planning Strategy for the Scotland RBD (www.sepa.org.uk/wfd/rbmp/strategy.htm) in December 2005 detailing actions to support the RBMP production process. These include the formation of a National Advisory Group (NAG), along with eight Area Advisory Groups (AAGs) charged with preparing Area Management Plans, which together will form the RBMP for the district.

Land Use Planning

Protecting, enhancing and managing the water environment does not just fall to RBMPs. Under the WEWS Act, it is a statutory requirement that as far as practicable, all public bodies adopt an integrated approach to this objective. Planning authorities and SEPA must therefore exercise their respective land use planning and environmental protection functions in a co-ordinated manner. The land use planning system in Scotland guides the future development and use of land in the public interest. It is a plan-led system whereby Development Plans (i.e. Structure and Local Plans) provide the basis for planning decisions. The Planning etc (Scotland) Bill (hereafter referred to as 'the Planning Bill') sets out major reform proposals for the delivery of a modernised planning system in Scotland. Early discussions with the Steering Group for this project confirmed that whilst emphasis should be placed on the current land use planning system, the project should have regard to the provisions of the modernising planning agenda.

Effective Co-ordination

Effective co-ordination between river basin management planning and land use planning is essential to ensure that both systems deliver sustainable outcomes and that their interface is well managed and efficient. SEPA and planning authorities should seek to ensure that their plans are co-ordinated and contribute to common economic, social and environmental objectives. Ultimately, Development Plans and RBMPs with significantly mismatching objectives and policies could experience delays during plan approval stages. Whilst the research focuses on the interaction between RBMPs and Development Plans, the regulatory controls associated with each system (i.e. the Controlled Activities Regulations and the development management process) must also be well integrated.

SEPA and planning authorities are not starting 'from scratch' in striving towards integrated protection of the water environment. There are opportunities to build upon existing good practice for co-ordinated working throughout Scotland, and to establish the multi-disciplinary NAG and AAG mechanisms. However, consultation on the draft Strategy for the Scotland RBD revealed considerable stakeholder support, in particular from planning authorities, for the development of *additional* practical tools to specifically link river basin planning and land use planning. Accordingly, the published Strategy proposes the formation of a Planning Working Group (PWG) in mid 2006, with membership from the Scottish Executive, SEPA and other planning professionals to inform co-ordination between RBMPs and Development Plans.

Objectives of research

This research considers the interactions and co-ordination opportunities between RBMPs and development plans and proposes potential mechanisms to resolve problems, avoid conflicts and make the interaction efficient and effective. The research will inform the initial discussions of the PWG as it seeks to identify opportunities for effective and complementary working and reports these to the NAG, RBMP planners, and development planners.

Key findings and recommendations

The key interactions and co-ordination issues identified during the research are as follows:

- (i) Whilst existing arrangements for co-ordination between SEPA and planning authorities exist, **RBMPs and the Planning Bill proposals** will provide a new dimension to this.
- (ii) Whilst the **scope and purpose** of RBMPs and Development Plans and their **required contents** differ, related objectives and considerations provide the potential for both processes to interact effectively.
- (iii) **National guiding documents and policy statements** should encourage protection of the water environment consistently to promote effective interaction between RBMPs and Development Plans at a strategic and local level.
- (iv) Although the **plan preparation programmes and review cycles** inherently differ, SEPA and planning authorities should interact at key stages of each plan-making process and should therefore be aware of the **consultation and communication arrangements** associated with each others' plans.
- (v) As the boundaries of the RBMPs and AAGs do not coincide exactly with planning authority boundaries, SEPA should ensure that future **administrative arrangements** to guide the preparation, implementation and monitoring of RBMPs are fit for purpose and avoid unnecessary duplication of effort.

- (vi) Opportunities for information exchange including **electronic plan formats, e-planning and the use of GIS databases** should focus on what is realistically achievable.
- (vii) **Supplementary planning guidance** for Development Plans and **sub-basin river management plans** should consistently ensure appropriate protection of the water environment at a more 'local' level.
- (viii) There is scope for SEPA and planning authorities to collaborate at key **Strategic Environmental Assessment** stages, to share and exchange information and avoid both duplication of efforts and inconsistencies.
- (ix) Effective co-ordination during plan preparation should **minimise** conflict between the two regulatory systems and reduce the scope for **delays in decision-making**.

The key recommendations of the research are that:

1. **SEPA and the Scottish Executive** should take forward the spatial expression of strategic water management issues in the **second National Planning Framework**.
2. The **revision of PAN51: Planning and Environmental Protection** should incorporate planning advice on the interactions between Development Plans and RBMPs.
3. SEPA should provide **consistent and timeous advice to planning authorities** and establish internal **monitoring and review procedures** to measure the effectiveness of its advice in achieving co-ordination between RBMPs and Development Plans.
4. The Scottish Executive should consider whether there is a need for '**model**' policies covering water management as relevant national planning policy is drafted and/or revised. An alternative might be the **dissemination of suggested good practice policies**.
5. Planning authorities should use the opportunity to **comment on relevant aspects of SEPA's draft Significant Water Management Issues (SWMI) Report**, particularly the prioritisation of 'significant' issues and the potential contribution of land use planning to delivering the objectives of the RBMPs (2006/07).
6. SEPA RBMP planners and planning authorities should further consider how RBMP **electronic information could be shared** to assist Development Plan preparation and, conversely, how 'e-planning' could assist RBMP preparation.
7. A strategically focused **Planning Working Group** (PWG) should help raise awareness of the linkages between RBMPs and land use planning, identify any significant co-ordination issues and highlight any gaps and or inconsistencies in national planning policy guidance.
8. The PWG should provide a **forum for discussing co-ordination issues** raised by area-based planning groups **and for disseminating examples of good practice** to AAGs.
9. The **inaugural meeting of the PWG** should establish the co-ordination issues that warrant priority consideration, having regard to the findings of this research.
10. The **RBMP Plan of Action Report** due by the end of December 2006 should include an update on the work of the PWG to encourage wider dissemination and raise awareness of the interaction between RBMPs and Development Plans.

Key words: Water Framework Directive, River Basin Management Plans, Development Plans

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1. INTRODUCTION

1.1 Background to the Research

1.1.1 The Water Framework Directive (WFD) and River Basin Planning

The WFD (2000/60/EC) is a wide-ranging and ambitious piece of European environmental legislation, which came into force in December 2000. The purpose of the Directive is to establish a European-wide framework for the management and protection of inland surface water, coastal waters and groundwater, to protect and enhance aquatic ecosystems, promote sustainable water use, bring about progressive reduction of pollution of groundwater and contribute to the mitigation of the effects of floods and droughts.

The Directive has been transposed into Scottish law through the Water Environment and Water Services (Scotland) Act 2003 (the 'WEWS Act'). SEPA is the lead authority for implementing the Act, working alongside the public, private and voluntary sectors. Scotland has two principal River Basin Districts (RBDs); the Scotland RBD covering most of the country¹ and the Solway-Tweed RBD shared with England². Part of the Northumberland RBD also extends a short way into Scotland³. The River Basin Districts were determined by the Scottish Executive and Scottish Ministers following public consultation.

The WEWS Act introduces a planning system for the water environment, requiring the preparation of a River Basin Management Plan (RBMP) for each RBD. These will be key implementing mechanisms for the Directive and the first RBMPs will be published in 2009 after public consultation on the draft RBMPs in 2008. After 2009, RBMPs are to be produced on a six-yearly cycle with further plans therefore required in 2015, 2021, 2027 and beyond.

The RBMP will set out environmental objectives (targets) for each waterbody, present the Programme of Measure (actions) to achieve those objectives, and display the monitoring programmes set up to assess progress. The RBMPs for the Solway-Tweed and Northumberland RBDs will require significant working with English partners; most notably the Environment Agency.

The environmental objectives set for each waterbody will be determined by the feasible and proportionate actions available to manage pressures on the water environment and help secure good waterbody status wherever practical. The WFD identifies a number of standard 'default' objectives which must be considered at the outset of the objective setting process. However, more stringent objectives may be set which recognise the value of 'Protected Areas' such as waters important for bathing, whilst less stringent objectives can be set if justification can be provided, for example, when the measures needed to achieve good status would be technically infeasible or disproportionately expensive. This flexibility within river basin planning and the objective setting process is highly important as it will ensure that the objectives set in each RBMP are not only achievable and affordable but also acknowledge major and strategic trends and drivers affecting the water environment, including development pressures.

¹ www.opsi.gov.uk/legislation/scotland/ssi2003/20030610.htm

² www.opsi.gov.uk/si/si2004/20040099.htm

³ www.opsi.gov.uk/si/si2003/20033245.htm

Whilst SEPA must lead and co-ordinate the river basin planning process, an inclusive and collaborative approach to working with other parties will be required. Following public consultation and significant stakeholder engagement, SEPA published a River Basin Planning Strategy for the Scotland River Basin District (www.sepa.org.uk/wfd/rbmp/strategy.htm) in December 2005. This sets out a range of actions to support the production of the RBMP for this District, including the formation of a National Advisory Group (NAG) to oversee and contribute to the production of the RBMP and to coordinate the work of eight Area Advisory Groups (AAGs) across the District. Each of the AAGs will produce Area Management Plans for their area, which together will form the geographical 'chapters' of the RBMP.

Strategies are also in preparation for the cross-boundary RBMPs. The River Basin Planning Strategy for the Solway-Tweed will be published jointly by the Environment Agency and SEPA in the autumn of 2006.

1.1.2 Interaction with the Land Use Planning System

As RBMPs are not the only plans with an important role in protecting, enhancing and managing the water environment, it is important that they are co-ordinated with other planning frameworks, including Development Plans which steer the future development and use of land. This will ensure that the preparation and content of RBMPs and Development Plans contribute wherever possible to common goals and objectives, whilst still respecting differing statutory functions of the river basin and land use planning systems. Such an approach is a statutory requirement in Scotland, with Section 2(4)(c) of the WEWS Act stating that:

"...[SEPA and the responsible authorities must] so far as practicable, adopt an integrated approach by co-operation with each other with a view to co-ordinating the exercise of their respective functions."

'Responsible authorities' cover a range of public bodies including local authorities, Scottish Natural Heritage (SNH), Scottish Water, The Forestry Commission, national park authorities and district salmon fishery boards⁴.

The identification of local authorities as 'responsible authorities' represents a new duty for local government and provides an additional and significant justification for ensuring that the interactions between RBMPs and Development Plans are effective. In discharging this new duty as part of their development planning function, planning authorities should therefore consider possible pressures and impacts on the water environment at the early stages of plan preparation. 'Front-ending' the development planning process in this way will lead to more efficient and effective planning and environmental protection decisions by reducing the scope for inconsistencies between the two systems of regulatory control at later stages when individual planning and environmental protection licence applications are submitted for determination.

Development Plans provide the basis for decisions on planning applications. At present, Structure Plans take a long-term view of development, considering the general scale of development and its broad location. Local Plans set out more detailed policies and proposals to guide development.

The Planning Bill, introduced in the Scottish Parliament on 19 December 2005, provides for the delivery of a modernised planning system. It sets out provisions for Strategic and

⁴ www.opsi.gov.uk/legislation/scotland/ssi2006/20060126.htm

Local Development Plans which will replace existing Structure and Local Plans respectively. It requires key agencies, including SEPA, to co-operate with strategic development planning authorities during the preparation of their proposed Strategic Development Plans, and likewise with planning authorities during the preparation of their proposed Local Development Plans. The Bill also defines a new duty for planning authorities to exercise their development planning functions with the objective of contributing to sustainable development, and this further reinforces the need for collaborative working with key agencies such as SEPA. Early discussions with the project Steering Group confirmed that whilst emphasis should be placed on the current land use planning system, the research should have regard to the provisions of the Planning Bill and the modernising planning agenda.

The River Basin Planning Strategy for the Scotland RBD reinforces the importance of two-way co-ordination and co-operation. With respect to land use planning, the Strategy highlights the following:

- the National Planning Framework (NPF) and statutory Development Plans will provide a starting point for the first RBMP. For example, prospective developers and public authorities such as infrastructure providers may have based agreements and investment decisions on Development Plans. Where these commitments are consistent with the requirements of the WFD, they need to be accommodated in the policies and measures of the RBMP;
- some of the measures set out in the RBMP will be deliverable through the development planning system as part of land allocations and proposals. When Development Plans are being reviewed or altered and an approved RBMP exists or is at an advanced stage of preparation, planning authorities should have regard to the land use related requirements of that RBMP, which will have established WFD environmental objectives and measures to achieve them, some of which may have specific land use implications.

Effective co-ordination between river basin management planning and land use planning is essential for all parties involved to ensure that the interface between the two systems is well managed, efficient and delivers sustainable outcomes. SEPA and planning authorities should seek to work together better to prepare complementary plans which contribute to common economic, social and environmental objectives wherever possible. Whilst the research focuses on the interaction between RBMPs and Development Plans, it is also crucial that the specific regulatory controls associated with each system (i.e. the Controlled Activities Regulations and development management procedures) are well integrated.

It is important to emphasise that RBMPs will not seek to prevent development from proceeding, but will require a number of stringent tests to be satisfied through the planning process to prevent or mitigate against significant adverse effects on the water environment. During the course of preparing Development Plans, and where proposed land use allocations are likely to compromise RBMP objectives, planning authorities will be required to demonstrate sufficiently to SEPA that the scheme is in the over-riding public interest, and that other 'reasonable alternatives' have been considered. In determining subsequent planning applications that relate to these land use allocations, applicants will be required to demonstrate to SEPA that all practical steps will be taken to mitigate adverse impacts on the water environment and achieve the appropriate water quality objective.

For example, if an emerging Development Plan identified the need for a settlement expansion, SEPA would wish to ensure that the proposed expansion did not result in any further deterioration in the water status of relevant waterbodies unless this could be properly justified. If the existing Sewage Treatment Works for the catchment area is already at capacity, the settlement expansion would have the potential to downgrade the status of these waterbodies, and the planning authority would be required to pursue either of the following options:

- (i) take appropriate steps, in conjunction with Scottish Water, SEPA and the intended developers, to ensure the provision of additional and adequate sewage treatment infrastructure in advance of the settlement expansion; OR
- (ii) satisfy a series of stringent tests to meet *derogation criteria*, including demonstrating that:
 - the scheme is in the over-riding public interest, and;
 - other 'reasonable alternatives' have been considered, with support from SEPA if necessary, including alternative development sites within the Development Plan area where there is sewage treatment capacity.

In both cases, the planning authority would be required, in conjunction with SEPA, to ensure that the emerging Development Plan contains appropriate safeguards to ensure that all practical steps will be taken to mitigate adverse impacts on the water environment and to achieve the appropriate water quality objective.

A Planning Working Group (PWG) will be formed in 2006 in accordance with the River Basin Planning Strategy for the Scotland RBD, with membership from the Scottish Executive, SEPA and other planning professionals to inform co-ordination between RBMPs and Development Plans. The PWG will have a key role, particularly in the lead up to the first RBMP being published. Existing practices and procedures that enable co-ordinated working between SEPA and planning authorities through, for example, SEPA's role as Consultation Authority for Strategic Environmental Assessment and its non statutory role as a consultee on Development Plans, should provide sufficient scope to allow the process of integration between the two systems to begin. Once the Planning Bill comes into force, it is likely that existing consultation measures will become strengthened and provide more comprehensive opportunities for co-ordinated working between planning authorities and SEPA in respect of development planning and development management. At the very least, the PWG will assist in ensuring that any likely or emerging co-ordination issues are dealt with proactively not reactively, and efficiently not repeatedly.

1.2 Research Objectives

The aim of the research is:

"to consider the range of interactions and co-ordination opportunities between the RBMP system and the statutory Development Plan system and seek to take forward and develop potential mechanisms required to resolve problems, avoid conflicts and make the interaction effective and efficient."

This translates into the following objectives:

- (i) incorporating stakeholder opinions, to analyse the roles of RBMPs and Development Plans and then identify the nature, scale and scope of the interaction and co-ordination issues that need to be addressed;
- (ii) to evaluate options and propose solutions for addressing these issues, identifying who should undertake required actions and proposing relative priorities and timescales.

The River Basin Planning Strategy for the Scotland RBD (December 2005) also makes reference to the research, stating in section 4.2.1 that this preparatory work will help to: raise awareness; build capacity; identify key issues; and facilitate early meetings of the Planning Working Group.

1.2.1 Confirming the Scope and Emphasis of the Research Project

At an inception meeting with the Project Steering Group in June 2005, it was agreed that:

- the underlying objective of the research project was not only to identify the scope to avoid conflict between the two plan systems, but also to review how SEPA, the Scottish Executive, planning authorities and other relevant parties can work together positively, especially to secure any added value that might arise in relation to these interlinked processes;
- in reviewing potential interactions, it is important to acknowledge that SEPA and planning authorities are not starting 'from scratch', and need to build upon existing good practice in terms of current informal and formal mechanisms for co-operation and addressing potential disagreements. Notwithstanding this, the emphasis to date has focussed on SEPA's role as a (non statutory) consultee for draft Development Plans, and planning authorities will now be consulted by SEPA during the preparation of draft RBMPs;
- equally, flood related issues have traditionally formed the focus of many joint discussions, and in managing flood risk, future schemes which introduce morphological alterations (physical alterations to a waterbody such as flood defence works, dams and barrages or other measures to enable the use of water for transport or recreation) should not compromise WFD objectives. However, the WFD introduces a new emphasis on avoiding deterioration in 'good water status' and discussions on flooding matters will need to be extended to address wider issues relating to protection of the water environment. Furthermore, under section 2(4) of the WEWS Act, Scottish Ministers, SEPA and the responsible authorities must, so far as is consistent with the purposes of the designated function in question, promote sustainable flood management;
- whilst emphasis should be placed on the 'current situation', the project should also be forward looking, both in terms of potential changes in legislation and policy, and future environmental and planning trends, such as responding to future patterns of development pressure. In particular, the research acknowledges the likely changes to the land use planning system as a consequence of the Scottish Executive's modernising planning agenda.⁵ Importantly however, given the long-term intention to

⁵ Scottish Executive, (2005) *Modernising the Planning System*, HMSO: Edinburgh.
Planning etc. (Scotland) Bill [As Introduced] 20/12/05. At the time of writing, the Bill was at the early stages of passage through Parliament.

retain both plan systems, there will be considerable opportunity to feed lessons learnt in relation to the preparation and implementation of the first RBMP into future cycles of RBMP and Development Plan review, alteration and replacement, albeit that the coverage, format and content of the latter may change. The River Basin Planning Strategy for the Scotland RBD acknowledges that given the Scottish Executive's moves to modernise the planning system, the arrangements for river basin planning must be flexible enough to work both with the current system and that resulting from the modernisation agenda. It is intended that the PWG will ensure that such matters are considered fully and will advise on the need for specific guidance or procedural instruction;

- whilst the research should remain focussed on the plan level, this cannot be isolated from national level policy and guidance as this provides the context for preparation of the plans. A failure to ensure adequate co-ordination at the national level may have repercussions for co-ordination of the plans. Equally, any consequences of a potential mismatch in plans must be viewed in terms of the implications for the successful 'downstream' operation of the parallel systems of regulatory control for activities requiring environmental protection licences or planning permission;
- the research has been timely given both SEPA's proposed timescale for setting up the AAGs and the PWG, and also the more formal working arrangements with planning authorities anticipated in the Planning Bill. In addition, given the recent introduction of the Strategic Environmental Assessment (SEA) Directive (2001/42/EC), which will apply to both RBMPs and Development Plans, there is an opportunity to review the extent to which SEPA and planning authorities can, and should work together, to provide added value, and avoid both duplication of efforts and inconsistencies.

A Project Steering Group has guided this research and has provided comments which have been taken into account in drafting and finalising this research report. However, the interpretation of potential interactions and co-ordination issues outlined in this report, and the recommendations which flow from this, do not necessarily represent the formal position of all the organisations represented on the Group.

1.3 Structure of the Report

The report continues in **Chapter 2** with further details of the research methodology. **Chapter 3** outlines the potential interactions between RBMPs and Development Plans, including the key co-ordination issues arising from this. **Chapter 4** suggests recommended actions for Responsible Authorities to assist in ensuring effective co-ordination and interaction between RBMPs and Development Plans. An outline is then provided of the anticipated remit, composition and aims of the proposed PWG and further recommended actions suggested for this Group both up to, and beyond, the publication of the first RBMPs in 2009. This includes consideration of wider awareness raising and the potential need for guidance.

The report also contains a series of supporting appendices as listed in the contents page.

2. RESEARCH METHODOLOGY

2.1 Introduction

The following research tasks were completed over the period June to December 2005:

- a review of relevant documentation and background material, including a review of:
 - planning authority responses to consultation on the River Basin Planning Strategy for the Scotland RBD;
 - post-WFD SEPA responses to Development Plans and planning applications;
 - comparative approaches to addressing interactions between Development Plans and other planning systems;
- stakeholder consultation, culminating in a roundtable meeting with a representative sample of planning authorities.

Essentially, however, this was a 'pathfinder' project, with discussions with the Project Steering Group forming a key component of the research methodology.

2.2 Relevant Documentation and Background Material

There was a limited amount of relevant literature and background material to draw upon to distil out key emerging issues, and a list of relevant publications referred to is provided as **Appendix I**. Most of these originate from the Scottish Executive or SEPA, the bodies responsible for commissioning this research. In addition, to encourage consistent and coherent implementation of the WFD, EU Member States set up an informal working group in July 2001 to develop non-legally binding practical guidance documents addressing aspects of river basin management. Material produced by this working group also helped inform the early stages of the research.

Twenty-two local authorities responded to SEPA's consultation on the River Basin Planning Strategy (April 2004). A review of both the original responses and SEPA's analysis of these provided useful confirmation of key concerns in relation to the co-ordination of the two planning systems, including developing administrative arrangements to support RBMP production and ensuring effective consultation and participation⁶.

Acknowledging that the research should both draw upon existing good practice examples of SEPA/planning authority liaison, and suggest practical measures for building upon this, a number of 'post-WFD' SEPA responses to Development Plans and planning applications were also reviewed. Consideration of the coverage of the water environment in national planning policy, guidance and advice provided the context for this, albeit that many of these documents predate the WFD (see **Appendix II**).

The scope to draw upon comparable experience elsewhere for any 'lessons learnt' was also considered, including joint SEPA and local authority working on Area Waste Plans, and measures being taken with respect to the interactions between Community Planning and land use planning. The work being undertaken by the Environment Agency and planning bodies in England and Wales to encourage effective co-ordination of RBMPs and Development Plans south of the Border was also considered. This includes publication by the Environment Agency, of initial WFD advice for local planning authorities (February

⁶www.sepa.org.uk/wfd/rbmp/html/digest/index.html

2006). As highlighted in the introductory text to the document, this initial advice is seen as:

“the first step in a process of increasing engagement with spatial planners on the WFD and its implications for planningby working together, we can ensure that the goals of WFD match and complement the duty for development plans to contribute to the achievement of sustainable development”.

2.3 Stakeholder Consultation

There were two main strands to the consultation undertaken during the course of the research:

- (i) regular discussion and review sessions with SEPA/the Scottish Executive, and the wider Steering Group, as the project evolved;
- (ii) wider stakeholder consultation following the preliminary review of the potential interaction and co-ordination issues, to consider both the appropriateness of these and potential priorities and solutions.

With respect to (ii), it was agreed at the outset of the project that:

- given the formative stage of consideration of interaction and co-ordination issues, the emphasis should be on discussions with planning authorities, with other stakeholders, including developers and infrastructure providers, involved once potential issues have been defined more clearly and prioritised by the Planning Working Group;
- as the discussions with planning authorities would provide an important opportunity to update planners with regard to the progression of the RBMPs, and to emphasise the benefits of combined working, the scope of the discussions, and the nature of any supporting material provided, would need to be considered carefully;
- given this important role in awareness raising, a key message to get across is that RBMPs will not prevent development from proceeding but will require a number of stringent tests to be satisfied through the planning process (as outlined in **Chapter 1** and returned to in the draft ‘hypothetical example’ referred to below).

Following discussion with the Project Steering Group, it was decided that the research would benefit most from a roundtable meeting with a representative sample of planning authorities (i.e. ensuring geographical spread, Structure and Local Plan representation, and coverage of a range of development pressures and associated water-related issues). The meeting was held in December '05 and sought to:

- (i) introduce the research project and river basin management planning;
- (ii) consider some of the strategic issues emerging from the research;
- (iii) test out the ‘usefulness’ of a hypothetical example which sought to illustrate the potential interactions between a proposed settlement expansion in a draft Local Plan and an RBMP.

In addition to representatives from the consultancy team, SEPA, the Scottish Executive and SNIFFER, the roundtable meeting was attended by nine planning authorities and the RTPi in Scotland. A full attendance list is included as **Appendix III**. The draft hypothetical example is included as **Appendix IV**.

SNH, the Environment Agency and the Planning Officers Society for England and Wales were also invited to comment on the scope and objectives of the research, and on the preliminary co-ordination issues that were identified. Whilst these organisations were interested in both the study brief and the intended outputs of the research, no specific feedback was received during the course of the work.

3. OUTLINE OF POTENTIAL INTERACTIONS BETWEEN RBMPs AND DEVELOPMENT PLANS

3.1 Introduction

In total, SEPA received 81 responses to the consultation on the draft River Basin Planning Strategy for the Scotland RBD. Issues raised included the following:

- concern that there would be potential conflict between an environmentally driven RBMP and the wider remit of the land use planning system;
- support for early co-ordination between Development Plans and RBMPs, both in terms of the lead up to publication of the first RBMP in 2009 and the early stages of individual Development Plan preparation;
- concern over the boundaries of the AAGs and the administrative arrangements and resource requirements associated with these new groups;
- overall agreement that whilst it would be unrealistic to synchronise Development Plan and RBMP boundaries, this does raise co-ordination issues;
- concern that conflict between the two planning systems would arise and that it would require arbitration/consideration by Ministers to resolve this;
- concern that both SEPA and planning authorities would be heavily criticised by developers if there was a failure to co-ordinate the two 'consenting' systems;
- strong support for the proposal to set up a PWG to raise awareness, identify any significant co-ordination issues and advise on the need for guidance, with queries raised in terms of the lifespan and membership of the group (examples suggested in relation to the latter) and how the Group would sit alongside the NAG and AAGs;
- mixed views over the appropriateness of planning subgroups within AAGs;
- support for the development of guidance on the co-ordination of Development Plans and RBMPs.

It is important to note that SEPA has undertaken further work to address a number of these concerns during the 18 months since the consultation exercise, and has taken all comments on board in preparing the final Strategy. However, the issues raised have helped to shape the consideration, in this chapter, of the potential interactions between RBMPs and Development Plans, including associated co-ordination issues. This is structured under the following headings:

- (i) purpose and scope of plans;
- (ii) guiding documents and policy statements;
- (iii) plan components, preparation programmes and review cycles;
- (iv) plan boundaries and administrative arrangements;

- (v) required contents;
- (vi) plan format and e-planning;
- (vii) supplementary guidance;
- (viii) participation, consultation and communication arrangements;
- (ix) Strategic Environmental Assessment;
- (x) plan outputs/ development level.

Each section is presented consistently, with a brief discussion for RBMPs and then Development Plans, followed by a comparative overview of key co-ordination and interaction issues which merit further consideration. The chapter concludes with a summary of the key issues associated with each of these ten headings.

3.2 Purpose and Scope of Plans

At the outset, it is important to consider the 'compatibility' of the objectives underlying both plan systems, as any inherent mismatches at this stage will be manifested in the detailed content of the two plans.

3.2.1 River Basin Management Plans

By introducing a new legal framework for the protection, improvement and sustainable use of waters, the overarching objective of the Directive is to achieve 'good water status' for all waters by 2015.

Under the WFD, Member States must ensure that RBMPs define how explicit water quality targets for all water bodies will be met. Schedule 1, Part 1 of the WEWS Act 2003 sets out the matters which should be included in every RBMP, including a summary of the characterisation of the RBD, a summary of significant pressures and the impact of human activity on the water environment within the district, arrangements for water monitoring status, a list of environmental objectives for every water body and a summary of measures to be applied to achieve these objectives.

RBMPs are not driven solely by environmental matters and, importantly, economic considerations are integral to the objectives and delivery of the WFD. This includes consideration of the economic importance of water uses and identification of the most cost-effective *programme of measures (PoMs)* (see section 3.6.1 below) for achieving environmental objectives. 'Exceptions' to meeting standard default objectives can be justified, for example on the grounds of disproportionate costs or technical unfeasibility. In these cases, environmental objectives can be achieved over extended periods of up to two additional plan cycles or less stringent objectives can be identified. It must be demonstrated sufficiently that such conditions apply to individual locations and developments to support the application of alternative objectives.

Each RBD has an economic Characterisation Report, which was developed with the assistance of the WFD Economic Advisory Stakeholder Group (EASG). The Characterisation Reports for Scotland emphasise that economics will play a number of specific roles in the RBMP process, including:

- informing the setting of environmental objectives for the water environment so that the objectives set strike the right balance between social, economic and environmental considerations;
- informing the selection of the most cost-effective combination of measures for achieving the environmental objectives for the water environment.

The Characterisation Reports were supported by research which revealed that the economic importance of the water environment to Scottish river basins is substantial, which will require significant consideration in the setting of environmental objectives in each RBMP. In addition, the majority of significant pressures on the water environment are associated with only a small number of economic sectors, including agriculture, forestry, fishing, energy, water supply, sewage and refuse disposal, which will enable these to be prioritised for further consideration.

As with land use planning, the social dimension is also being given appropriate consideration. For example, to examine the relationship between the environment and social conditions in the context of the WFD, the Environment Agency (England and Wales) is currently undertaking a review of the extent to which RBMPs can aid regeneration and improve quality of life in the Lower Lea Valley (north London). The Lower Lea Valley is characterised by a poor environment and significant pockets of urban deprivation and poor health, and is the site of a major regeneration initiative by the London Development Agency. The study is testing the role of RBMPs in resolving conflicts between social deprivation and the environment, and reviewing how far environmental enhancements can contribute to social wellbeing. This again challenges perceptions that RBMPs are solely environmentally driven and likely to lead to an inherent conflict with the wider remit of the land use planning system.

3.2.2 Development Plans

The Town and Country Planning (Scotland) Act 1997 provides the basis for the planning system in Scotland and establishes the roles of the Scottish Ministers and local authorities with regards to Development Plans, development control and enforcement. The overall purpose of the planning system in Scotland is to guide the future development and use of land in the public interest. The three primary objectives of the planning system are to provide a land use framework for promoting sustainable economic development, to encourage and support regeneration, and to maintain and enhance the natural and built environment.

The term 'Development Plan' collectively refers to Structure and Local Plans. Structure Plans are prepared by Structure Plan Authorities and provide a broad strategic overview of how the area will be developed over a period of 10-15 years. Local Plans are prepared by local planning authorities and set out detailed policies and specific proposals for the development and use of land to guide day-to-day planning decisions. Local Plans can relate to the entire administrative area of the local planning authority or part thereof.

Section 25 of the 1997 Act establishes the plan-led nature of the planning system and requires all planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. SEPA currently provides comments to local planning and structure planning authorities on their draft Development Plans on a non-statutory basis, and is a statutory consultee for certain types of development proposals.

The Planning Bill seeks to modernise the planning system in Scotland to ensure that it is fit for purpose, efficient, inclusive and promotes sustainable development. It proposes a new approach to planning in which the underlying objective is to promote sustainable and high quality new development, and to manage the development process with this in mind. The Bill proposes significant changes to development planning and development control. The current system of Structure Plans and Local Plans will be replaced by Strategic Development Plans and Local Development Plans. The new Plans will be shorter and more focused on delivery and outcomes. The term 'development management' replaces 'development control' and is used in the remainder of this report.

The proposals to modernise Development Plans have been the subject of extensive consultation through the Executive's *Review of Strategic Planning* (2002) and *Making Development Plans Deliver* (2004).

Proposals were brought together in the White Paper *Modernising the Planning System*, which highlights that the primary role of planning should not be to prevent development but to foster the right development in appropriate locations. The White Paper states a national aim to produce up-to-date Development Plans which:

- (i) provide a clear vision of how our cities, towns and countryside areas should develop;
- (ii) involve all interests in their preparation;
- (iii) undergo SEA to help ensure that sustainability is fully integrated into the process from the outset;
- (iv) are the core document against which applications are assessed for determination.

Part 2 of the Planning Bill establishes a new duty for key agencies (e.g. SEPA and Scottish Water) to co-operate in the preparation of Strategic and Local Development Plans and will therefore formalise the current non-statutory consultation arrangements for commenting on draft Structure and Local Plans. It also establishes a new duty for planning authorities to exercise the [Development Planning] function with the objective of contributing to sustainable development. Collectively, these new duties will help strengthen the interaction between RBMPs and Development Plans.

3.2.3 Interactions and Co-ordination Issues

Both the WFD (and implementing legislation) and the land use planning system are 'plan led', and decisions that are not in accordance with the associated plans must be appropriately justified. The plan-led nature of RBMPs and Development Plans provides a common foundation and is a key consideration in assessing how the two systems might interact. Related to this is the importance of having up to date RBMPs and Development Plans upon which to base decisions.

Although the concept of sustainable development lies at the heart of both the WFD and the land use planning system, there is a misconception that the underlying environmental remit of RBMPs will clash with wider Development Plan objectives. However, it is important to note that economic considerations are integral to the preparation of an RBMP and it is recognised that social considerations cannot be divorced from environmental benefits such as good water quality and minimised flood risk. Equally, the land use planning system is well experienced in responding to competing economic, social and environmental priorities. Nonetheless, there may be occasions where SEPA and planning authorities cannot reach a consensus about the sustainable development merits of a planning proposal or an environmental objective contained in a RBMP and ultimately it may be for Scottish Ministers to decide the best way forward.

Whilst the RBMP is only one consideration in the preparation of Development Plans, albeit an important one, it is also true that the planning system cannot encompass all the detailed objectives of the RBMP, including for example, those in relation to potential diffuse pollution from agriculture and forestry-related activities. Development Plans can only have regard to those objectives and measures in the RBMP that relate to the scope of the land use planning system. However, it is not uncommon for plans produced by one organisation to impact directly or indirectly on plans prepared by other organisations. The real challenge in the spirit of the Planning White Paper and the Planning Bill is to foster the right development in the right places and to develop new approaches and attitudes to co-ordinated working to predict at an early stage of plan preparation where conflicts may arise and opportunities might exist to manage those conflicts. Section 4.2.6 of the River Basin Planning Strategy for the Scotland RBD suggests that there are opportunities to manage competing priorities with Development Plans through five mechanisms, which will be developed further in association with the PWG:

- (i) partnership working through both the existing arrangements for development planning and the proposal for planning authority involvement in RBMP AAGs (see section 3.5 below);
- (ii) legislative instruction, given that under the WEWS Act, all responsible authorities⁷ *“...must exercise their designated functions so as to secure compliance with the requirements of the Directive”*;
- (iii) RBMPs forming material considerations in planning decisions, where appropriate;
- (iv) SEPA's role as a key agency in the context of the Planning Bill and the duty to co-operate with planning authorities in preparing Strategic and Local Development Plans⁸;
- (v) the duty in the Planning Bill for planning authorities to exercise the development planning function with the objective of contributing to sustainable development.

Importantly, although future Development Plans are to be shorter and more focussed on delivery and outcomes, the need to reflect the relevant land use aspects of the RBMPs should not necessarily conflict with these objectives.

3.3 Guiding Documents and Policy Statements

The Scottish Executive is committed to integrating the principles of sustainable development in its policy agenda. Co-ordinated action between different programmes and priorities is essential to increase effectiveness and value. Co-ordination of national policy and guidance is central to encouraging co-ordination at plan level.

3.3.1 River Basin Management Plans

EU Member States have jointly developed a common strategy for supporting the implementation of the Directive. One of the main short-term objectives of the strategy is the development of non-legally binding and practical guidance. In the context of this strategy, an informal working group dedicated to best practice in river basin planning issues has been set up. The main intention of the group, launched in July 2001, is the development of guidance in relation to:

⁷ As defined in Scottish Statutory Instrument 2006 No. 126: The Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006.

⁸ This may become a statutory responsibility under the proposed modernisation of the planning system.

- (i) the identification of river basin districts;
- (ii) the planning process;
- (iii) public participation;
- (iv) integrated river basin management planning.

To date, guidance in relation to the identification of river basin districts and the planning process has been issued⁹.

SEPA is also part of the UK Technical Advisory Group (UKTAG) considering RBMPs and is contributing to the development of guidance and support materials for use across the UK¹⁰.

In addition, the River Basin Planning Strategy for the Scotland RBD makes specific reference to the establishment of the PWG to examine further the need for policy and guidance on the co-ordination of the RBMP and Development Plan systems.

3.3.2 Development Plans

Scottish Ministers expect the planning system to support and inform its wider policy agenda, linking principles and actions to enable sustainable development. Statements of Scottish Executive planning policy are contained in Scottish Planning Policies (SPPs) and Circulars and these may be material considerations to be taken into account in Development Plan preparation and development management. The remaining National Planning Policy Guidelines will have continued relevance to decision making, until such time as they are replaced by a SPP.

The first National Planning Framework (NPF) for Scotland was published in 2004, to guide the spatial development of Scotland to 2025 and provide the spatial context for other plans and programmes including Structure Plans. It notes that considerable resources have been allocated by the Scottish Executive for investment in water supply and wastewater (approximately £4 billion over the period 2000-2006). It states that lack of capacity is a key development constraint for some areas of Scotland, and that in some rural areas this has acted as a barrier to affordable housing provision. In terms of the water environment, it therefore focuses on capacity issues and notes the future challenge of flooding arising from climate change (paragraphs 79 and 80).

Looking ahead to 2025, the NPF notes the need to match water infrastructure investment with demand, therefore taking into account development needs and proposals. It also states that *"the Executive is giving consideration to whether approaches to accommodating new development adopted in other utilities may help to inform arrangements for the water industry"*.

The Planning Bill contains provisions for putting the national Planning Framework (NPF) on a statutory footing. Part 1A of the Bill states that the NPF must contain (a) a strategy for Scotland's spatial development and (b) a statement of what Scottish Ministers consider to be priorities for that development. Scottish Ministers are to consult such persons or bodies as they consider appropriate in preparing or revising the framework.

⁹http://forum.europa.eu.int/Public/irc/env/wfd/library?l=/framework_directive/guidance_documents

¹⁰<http://www.wfduk.org/>

The second NPF is planned for 2008 and is expected to be more specific, adding a spatial dimension to policies, integrating strategic investment, tackling inter-regional choices, identifying developments of national strategic importance and generally focusing more on implementation.

Scottish Planning Policy (SPP)1: The Planning System (2002) sets out the overall aims and purposes of Development Plans, and provides some guidance on their relationship with other types of plans. As paragraph 57 states that “*the planning system should not be used to secure objectives that are more properly achieved under other legislation*”, this emphasises further the need to define clearly the interface between RBMPs and Development Plans.

To date, more specific policy and advice in terms of this relationship between planning and other legislation is provided on a thematic basis within other SPPs and National Planning Policy Guidelines (NPPGs), and Planning Advice Notes (PANs). PAN51 (under review) is the main source of advice on the interaction between the planning system and environmental protection regimes.

SPP7: Planning and Flooding (2004) establishes that new development should be free from significant flood risk from any source and should not materially increase the probability of flooding elsewhere. For coastal and watercourse flooding, a Risk Framework characterises areas for planning purposes by their annual probability of flooding and gives the planning response. Medium to high risk areas in built up areas with flood prevention measures should be acceptable for most brownfield development except for essential civil infrastructure, whereas medium to high risk areas in undeveloped and sparsely developed areas are generally not suited for most development. The potential of land to flood should be considered during the preparation and review of every Development Plan. ‘Medium to high’ risk areas for watercourse and coastal flooding and areas where flooding from other causes is an issue must be identified early in the plan preparation process. Taking that into account, planning authorities should still allocate sufficient land for development, and in particular meet the housing land requirement for each housing market area in full.

SPP7 also recommends that Flood Liaison and Appraisal Groups (FLAGs) contribute to the plan preparation process. There are no proposals at present to amend or extend SPP7 to make reference to river basin management planning. However, Part 2 of the Planning Bill introduces new powers for Scottish Ministers to issue guidance to planning authorities on development planning in relation to their duty to contribute to sustainable development. Authorities must have regard to any such guidance issued.

3.3.3 Interactions and Co-ordination Issues

Possible spatial parallels between the RBMP for the Scotland RBD and the NPF merit further consideration, not least given the similar timescales for producing the consultative draft RBMPs and the NPF2 during 2008, and the scope for national development priorities including major infrastructure investment to have significant positive impacts on the water environment.

The River Basin Planning Strategy for the Scotland RBD emphasises both that the existing NPF will provide a starting point for the first RBMP and that the four yearly reviews of the NPF will provide regular opportunities to address any strategic water management matters arising from river basin planning.

As NPF2 will provide clearer spatial guidance and may include water infrastructure proposals, there are obvious opportunities for SEPA input on the basis of the preparatory RBMP work undertaken to date, including the identification of pressures and impacts. Equally, guidance on RBMP preparation provided by SEPA to both the NAG and AAGs should take account of the context provided by the NPF for the future preparation of Development Plans.

The potential role and scope of new or revised national planning guidance in relation to RBMPs is given further consideration in Chapter 4.

3.4 Plan Components, Preparation Programmes and Review Cycles

The timescale for producing and reviewing RBMPs and Development Plans and the nature of their component parts provides a particularly useful insight into the ways in which they could potentially interact. It is important to take into account both the actual timeframes associated with key milestones in the plan preparation process, and the order in which they take place.

3.4.1 River Basin Management Plans

The first RBMPs must be in place by *December 2009* and then be replaced at six yearly intervals (see **Figure 3.1** below). The interim programme is as follows:

- Characterisation and Impact Analyses Reports were required by *December 2004* (WFD, Art. 5).
- A Plan of Action Report must be prepared by *December 2006* and must remain open for consultation for a six-month period. Whilst there is no guidance on the content of the document, this is likely to include the detailed programme for production of the first RBMP including key milestones and the intended consultation and engagement activities. The need for co-ordination with other planning systems will also be highlighted.
- Under Art. 14 (b) of the WFD, an interim 'Significant Water Management Issues (SWMI) Report' is required by *December 2007*. However, SEPA is aiming for publication in Spring/Summer 2007 to allow more time to prepare the first draft RBMPs.

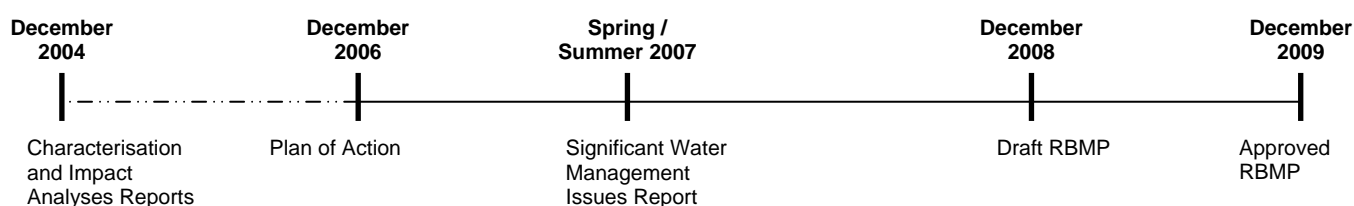
The WFD-UKTAG (United Kingdom Technical Advisory Group) is currently in the process of agreeing the content of UK SWMI reports. It is proposed that the main purpose of the SWMI report should be to:

- report in summary on significant water management issues (building on the Characterisation Reports);
- review and record existing measures that will contribute to delivery of the environmental objectives (and possible measures where available);
- report on progress made with exemptions/alternative objectives;
- consult stakeholders on whether or not they agree with the significant issues as the initial priorities.

The SWMI Report will identify significant issues and give an indication of the measures likely to be required to address these significant issues. The Report will therefore guide development of the Programme of Measures. After 2009, the Characterisation and SWMI Reports are likely to be combined.

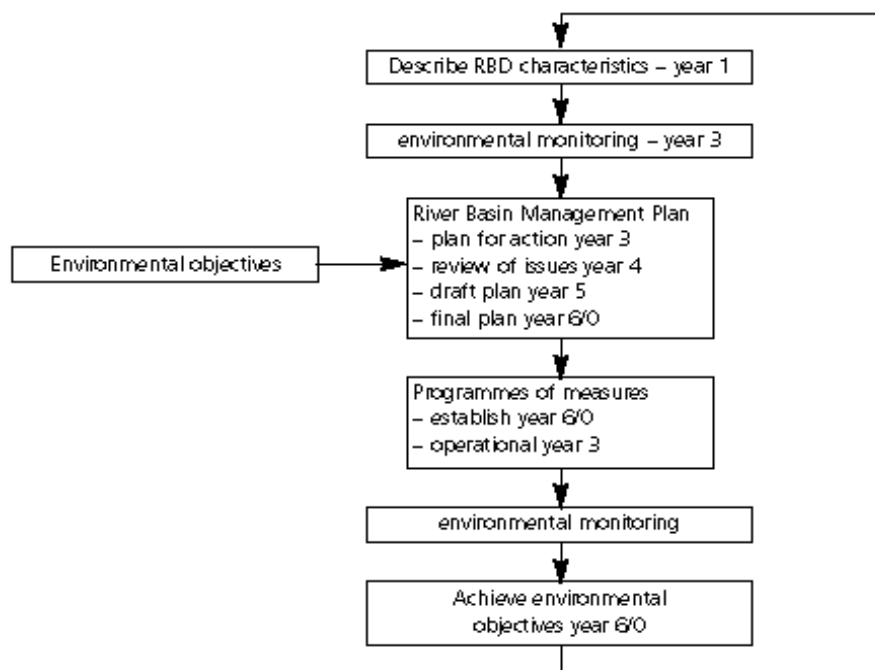
The draft RBMP must be issued for consultation by *December 2008*. As detailed in section 3.5.1 below, the mechanisms and structures are being put into place currently to begin work on this.

This preparation process is illustrated broadly in the timeline below:



It should, however, be noted, that following the initial preparation phase, this cycle will recommence, running over six years in total. **Figure 3.1** below ¹¹ sets out the cycle which will eventually be followed, following this initial phase.

Figure 3.1: RBMP preparation cycle



¹¹ Extracted from Scottish Executive (2001) *Rivers, Lochs, Coasts: The Future for Scotland's Waters*, HMSO: Edinburgh.

3.4.2 Development Plans

SPP1 recommends that Structure Plans are reviewed (at least) every five years and that Local Plans should also be reviewed or revised within five years of adoption. This advice is reiterated in PAN37: Structure Planning (revised 1996) and PAN49: Local Planning (1996) respectively, although current advice also notes that a set timescale is not always practical or appropriate. Currently however, 70% of Local Plans are more than five years old, and around 20% are over 15 years old, undermining the relevance of some policies and proposals, particularly in areas where the land allocations have not kept apace with development pressure. The plan preparation cycles for both Structure and Local Plans include provisions for draft and finalised plans, consideration of proposed modifications and formal approval prior to monitoring and review.

The Executive's Modernising Planning agenda includes a stronger commitment to the goal of regular plan review, with a statutory requirement to update Development Plans every five years. Section 16(1) of Part 2 of the Planning Bill requires planning authorities to prepare Local Development Plans (LDPs) for all parts of their district whenever required to do so by the Scottish Ministers, or, subject to this, at intervals of no more than five years. Section 10(8) states that Strategic Development Plans (SDPs) must be submitted to Ministers within four years of last approval to also ensure a five yearly turn around of these plans.

To ensure the effective management of the development planning process, planning authorities will also be required to prepare a Development Plan Scheme which sets out the programme for producing and reviewing LDPs and SDPs, and a consultation statement explaining how and when they will engage local people and stakeholders in the process. The Development Plan scheme will be updated annually and distributed widely to increase the predictability and transparency of the development planning system.

Thereafter, the key steps in the new plan preparation process for both SDPs and LDPs will focus around two stages: early engagement around a report on the key issues, followed by the preparation of a single 'proposed plan'. The process can be broadly summarised as follows:

- Issues stage:
 - prepare the Main Issues Report;
 - publicity and consultation;
 - receive and consider responses;
 - prepare proposed plan;
 - prepare proposed action programme.
- Proposed plan:
 - publish proposed plan and carry out neighbour notification on new site specific proposals in LDPs;
 - consider responses and negotiate objections;
 - publish amendments and update on consultation statement.

An Action Plan will be prepared alongside each SDP and LDP to set out the programme of measures required to implement policies and proposals. This will state what is to be done, who is responsible and when it will be achieved. It will be monitored and updated to reflect completed work and any revised timescales and will be published at least every two years. This will provide greater certainty that the provisions of the Development Plan will be followed through.

SDPs will be submitted to Scottish Ministers for approval, with an independent assessment by the Scottish Executive Inquiry Reporters Unit (SEIRU) on outstanding issues. SEIRU will submit recommendations to Scottish Ministers who will decide on whether the plan should be approved, amended or rejected. The Action Programme will be published within three months of the publication of the approved plan, and a period for court challenge will be provided.

LDPs will also be examined by SEIRU where there are outstanding issues. The Reporter will make recommendations to the planning authority. The scope to depart from a Reporter's recommendation will be limited and a new framework will govern the circumstances whereby local authorities will be able to do so. Planning authorities will be required to seek the agreement of the Scottish Ministers where they wish to depart from recommendations, and Ministers will retain the right to intervene in the adoption of the plan where they are not content. As with SDPs, authorities have three months after publication to provide an action programme, and a period is designated for court challenge.

The modernising agenda suggests a shift towards Development Plan examinations which may comprise written representations, hearings, roundtable discussions and inquiries. All submissions to an examination will have equal status.

Transitional arrangements for the modernising planning proposals will allow Development Plans that are currently being prepared to be carried over to the new planning system so there will be no immediate need for a renewal of all plans.

3.4.3 Interactions and Co-ordination Issues

To comply with the WFD, the preparation cycle for RBMPs includes a series of clear milestones. It is also important to remember that most of Scotland is covered by a single RBMP. This contrasts with the more complex preparation and review cycles for Development Plans.

These differing timescales both present challenges and opportunities. For example, challenges could arise where an existing or emerging Development Plan presents significant issues for the preparation of the RBMP. On the other hand, there will be significant opportunities for SEPA and planning authorities to work together more closely where RBMP and Development Plan preparation is largely concurrent and in the period immediately after approval of the RBMP when, assuming that the Planning Bill has been enacted, Issues Reports and proposed plans will begin to emerge. The statutory requirement to update Development Plans every five years will help to ensure that RBMPs are reflected in Development Plans sooner rather than later, whilst Development Plan Schemes and Consultation Statements will provide scope to support early co-ordinated working in plan preparation.

The contents of SEPA's statutory responses to planning applications and non-statutory responses to Development Plans provide opportunities to reflect the incremental introduction of the WFD. Currently, SEPA can refer to the Characterisation Reports and

from Spring/Summer 2007, SEPA will be able to refer to the SWMI Reports. This means that there is already some degree of interaction between river basin management planning and land use planning, albeit that this is largely instigated by planning authorities deciding to review their existing Plans. Unlike the RBMP process, there is no single starting point in time for preparing Development Plans across Scotland's 32 planning authorities and so it would be neither possible nor appropriate to develop a single set of recommendations which sets out how the two systems relate to one another.

However, depending on the relative timescales for RBMPs and Development Plans, it is clear that there are likely to be:

- issues potentially arising for *both RBMPs and Development Plans* in terms of overall options for co-ordination;
- issues which *RBMP planners (i.e. SEPA and AAGs)* will need to pay regard to in terms of existing and emerging Development Plans;
- issues which *planning authorities* will need to take into account when preparing new / replacement Development Plans after the RBMP has been published.

It is therefore useful to consider the practical ways in which the two systems could be co-ordinated, based on a series of scenarios as discussed below. These reflect progression against the RBMP preparation timescale at the time of writing (Spring 2006).

Scenario 1: Concurrent RBMP / Development Plan Preparation Processes

- As the RBMP Characterisation Report has already been prepared, the Development Plan should take into account key pressures and impacts relevant to land use planning (see **Table 3.3** below).
- Subject to timing, development strategies and proposals from the emerging Development Plan could feed back into the SWMI Report or the draft RBMP including the proposed PoMs.
- Subject to timing, the SWMI Report/draft RBMP could further influence the emerging Development Plan. Whilst SEPA will comment on the draft Development Plan either on a non-statutory basis in the period prior to the Planning Bill being enacted or thereafter as a statutory consultee, early discussions between SEPA and planning authorities regarding the land use aspects of the SWMI Report/draft RBMP would be desirable. Subject to the issues this raises, further consultation with SEPA may then be advisable at various stages in the process leading up to Development Plan approval or adoption.

Scenario 2: Development Plan Preparation Occurs in Advance of RBMP Preparation

The second scenario will occur in most cases in the short to medium term.

- As Development Plans are already in place for all of Scotland, there is a need for SEPA and the AAGs to take on board their provisions in preparing the first RBMPs. Whilst the characterisation process for these first RBMPs has been completed, there is now a need for SEPA to consider the extent to which the SWMI Report and proposed PoMs could draw from existing Development Plans and this could require detailed discussions with planning authorities in some instances.

- As the draft RBMP moves closer to adoption, planning authorities may wish to consider the need for Supplementary Planning Guidance to help 'plug the gap' in relation to WFD and RBMP issues in the period leading up to their Development Plan review. This may be particularly relevant if it is felt that there could be potential mismatches between the provisions of their Development Plan and the emerging RBMP that could cause difficulties at the development management stage. SEPA and planning authorities should seek to avoid situations where a planning consent is granted but cannot be implemented because it does not address the requirements of environmental regulation.

Scenario 3: Development Plan Preparation Occurs After RBMP Preparation

The final scenario focuses on the situation which will arise in the future following publication of the first RBMP in December 2009. The Development Plan in this case is most likely to follow the provisions of the Planning Bill.

- It is recommended that early discussions take place between SEPA and planning authorities on the land use implications of the RBMP. The Development Plan Main Issues Report should then draw upon the land use aspects of the RBMP as appropriate. SEPA will provide formal input to the Issues Report in discharging its role as a key agency. Subsequent to this, the provisions of the proposed plan and action programme should reflect the RBMP objectives and PoMs where relevant. Subject to the issues this raises, further consultation with SEPA may then be advisable in the lead up to approval or adoption.

3.5 Plan Boundaries and Administrative Arrangements

In Scotland, RBMPs will cover a larger geographic area than any individual Development Plan. It is important that this is acknowledged when considering the scope for co-ordination between the two systems, as it can help to define where linkages might most appropriately be established.

3.5.1 River Basin Management Plans

As previously mentioned, the Scotland RBD will cover most of the country. RBMP production will be both a bottom-up and top-down process with clear links between each stage. The NAG will provide consistency to ensure that a single coherent RBMP is produced. Alongside this, the Scotland RBD will be divided into eight areas each with its own AAG to ensure that the most effective local approaches to environmental issues can be delivered.

The AAG boundaries have been formed around complete surface water catchments and, where possible, to reflect (current) local authority boundaries (see **Figure 3.2** below). SEPA will establish AAGs in 2006 to allow them to contribute to the work required up to publication of the RBMP in 2009 (see section 3.4.1 above). It is proposed that the AAGs will undertake and inform many of the key tasks and activities of the river basin planning process and will prepare Area Management Plans as required by the WEWS Act, which will form the 'geographic chapters' of the RBMP.

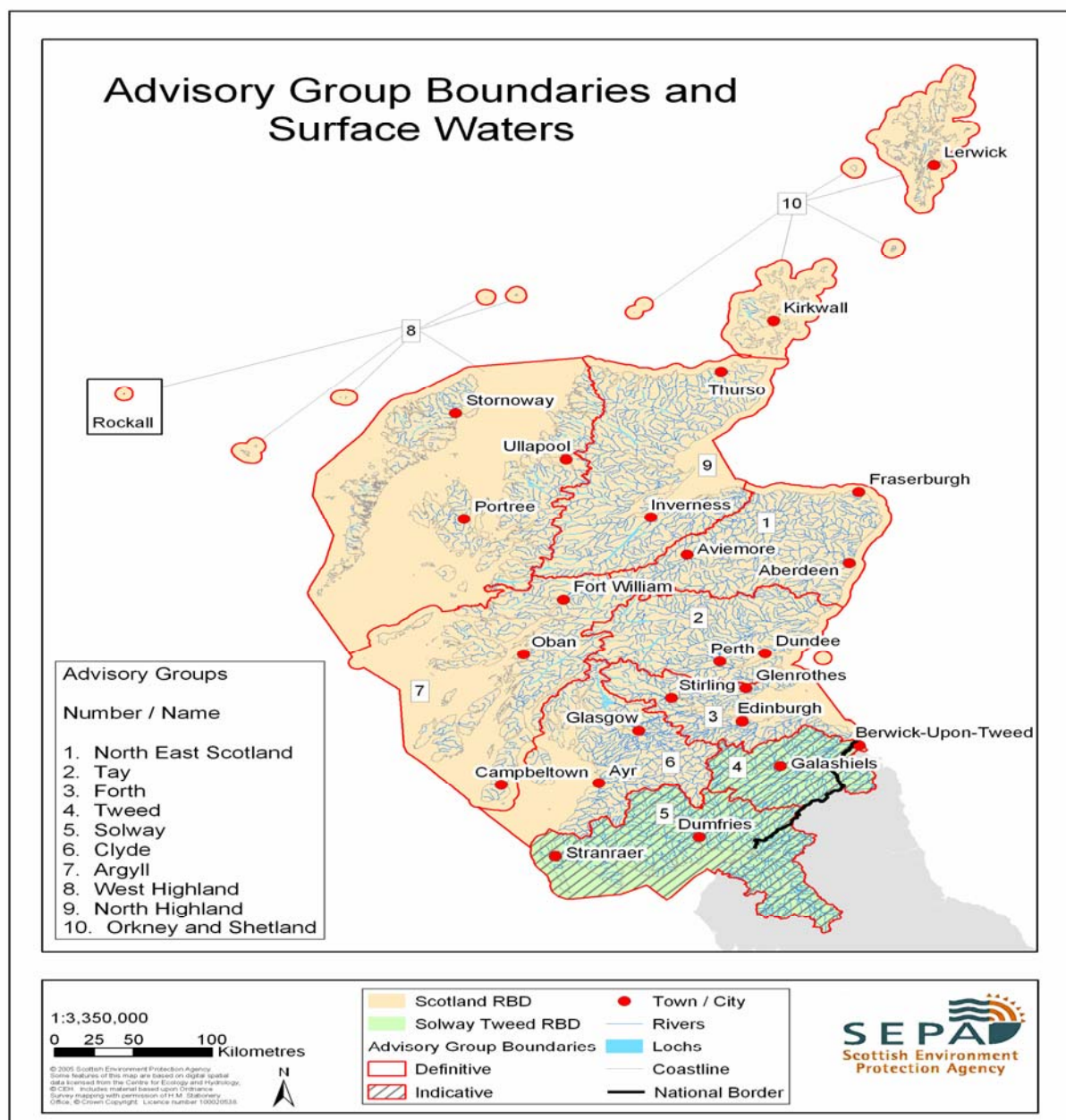
SEPA intends that the process of identifying membership of the Advisory Groups should be defensible, logical and make the best use of existing information. Membership will reflect the following:

- (i) the Responsible Authorities present within the AAG boundary, including representative local authorities;

- (ii) important sectors as identified in the Pressure and Impact Assessments;
- (iii) commitments made already in the River Basin Planning Strategies, for example coastal partnerships.

Potential gaps in membership will be addressed at the inaugural meeting of each Group. It is also proposed that each AAG should form an Advisory Group Forum with provision for a wide and open membership. This will allow a wide body of interests to provide input to, and be regularly informed of, progress in river basin planning, without needing to be involved in the detail of the plan production process.

Figure 3.2: Area Advisory Group boundaries¹²



¹² Extracted from the River Basin Planning Strategy for the Scotland River Basin District.

In developing Area Management Plans, the AAGs will:

- identify key priorities for environmental improvement and protection within the area and actions and measures to deliver this, based on the Characterisation Report;
- provide advice on the use of alternative objectives;
- identify improvements in the co-ordination and integration of different plans and policies for the area that will help to better protect the water environment and promote its sustainable use;
- co-ordinate relevant consultation and participation activities within the area;
- consider the need for, and use of, further detailed plans and programmes.

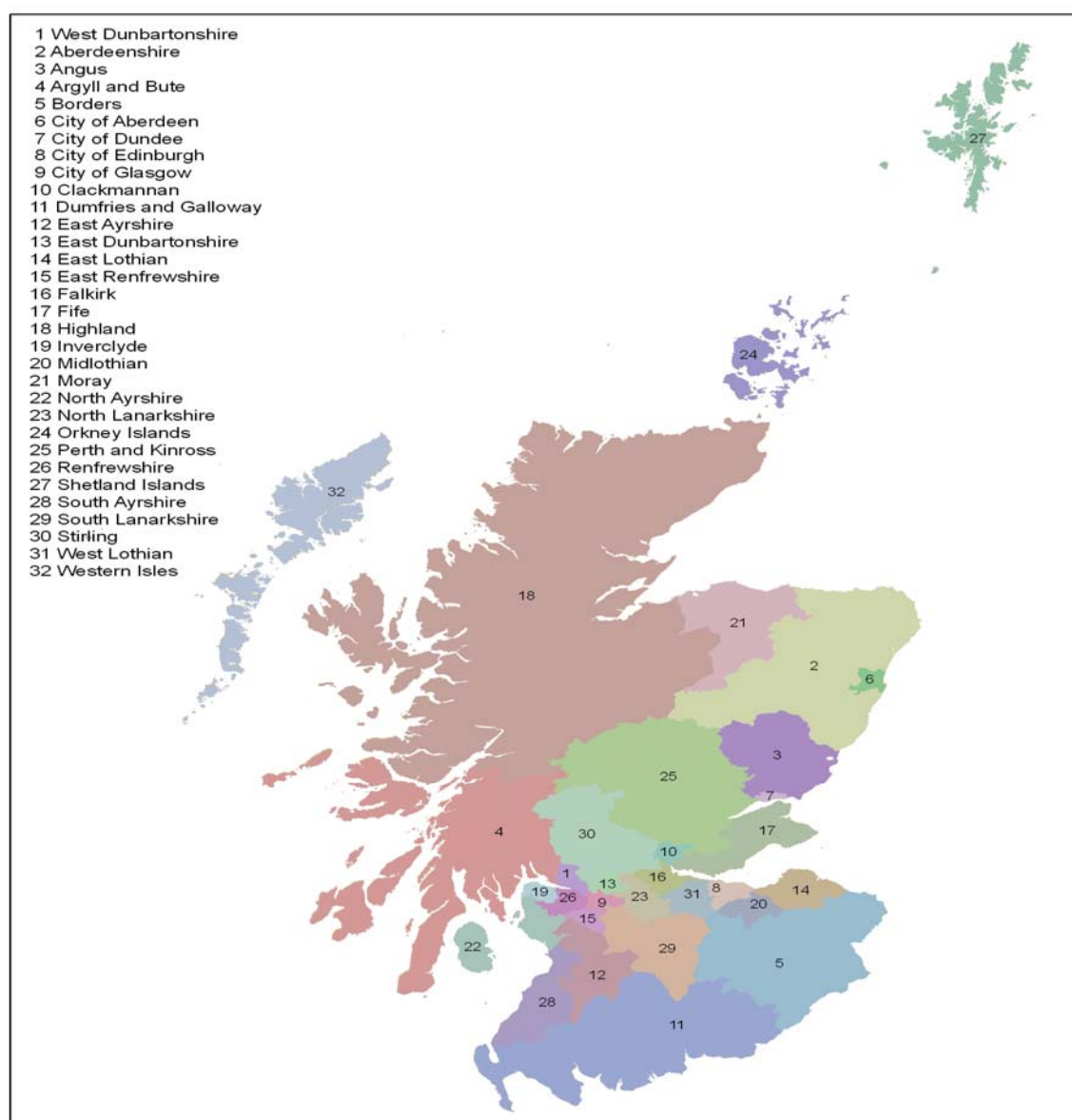
3.5.2 Development Plans

At present, Development Plan boundaries include a number of combined unitary authority areas making up Structure Plan areas (the 'regional' scale), and Local Plans at the unitary authority and sub unitary authority levels. Over the years, most planning authorities have moved away from having numerous Local Plans towards providing Area Wide Local Plans. In terms of working arrangements, local authorities are responsible for Local Plans, whilst Structure Plans are either prepared by dedicated Structure Plan bodies, by single authorities or by authorities working in collaboration. Current planning authority boundaries are shown in **Figure 3.3** below.

The Planning Bill proposes that Local Plans are superseded by Local Development Plans (LDPs) across the whole country. In addition, within the four largest city regions (see **Figure 3.4** below), there will also be Strategic Development Plans dealing with the key land and infrastructure issues which cross planning authority boundaries. In these areas, the LDP will be required to comply with the SDP.

The strategic development planning authorities (SDPAs) proposed in the Planning Bill will be expected to collaborate to produce SDPs. This will follow the same model as the existing Structure Plan arrangements which have been adopted in Ayrshire and in Glasgow and the Clyde Valley, with dedicated staff employed by, or seconded from, the constituent councils.

Figure 3.3: Current Planning Authority boundaries



3.5.3 Interactions and Co-ordination Issues

An initial review of the boundaries suggests that there will be some synchronicity between the administrative areas for RBMPs and Development Plans. In terms of the overall boundary, the closest match is between the NPF and the RBMP for the Scotland RBD.

The Area Management Plans produced by each of the AAGs have most obvious synergies with the proposed SDPs for the city regions. In addition, as the AAG boundaries have been formed by specifically considering local authority boundaries then even in areas outwith the city regions it should be possible to coordinate effectively between the AAG and LDPs. However, the single tier Development Plan areas will perhaps require a greater degree of co-ordination if they are to relate effectively to the more strategic level of the RBMP in a 'joined up' fashion.

Figure 3.4: Authorities required to work together on Strategic Development Planning¹³

Strategic Development Plan Constituent Authorities

This map indicates the authorities that are required to work together on Strategic Development Planning, not the actual boundaries of the strategic development plans.

CONSTITUENT AUTHORITIES

- Strategic Development Plan for Aberdeen:
Aberdeen City and Aberdeenshire Councils
- Strategic Development Plan for Dundee:
Angus, Dundee City, Fife and Perth & Kinross Councils
- Strategic Development Plan for Edinburgh:
City of Edinburgh, East Lothian, Fife, Midlothian,
Scottish Borders and West Lothian Councils
- Strategic Development Plan for Glasgow:
East Dunbartonshire, East Renfrewshire, Glasgow City,
Inverclyde, North Lanarkshire, Renfrewshire,
South Lanarkshire and West Dunbartonshire Councils

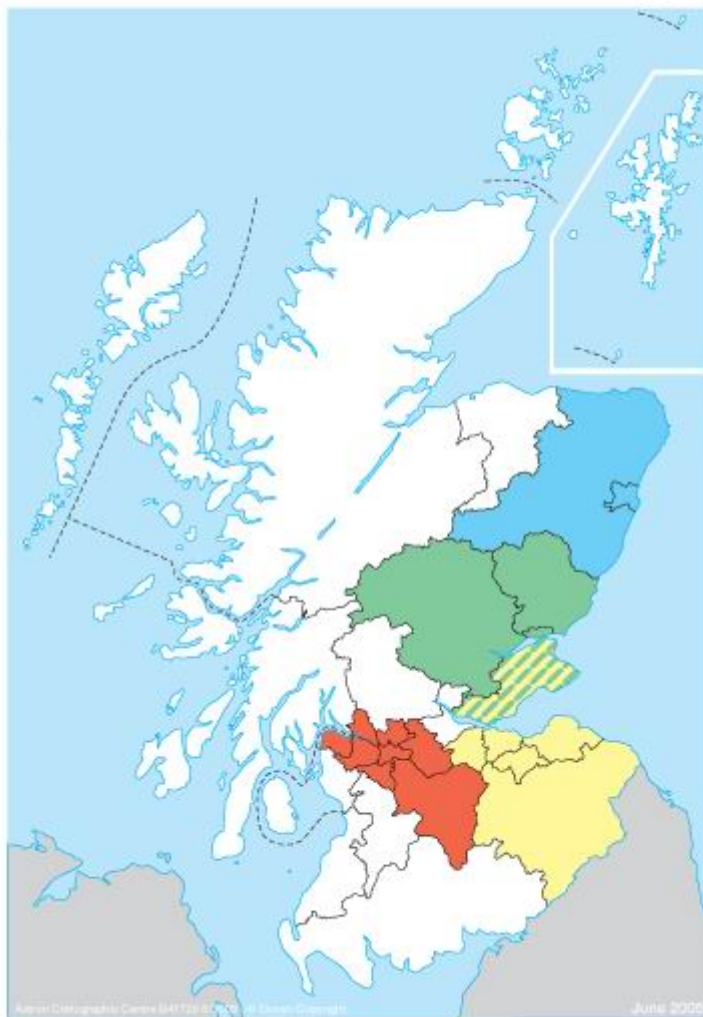


Table 3.1 below provides an overview of the relationships between the AAG areas, planning authorities and the Strategic Development Plan constituent authorities.

Table 3.1: Relationship between the AAG areas, Planning Authorities, Strategic Development Plan Areas and Constituent Authorities

AAG area	Planning Authorities Present	Strategic Development Plan Area Constituent Authorities
NE Scotland	Aberdeen City, Aberdeenshire, Highland, Moray	Strategic Development Plan for Aberdeen: Aberdeen City and Aberdeenshire Councils
Tay	Angus, Fife, Perth & Kinross, Stirling, Dundee City plus small area of Aberdeenshire and Highland	Strategic Development Plan for Dundee: Angus, Dundee City, Fife and Perth and Kinross Councils
Forth	City of Edinburgh, Clackmannanshire, East Lothian, Falkirk, Fife,	Strategic Development Plan for Edinburgh: City of Edinburgh, East Lothian; Fife,

¹³ Extracted from the Planning White Paper *Modernising Planning* (2005).

AAG area	Planning Authorities Present	Strategic Development Plan Area Constituent Authorities
	Midlothian, Perth & Kinross Scottish Borders, Stirling, West Lothian, plus small area of North Lanarkshire	Midlothian, Scottish Borders and West Lothian Councils
Clyde	Argyll & Bute, East Ayrshire, East Dunbartonshire, East Renfrewshire, Glasgow City, Inverclyde, North Ayrshire, North Lanarkshire, Renfrewshire, South Ayrshire, South Lanarkshire, Stirling, West Dunbartonshire, plus small area South Ayrshire of Dumfries and Galloway	Strategic Development Plan for Glasgow: East Dunbartonshire, East Renfrewshire, Glasgow City, Inverclyde, North Lanarkshire, Renfrewshire, South Lanarkshire, West Dunbartonshire Councils
Argyll	Argyll and Bute and Highland	
West Area Highland	Highland and Na h-Eileanan an Iar	
North Area Highland	Moray and Highland	
Orkney and Shetland	Orkney, Shetland	
Tweed	Scottish Borders and small area of East Lothian and South Lanarkshire	
Solway	Dumfries and Galloway plus small part of East Ayrshire, South Ayrshire and the Scottish Borders	

Importantly, **Table 3.1** shows that whilst there is broad overlap between the AAG areas and Strategic Development Plan Areas, there will be a need for additional co-ordinated working in almost all areas. In addition, some local authorities will need to provide inputs to more than one AAG area, now, and in the future, and in turn will need to co-ordinate cross-AAG issues within their Area Wide Development Plans.

Section 4.2.4 of the River Basin Planning Strategy for the Scotland RBD states that to increase the contribution from planning authorities, it may in some circumstances be appropriate to convene a 'Planning Issues Group' within an AAG area. The AAG itself should decide whether this is appropriate. A Planning Issues Group would be able to advise on planning issues relevant to the AAG area and activities, but would be separate from the PWG. It is reasonable to expect that such a group would have a 'head start' in areas where planning authorities already work together as a joint planning board.

3.6 Required Contents

3.6.1 River Basin Management Plans

The required content of the RBMP is set out in the WFD as outlined in **Table 3.2** below¹⁴:

¹⁴ Scottish Executive (2001) *Rivers, Lochs, Coasts: The Future for Scotland's Waters* HMSO: Edinburgh.

Table 3.2: Required content of the RBMP

Contents of the RBMP	
1	Description of the geographical and environmental characteristics of the area, including maps to show the different types of water body and a description of their reference conditions
2	A summary of the significant human pressures and impacts on water in the area including point and diffuse sources of pollution and water abstractions
3	Maps to show the locations of protected areas
4	Maps and other information about monitoring networks
5	List of the environmental objectives for all waters, highlighting where waters have been designated as heavily modified and where derogations apply
6	Summary of the results of the economic analysis
7	Summary of the programmes of measures that will be needed to meet the objectives
8	Register of supplementary sub basin or sectoral plans
9	Summary of the actions taken to consult on the plans, the results of consultation and amendments made to the plan because of views expressed during consultation
10	List of the competent authorities
11	How to obtain background documentation
Updates of the plan must also highlight the changes that have been made since the previous plan and report on progress with achieving the objectives and applying the programmes of measures and the results of environmental monitoring	

Much of the information will be presented in map form. As public consultation and the involvement of stakeholders is an important feature of the Directive, the finished plan must contain a report on the results of public consultation. The RBMP also serves as a means of reporting on implementation of the WFD to the European Commission.

As RBMPs are strategic in scale, there is scope for supplementing them with other plans and programmes to tackle problems in specific areas or for particular issues or water types. Where such supplementary plans exist, they must be reported within the RBMP and will form part of the Programme of Measures (PoMs) (see section 3.8.1 below).

Further information in relation to a number of the key stages set out in **Table 3.2** above is provided below:

- *Characterisation (1 and 2 above)*: As the characterisation exercise includes an assessment of existing pressures and impacts on the water environment, this is of particular relevance when considering which issues might apply only to RBMPs and those that are likely to be common to both RBMPs and Development Plans. Pressures identified in the Characterisation Report for the Scotland RBD include those identified in **Table 3.3** below. Those with the most apparent linkages with the current remit of the land use planning are shown in *italics*:

Table 3.3: Pressures identified in the Characterisation Report for the Scotland RBD

Impact	Pressure
Point source pollution	Sewage
	Commercial fishing
	Manufacturing
Diffuse source pollution	Agriculture
	Urban development
	Forestry
	Energy (acidification)
	Transport (acidification)
	Sea/coastal transport
Abstraction and flow	Hydropower
	Water treatment
	Mining and quarrying
	Golf course developments
	Agriculture and forestry
Morphological alterations	Hydropower
	Urban development
	Dredging
	Land claim
	Recreation

- *Environmental Objectives* (5 above): General objectives at the national level will be translated into area objectives and then into objectives for each waterbody. As measures required under the WFD must be feasible and not incur a 'disproportionate economic cost', objectives should be prioritised. Consequently, the first RBMPs will include objectives for three timeframes at six yearly intervals (i.e. 2015, 2021 and 2027). The second RBMPs will therefore include objectives for 2021, 2027 and 2033.
- *Programme of Measures (PoMs)* (7 above): The WFD refers to the use of basic and supplementary measures to ensure the achievement of good ecological status or potential. *Basic measures* are the minimum WFD requirements for inclusion and are predominantly regulatory and economic. These include the measures required under eleven existing water Directives, including the promotion of efficient and sustainable water use, the protection of waters for abstraction of drinking water, controls over the abstraction of fresh surface water and groundwater, controls on

point source discharge and measures to prevent or control the input of pollutants from diffuse sources. *Supplementary measures* are additional measures to meet WFD requirements and are predominantly non-regulatory. A non-exclusive list, as defined by the WFD, includes negotiated environmental agreements, emission controls, codes of good practice, restoration of wetland areas, demand management measures, construction projects, educational projects and research, development and demonstration projects. A listing of basic and supplementary measures will be required in RBMPs and, importantly, will be agreed in advance with stakeholders.

Measures can be delivered at different scales:

- *'Fixed' national measures* will apply across the whole of the UK or Scotland and cannot be adjusted according to regional, local or site conditions. Examples include The Controlled Activities Regulations (CAR) General Binding Rules, EIA regulations for water management projects, regulations such as the Control of Pollution (silage, slurry and agricultural fuel oil) (Scotland) Regulations 2003, the Scottish Forestry Strategy, the Water Sense Campaign, and national best practice guidance on mining and quarrying.
- *'Variable' national measures expressed at site-specific level* are measures which are initiated, managed or overseen at a national level but may vary in delivery according to regional, or local area or site specific variations. Examples of such measures include the registration and licensing aspects of CAR, Forestry Commission licensing and grant support, and national education initiatives.
- *Sector specific measures* may be appropriate in a limited set of circumstances where a water usage is a strategic priority for Scotland and has significant economic value, a water user is delivering a public service; and/or there are just a few operators managing many operations. Examples may include Scottish Water and the hydropower sector.
- *Site specific measures* are those that are dealt with at a regional or local level and focus on specific water bodies (sites), groups of water bodies, catchments, groups of catchments or sub-basins. Examples include SEPA Environmental Improvement Action Plans, Catchment Management Plans, habitat restoration schemes, local partnership projects, the management/removal of alien species and regional education initiatives.

SEPA is currently discussing initial views on the role of national measures within PoMs, including a definition of types of national measures and examples of potential national measures to address key pressures identified in the Characterisation Reports. Where a pressure has been identified, the most cost-effective technically feasible measure will be proposed unless the cost of achieving good status would be disproportionate to the benefits. If this is the case, an appropriate alternative objective must be sought.

3.6.2 Development Plans

The second NPF in 2008 will aim to “*support the role of our cities as drivers of the economy*”, setting out land use planning requirements for strategic priorities including water, drainage and waste infrastructure and facilities. Its focus on implementation will mean that it will identify responsibilities and outputs for service delivery in key areas including health, education, and affordable waste management. The NPF will be linked to the Infrastructure Investment Plan and the programmes of infrastructure providers.

PAN49 (1996) sets out the current requirements for monitoring and reviewing Local Plans. No separate report of survey is required at this level, but planning authorities are expected to keep records of the data used to develop the policies that the plans contain. PAN49 states that it is usually sufficient to summarise survey work in the early part of a consultative draft plan. Paragraph 32 of PAN49 states that a baseline description of an area should include:

- a short account of key characteristics of the place and the life within it;
- a summary of how the area's land use pattern has developed;
- an indication of how previous planning policies have shaped the area; and
- photographs, sketches and diagrams, where resources permit.

Local Plans include both policies and proposals, with the latter including site specific allocations for the use or development of land that are capable of being implemented within 5 years of plan adoption. Similarly, the content of Structure Plans is discussed in PAN38 (revised 1996). The 1997 Act notes that Structure Plans should address development, environmental conservation, improvement of the physical environment and traffic management. The Act also emphasises the importance of Structure Plans paying regard to economic regional planning, and considering resources available to achieve the proposals.

Part 2 of the Planning Bill states that a SDP is a plan in which is set out a vision statement of the SDPA's views as to how the development of the SDP area could and should occur, including matters which might be expected to affect that development, including:

- (a) the principal physical, economic, social and environmental characteristics of the SDP area;
- (b) the principal purposes for which land is used in that area;
- (c) the size, composition and distribution of the population of that area;
- (d) the infrastructure of that area (including communications, transport and drainage systems for the provision of water and energy);
- (e) how that infrastructure is used;
- (f) any change which the SDPA think may occur in relation to matters a-e.

Where land is not within an SDP area, an LDP should do likewise. LDPs should also contain a detailed statement of the planning authority's policies and proposals as to the development and use of land.

3.6.3 Interactions and Co-ordination Issues

Development Plans Reflecting RBMPs

In recognition of the emphasis on a plan-led system, SEPA Planning Liaison staff already accord the highest level of priority to responding to consultation on Development Plans, even although this is currently on a non-statutory basis. Currently, SEPA comment on the development strategy of a draft Plan, its policies and any proposed land allocations, particularly where there are likely to be significant issues relating to waste, air, land, water, as well as commenting on environmental quality more generally.

At present, draft Development Plans can draw upon the RBMP Characterisation Report to confirm key issues arising in relation to the water environment for the baseline description. Once a draft or final RBMP is available, SEPA will be looking to a Development Plan to support the objectives and proposed PoMs therein, as appropriate to the remit of land use planning, through both policies and proposals. Importantly, co-ordination should take place at the early stages of plan preparation to minimise unforeseen difficulties later on in the process.

Table 3.4 below is extracted from some preliminary work undertaken by SEPA to identify potential RBMP measures. Whilst this covers a wide range of possible measures, only a number are detailed below. It is important to note that these are draft measures which have yet to be subject to consultation.

Table 3.4: Potential RBMP measures

Potential Measures			
	National	Sector Plans	National expressed at Site Specific Level
Point Source Pollution Pressures:			
General			SEPA Environmental Improvement Action Plans
Commercial Fishing	Amendment to <i>Town & Country Planning (Scotland) Act 1997</i> extending statutory planning controls over marine fish farms		
Diffuse Pollution Pressures:			
General			SEPA Environment Improvement Action Plans
Urban Development	Future SUDs controls The National Planning Framework Scottish planning policy and guidance	Best practice guidance (SUDs, building standards) Education initiatives and incentive campaigns Development Plans	SUDs controls Development Plans Catchment Management Plans
Abstraction and Flow Regulation Pressures:			
Drinking Water Supply			Suitability of development sites in terms of water resources
Mining and Quarrying	Best practice guidance		

Morphological Pressures:			
Historical Morphological Pressures		Nationally co-ordinated river restoration (e.g. by the River Restoration Centre)	Local community restoration initiatives SEPA Habitat Enhancement Initiative projects
		Habitat restoration programmes	
New Morphological Pressures	National Planning guidance (e.g. urban development, land claim and floodplain development)	Development Plans	Development Plans
Flooding and Drought:			
General	National Flooding Framework		Mitigation works on existing schemes
	National Flooding Strategy		
	National Flooding Guidance		

A number of these measures make specific reference to land use planning, from the amendment of legislation and national level policy and guidance, through to Development Plans and site-specific development management. It is suggested that the PWG might be well placed to consider the types of generic measures which are of relevance to Development Plan policies and proposals for managing development, including measures which have been identified to date, possible additions to the list and 'real life examples'.

In relation to policy coverage, it will not be appropriate for a Development Plan to simply duplicate the wording of an RBMP, as the latter needs to be translated into appropriate land use planning terms. Whilst a generic policy could be included that requires conformity with the WFD, the breadth of such a statement may reduce its applicability and usefulness. However, feedback from the consultation undertaken during the course of this research suggested that the water environment may be perceived to have stronger protection through inclusion of a generic policy in areas subject to high levels of development pressure.

A generic policy of this nature might seek to:

- protect floodplains and their functions, having regard to the relative risk of flooding in terms of both probability and impact of a flooding event, and the use of sustainable drainage (as already required by SPP7);
- ensure treatment of wastewater to an appropriate standard;
- support opportunities to improve the ecological condition of the water environment and promote the restoration of rivers.

Development Plans already tend to support the implementation of Sustainable Urban Drainage Systems (SUDS) for appropriate developments.

The White Paper *Modernising the Planning System* (June 2005) indicated that the Executive was piloting 'model' policies on the built environment and natural heritage for inclusion in Development Plans. Model policies are seen as a way of achieving greater consistency and reducing unnecessary effort by local authorities in preparing Development Plan policies. One of the key conclusions of the pilot study¹⁵ was that developing model policies through the SPP series provides the most appropriate and effective means of ensuring robust model policies. In this way, the 'appropriateness' of a model policy can be scoped by the relevant steering group established to direct the content and shape of new or revised policy, and the draft model policy included in the consultative draft issued widely for comment.

Whilst there is merit in considering the need for model policies to ensure Structure and Local Plans are 'WFD compliant', an alternative, particularly as there are no current plans to revise or extend SPP7, would be the dissemination of suggested good practice policies.

RBMPs Reflecting Development Plans

SEPA will need to be aware of any policy support for new development proposals with the potential to cause the deterioration of water status. The River Basin Planning Strategy for the Scotland RBD states that the statutory Development Plans will provide a starting point for the first RBMP. Where prospective developers and public authorities such as infrastructure providers have based agreements and investment decisions on these plans, and these commitments are consistent with the requirements of the WFD, they will need to be accommodated in the policies and measures of the RBMP.

Planning authorities will comment on draft RBMPs. Whilst this is a new role, authorities will already have had the opportunity to comment on a number of the interim reports leading to preparation of the draft RBMP, including the Significant Water Management Issues (SWMI) Report, so will hopefully be familiar with the issues raised.

With regard to the PoMs, it is likely that a planning authority will focus comments on:

- (i) measures which are most likely to have a bearing on land use change or land use activities and are of particular interest or concern to the planning authority;
- (ii) additional measures which might be necessary to facilitate appropriate new development and redevelopment;
- (iii) further opportunities or requirements for co-ordinated action such as river restoration programmes.

Further Opportunities for Co-ordinated Working

These could include the following:

- (i) reviewing 'technical' solutions and funding opportunities to deliver measures which are of joint interest, although this might require technical expertise beyond the planning department (e.g. civil engineers and economic development/funding expertise);

¹⁵ Scottish Executive (2006) *Pilot Model Policy Study: Conclusions and Next Steps* HMSO Edinburgh.

- (ii) addressing parallel requirements for stakeholder engagement where matters relate to the water environment and timescales coincide, including the interface with Community Plans in relation to local projects and initiatives which include river restoration, biodiversity conservation, or habitat enhancement;
- (iii) responding to the additional SEA requirements for both plans (see section 3.10 below).

3.7 Plan Format and E-Planning

As information exchange provides significant opportunities for co-ordination, it is useful to consider the form of both plans, including the presentation of mapped information and the use of electronic formats.

3.7.1 River Basin Management Plans

As stated previously, the eight Area Management Plans will form the 'geographic chapters' of the RBMP for the Scotland RBD. More detailed waterbody information is likely to be provided on an interactive GIS map, as for the characterisation data. For each waterbody, pressures, objectives and proposed measures will be displayed, including the key organisations involved, monitoring sites and monitoring results of relevance. SEPA is currently considering how this can be made available to RBMP users.

3.7.2 Development Plans

Modernising the Planning System noted the longer term importance of 'e-planning' in reducing the paper production of local authorities, improving access to information and reducing the resource costs of local authorities. The White Paper also recommends that all Development Plans should be made available on the websites of local authorities. Whilst the Scottish Executive is currently reviewing the role of e-planning, no steer has been given to date regarding what SDPs and LDPs should look like, or how electronic means will be used to assist with the process and reduce resourcing requirements.

3.7.3 Interactions and Co-ordination Issues

Given the increased emphasis on the presentation of mapped information and the use of electronic plan formats, there is scope for RBMP electronic information to be passed to planning officers involved in Development Plan preparation and for 'e-planning' to assist RBMP preparation.

3.8 Supplementary Guidance

As there are provisions for Development Plans to be supported by supplementary guidance and RBMPs can also recognise and incorporate a range of more detailed, or more localised, plans, it is useful to explore briefly potential linkages at a sub-plan level.

3.8.1 River Basin Management Plans

Under Article 13 of the WFD, RBMPs may be supported by the production of more detailed programmes and management plans for sub-basin, sector, issue or water type to deal with particular aspects of water management. Examples of such plans include SEPA's environmental improvement action plans and water resource sub-basin plans. Plans produced by other agencies may also be of relevance, for example Scottish Water drinking water safety plans, Forestry Commission indicative forestry strategies and

community restoration initiatives. The PoMs can also take account of effective Catchment Management Plan (CMP) measures. CMPs may also provide useful working structures and contacts at the sub- area level. Existing CMPs include those for the Dee, Tweed and Spey, both the Annan and Nith in Dumfries and Galloway, and for Loch Lomond. Often these plans have originated in response to a particular issue such as a European nature conservation or a national park designation and they may continue in this form where specific needs are identified.

Where such supplementary plans exist, they must be reported within the RBMP and will form part of the PoMs. As the PoMs must be cost effective, such plans should only be used where they represent the most efficient means of managing or remedying a particular issue or issues for the waters considered. Consequently, such plans are unlikely to be comprehensive as the required levels of protection and improvement will be provided in many instances by regulatory or other measures.

3.8.2 Development Plans

The *Review of Strategic Planning* raised the issue of supplementary planning information, and suggested it should continue to play a valuable role in providing detailed policy guidance, design guidance, development briefs, and masterplans for areas of intensive change. Part 2(22) of the Planning Bill makes continued provision for supplementary guidance, giving it the same status as the Development Plan where statutory requirements on consultation and approval procedures are met.

In addition to this, more comprehensive subject Local Plans can be prepared for key issues within an area such as forestry, renewable energy, minerals and waste. However, only a few such plans exist and most authorities prefer to combine issues in a single Local Plan.

3.8.3 Interactions and Co-ordination Issues

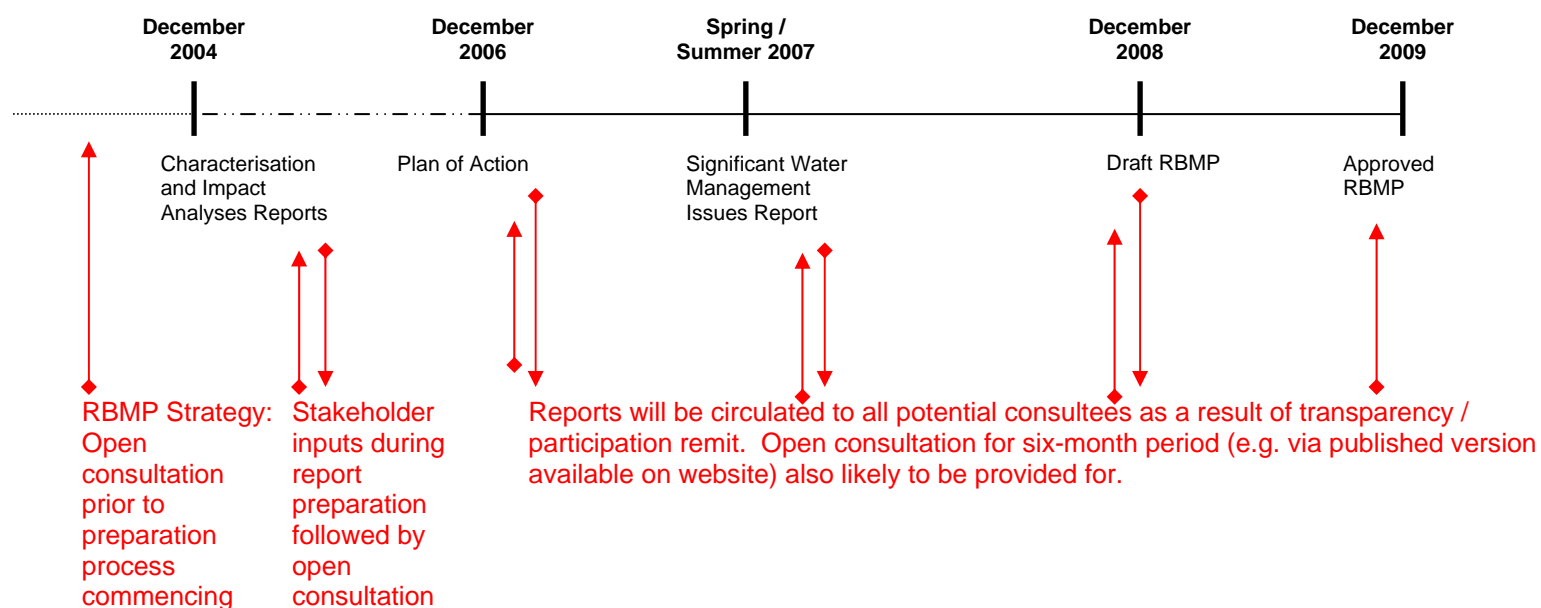
Plans supplementing an RBMP will also need to be consistent with the Development Plan and any accompanying supplementary planning guidance. Equally, supplementary planning guidance will need to be consistent with an RBMP and any related sub plans. In addition to this, supplementary planning guidance addressing WFD issues of relevance to planning may prove useful when a Development Plan is not programmed for review in the short to medium term.

3.9 Participation, Consultation and Communication Arrangements

There is a need to explore consultation and communication arrangements associated with each of the plans, particularly as the RBMP process and the Planning Bill proposals provide new opportunities for co-ordinated working and for better communication between SEPA and planning authorities.

3.9.1 River Basin Management Plans

Collaboration with stakeholders is an integral part of the RBMP preparation process, as illustrated below. There will be a six-month consultation period for both the Plan of Action and the SWMI Report. Any consultation responses to the SWMI Report will be addressed during production of the RBMP. There will also be a six-month consultation period for the draft RBMP.



In addition to the formal consultation mechanisms outlined above, SEPA is seeking to encourage the active involvement of interested parties throughout WFD implementation. SEPA has involved a number of stakeholders to date and both the NAG and AAGs are being formed to engage with a range of partners throughout RBMP production, including development of the proposed PoMs. A Scottish Aquatic Environment Monitoring Strategy group has also been established with representation from external stakeholders. These stakeholders will have input into the development of the monitoring programme.

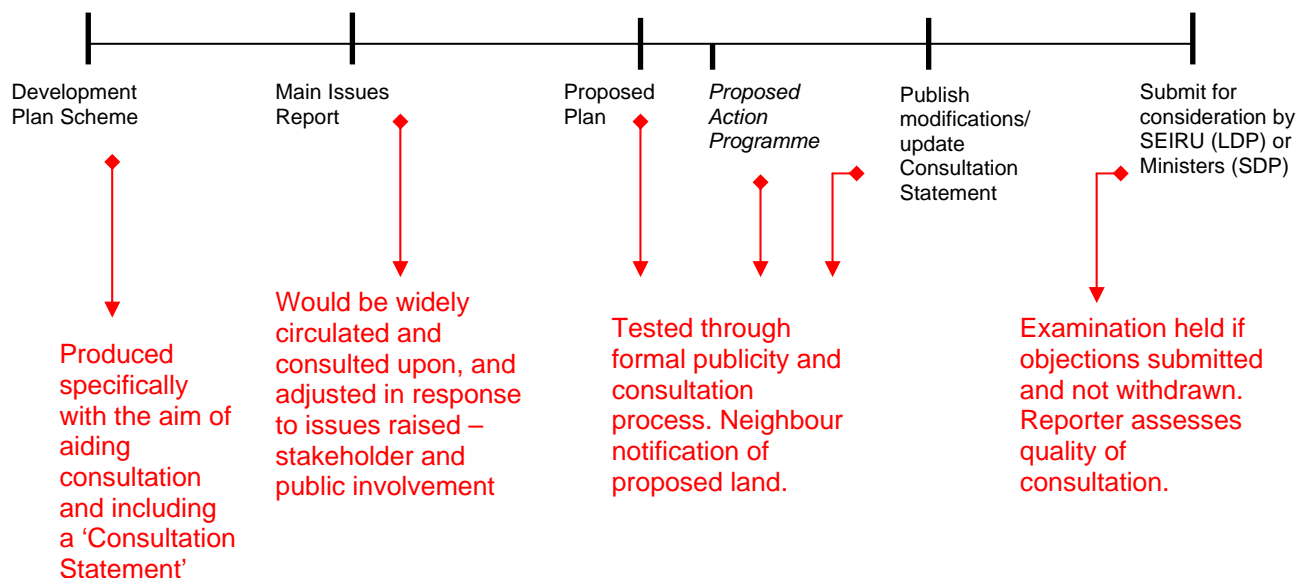
3.9.2 Development Plans

Development Plans are subject to widespread public consultation at various stages and this typically involves key bodies such as SNH, SEPA, Scottish Water and other public, private and community based organisations. Any unresolved objections to a Local Plan are considered at a Public Inquiry by an independently appointed Reporter. At the request of the objector, the Reporter may consider those objections in person, by written representations or by the less formal hearings method. The planning authority has regard to the Reporter's recommendations in modifying the Local Plan prior to adoption. Whilst the Reporter's findings are not legally binding, planning authorities must have reasonable justification for choosing not to accept them. Any unresolved objections to Structure Plans are considered by Scottish Ministers prior to plan approval.

The Planning Bill states that planning authorities should seek the views of 'key agencies', as specified by Scottish Ministers during plan preparation. The Bill proposals also seek to improve the transparency of development planning as far as possible. For example, planning authorities will be required to produce a 'Consultation Statement' which sets out how they plan to engage local people and stakeholders, including when, and what will be undertaken. This will be tested at the Examination stage. Where objections to the plan have not been withdrawn, an Examination will be mandatory. Under the Bill proposals, the Reporter will choose the most appropriate method for considering those objections, rather than the objector. The Planning White Paper *Modernising the Planning System* proposed to reduce the scope for planning authorities to depart from the Reporter's recommendations. The intention is that this will only be appropriate where a recommendation contradicts the SEA, NPF or national policy, or is based on 'flawed

reasoning', for example failing to properly take account of the local authority's position. Planning authorities will need to make a particularly good case for choosing not to accept a Reporter's recommendation where this reflects significant levels of public support.

The key publicity and consultation stages of the proposed Development Plan process are illustrated below:



3.9.3 Interactions and Co-ordination Issues

Both RBMPs and Development Plans will be based on a mix of open, public consultation, and more focused stakeholder consultation. Both processes are also designed to maximise the opportunities for collaboration between authorities responsible for the plans and their partners. As a result, SEPA will be inviting inputs to the RBMP production process from planning authorities (including through the AAGs), and planning authorities will continue to seek the views of SEPA during the Development Plan preparation process.

Importantly, the Planning Bill proposes that 'key agencies' have a duty to 'co-operate' with planning authorities in the preparation of Development Plans. These agencies will be specified in secondary legislation and are likely to include SEPA. This will reinforce SEPA's role in influencing such plans in respect of RBMP issues, for example by cross referencing proposals, issues and measures. This means that RBMPs may provide the foundations for SEPA to be better represented at the forward planning stage, thereby possibly focussing discussions at the subsequent development management level on site specific issues rather than debate about more general principles and policy. As a 'last resort', SEPA can continue to carry concerns about any policy or proposal thought to prejudice RBMP implementation through to formal objection. In the unlikely event that a significant difference remains between a RBMP and a Development Plan, this will ultimately be a matter for Scottish Ministers.

Flood Liaison and Appraisal Groups (FLAGs) already provide effective links between SEPA and planning authorities and represent a network that could perhaps be developed further in the context of the WFD. In addition, it is likely that general protocols will be

developed between local authorities and 'key agencies' to help clarify roles and responsibilities.

3.10 Strategic Environmental Assessment

The objective of European Directive 2001/42/EC 'on the assessment of the effects of certain plans and programmes on the environment' (the 'SEA Directive') is *"to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans... with a view to promoting sustainable development"* (Article 1). Many 'public' plans and programmes fall under the requirements of the Directive, including those for forestry, fisheries, energy, transport and, importantly, water and land use planning.

In September 2005, the Executive published a generic guide to the SEA Directive, in conjunction with the (then) Office of the Deputy Prime Minister, the Welsh Assembly and the Department of the Environment in Northern Ireland.

The Environmental Assessment (Scotland) Act 2005 transposes the SEA Directive in Scotland and came into force on 20 February 2006. The Act repealed the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004, and requires SEA for all public sector strategies, plans and programmes that are likely to have significant environmental effects. The Executive is currently producing guidance notes including revised SEA templates which are compliant with the Act, and intends to publish final versions of these later in 2006.

3.10.1 River Basin Management Plans

Whilst RBMPs will be strategic documents setting out key water management objectives and significant water management issues, they will also have objectives at an individual waterbody level. Accordingly, a balance needs to be struck between undertaking a meaningful, robust and legally compliant SEA and assessing every impact of every measure on every water body. As a consequence, SEPA has recognised that it is important to find a mechanism that picks up significant environmental effects at the time of making substantive decisions on the policy direction of an RBMP and to focus the activity on issues of significance at this stage, leaving more detailed work to more suitable mechanisms. To achieve this, it is considered that an appropriate means of undertaking an SEA of an RBMP will be to undertake a strategic level assessment of strategic objectives set for the RBD, of any strategic policies and measures established across all or parts of the RBD, and of strategic measures designed to address the significant water management issues within each AAG area or across the RBD as a whole. Further thought will be given to how measures should be identified as 'strategic' and therefore included in the assessment, to ensure measures with the potential to have significant environmental effects are captured. For example, this could be done on a geographic scale (e.g. percentage of water bodies in the AAG area that are subject to the measure), a sectoral scale (e.g. a measure that will be applied to x% or number of water user types) or a scale determined by the significance of a water body (e.g. where a measure is applied to sites which are protected under national or international law).

3.10.2 Development Plans

The SEA Directive applies to all new and replacement Structure and Local Plans started after 21 July 2004, in addition to any plans started after 21 July 2004 but not adopted until after 21 July 2006.

Planning authorities who had already started preparing plans and programmes on or before 19 February 2006 are able to continue following the provisions set out in the 2004 Regulations. In August 2003, the Scottish Executive issued Interim Planning Guidance on the 'Environmental Assessment of Development Plans'. Although this was prepared in anticipation of the legislation transposing the Directive into Scottish law, this presents the key steps likely to be common to the SEA of all new or replacement Development Plans. Planning Circular 2/2004 provides guidance on the implementation of the 2004 Regulations.

The Planning Bill makes reference to SEA in relation to the new plans, for example, the requirements in relation to LDPs are highlighted in Part 2, section 19.

3.10.3 Interactions and Co-ordination Issues

There is a requirement for co-ordination in that the SEA Directive formally requires that plans subject to SEA report on their relationship with other relevant plans and programmes and with environmental objectives set at the international, national or regional level.

The key aims in examining potential linkages between the two processes are to identify opportunities for combining efforts and to avoid unnecessary duplication and inconsistencies. Whilst there are obvious linkages to explore in relation to RBMP Characterisation Reports and local 'State of the Environment' reports, including the sharing of local knowledge, there is also scope for integrating objectives, for example, the integration of national level generic RBMP objectives into the SEA assessment criteria for Development Plans, and performance monitoring.

In addition to this, as both SEPA and planning authorities continue to grapple with the introduction of this new assessment system, there may also be opportunities to share and develop joint understanding of how this applies to the respective plans, for example, in relation to the definition of 'reasonable alternatives' and 'significant' environmental effects.

Table 3.5 below outlines potential interactions between the SEA requirements for RBMPs and Development Plans, subject to the relative timing of each process.

Table 3.5: Interactions between the SEA of RBMPs and Development Plans

RBMPs and SEA	Development Plans and SEA
<i>Characterisation (including pressures and impacts)</i>	<i>Establishing the baseline (including trends, threats and opportunities)</i>
Opportunities for sharing information between the two processes, with development planning being more likely to provide wider topic coverage for the baseline, which could in turn be informed by the more specialised characterisation for the RBMP.	
<i>Environmental objectives</i>	<i>Objectives and assessment criteria</i>
Opportunities for assessing both plans in relation to a shared set of objectives defined at the Development Plan level.	
<i>Programme of Measures</i>	<i>(Revised) policies and proposals</i>
Mechanisms for building both sets of plan objectives into the assessment. Mutually supportive mitigation can be identified, having already considered reasonable alternatives.	
<i>Consultation and stakeholder involvement</i>	<i>Consultation and stakeholder involvement</i>
Opportunities for reducing stakeholder objections as a result of joint processes and ongoing collaboration.	

3.11 Plan Outputs/ Development Level

3.11.1 River Basin Management Plans

The environmental objectives set out in the RBMP will inform future regulatory action, including a new regulatory regime which is being implemented in Scotland through the Water Environment and Water Services Act as the Controlled Activities Regulations (CAR). This will be incorporated within the Programme of Measures. Whilst the Programme of Measures must be operational by 2012, the CAR are being introduced from 2005 to provide regulated sectors with an extended period to prepare to meet required WFD standards.

The CAR impose prior-authorisation requirements upon point source discharges, abstractions, impoundments and river engineering activities, but not diffuse discharges or restoration work. The CAR will replace a number of existing regulatory regimes including those under the Control of Pollution Act (CoPA) of relevance to water and the Groundwater Regulations.

3.11.2 Development Plans

Development Plans are primarily implemented by the approval, refusal and conditioning of planning applications. *Modernising the Planning System* proposed a hierarchy of national, major and local developments to improve the efficiency of planning decisions and this is reflected in the Planning Bill proposals. Scottish Ministers will identify 'national developments' in the NPF, whilst planning authorities and key agencies including SEPA will enter into processing agreements for major developments to establish the timeframes for deciding such planning applications.

The vast majority of applications will be for 'local developments'. Decisions on these smaller scale developments will also be streamlined to speed up the process. Decision-making can be delegated to allow applications to be determined without going through the Committee system. This will particularly apply to householder applications and other local developments that are in accordance with the Development Plan. Only those which are contrary to the plan, larger scale 'Bad Neighbours', as defined in the General Permitted Development Order¹⁶, or those which require an Environmental Impact Assessment will be considered by Elected Members under the Bill proposals.

At the development management level, flood risk, the provisions of SPP7: Planning and Flooding and advice from SEPA, as statutory consultee, are material planning considerations. SPP7 notes the need for careful consideration of development proposals, and particularly of the type of development which would be especially vulnerable or at risk if flooded, for example, nurseries and caravan sites. SPP7 recommends pre-application discussions to help identify flood risk, and to define the need for further more detailed flood risk assessments. SPP7 notes that planning also has a key role to play in facilitating flood defence developments.

SEPA has produced internal guidance for SEPA officers on responding to development management consultations from planning authorities. Responses are already prioritised on the basis of the type/ scale of the development and its location, i.e. the level of environmental risk.

¹⁶The Town and Country (General Permitted Development) (Scotland) Order 1992 and subsequent amendments.

3.11.3 Interactions and Co-ordination Issues

Whilst the emphasis of this research project is on co-ordination at the plan level, a failure to achieve this will potentially result in discrepancies between the two regulatory systems, and possibly lead to planning consents that cannot be implemented. This could prove to be costly in terms of both time and resources for applicants, planning authorities and key agencies, and could hinder the delivery of the RBMP and the Development Plan outcomes. As a consequence, the 'downstream' implications of not achieving plan co-ordination and ultimately, the risk of infraction proceedings from the European Commission for non-compliance with the WFD should always be borne in mind.

3.12 Overview of Interactions and Co-ordination Issues

To summarise, the key interactions and co-ordination issues which have been identified during the course of this research are as follows:

- (i) There are differences between the **scope and purpose** of RBMPs and Development Plans, as well as their **required contents**. The PoMs in RBMPs should concern the objectives for waterbodies and their achievement; whilst the policies and proposals for managing development to achieve those objectives should be matters for Development Plans. However, any perception that an RBMP is solely environmentally driven is misleading, and clearly social, economic and environmental objectives underpin both plan systems. Furthermore, it is not unusual for two policy frameworks to focus upon particular aspects of common objectives, and this does not mean that the two processes cannot interact effectively, albeit that on occasion potential differences might arise.
- (ii) **National guiding documents and policy statements** should consistently encourage protection of the water environment to promote effective interaction between RBMPs and Development Plans at a strategic and local level. Given current work by the Scottish Executive and SEPA in relation to both plan systems, including the setting up of the RBMP PWG and revision of the NPF, this is a timely, as well as an important, consideration.
- (iii) **Plan preparation programmes and review cycles** inherently differ and since full synchronisation is impractical and unnecessary, it is important that SEPA and planning authorities engage with each other at key stages of each plan-making process. Planning authorities and SEPA should therefore be aware of the **consultation and communication arrangements** associated with each others' plans. They should establish where opportunities for collaboration exist and which RBMP and Development Plan documentation should be taken into account by Planning Officers and RBMP 'planners' respectively under the various scenarios for plan preparation.
- (iv) As the boundaries of the RBMPs and AAGs do not coincide exactly with planning authority boundaries, SEPA should ensure that future **administrative arrangements** to guide the preparation, implementation and monitoring of RBMPs are fit for purpose and avoid unnecessary duplication of effort.
- (v) **Effective co-ordination** between RBMPs and Development Plans will be essential at an **early stage** of plan preparation, and on an **ongoing basis**, to avoid later difficulties associated with individual land allocations.

- (vi) Both systems include a firm commitment to **participation, consultation and communication** and are also designed to maximise the opportunities for collaboration between authorities responsible for the plans and their partners. Whilst existing arrangements for co-operation and collaboration do exist, it is important to acknowledge that **RBMPs and the Planning Bill proposals will provide a new dimension to this.**
- (vii) In relation to **plan format and e-planning**, the increased emphasis on the presentation of mapped information and the use of electronic formats will provide further opportunities for collaboration and co-ordination. Whilst the scope for this is potentially 'limitless', it will be important to acknowledge technical/skills and resource related constraints and focus on what might be achievable in the short to medium term.
- (viii) **Supplementary planning guidance** for Development Plans and **sub-basin river management plans** should consistently ensure appropriate protection of the water environment at a more 'local' level.
- (ix) Both plans will require a **Strategic Environmental Assessment** prior to adoption. In addition to assisting each other with ensuring that the requirements of the Environmental Assessment (Scotland) Act 2005 are met in relation to incorporation of the required topic areas, there is also considerable scope for SEPA and planning authorities to collaborate at a number of key stages, to avoid both duplication and inconsistency. These include establishing baseline information, defining assessment objectives, and performance monitoring.
- (x) Whilst the emphasis of this research project is on encouraging co-ordination during plan-making, successfully achieving this could lead to significant positive effects during plan implementation in terms of **delivering sustainable outcomes and enabling more efficient planning application decisions.** Effective co-ordination during plan preparation should **minimise conflict** between the two regulatory systems and reduce the scope for **delays in decision-making**, which might otherwise hinder the delivery of sustainable outcomes and lead to unnecessary added costs for applicants, planning authorities and key agencies.

4. INTERACTIONS BETWEEN RBMPs AND DEVELOPMENT PLANS: THE WAY FORWARD

4.1 Introduction

On the basis of the key issues identified in **Chapter 3**, this final chapter looks ahead to consider potential measures for ensuring effective co-ordination and interaction between RBMPs and Development Plans, including suggested priorities for consideration.

The chapter presents recommended actions for SEPA, the Scottish Executive and planning authorities, as Responsible Authorities for river basin management planning. It then considers the potential role and composition of the PWG, and suggests a further series of recommendations in relation to this Group, including a role in awareness raising and considering the need for guidance and supporting training. The chapter concludes with a proposed agenda for the inaugural meeting of the PWG, and suggestions for the circulation of supporting material.

Each recommendation is cross-referenced [] back to the relevant discussion of key co-ordination and interaction issues earlier in this report.

4.1.1 Establishing Priorities

Whilst there are a number of issues that would benefit from further consideration, it is sensible that these are prioritised. Priorities should be established on the basis of the following:

- the most imminent milestones in the RBMP preparation timetable, including the Plan of Action Report (Dec. 2006) and the Significant Water Management Issues (SWMI) Report (Dec. 2007);
- current and forthcoming initiatives from the Scottish Executive's Development Department, including preparation of the second NPF and the revision of PAN51: Planning and Environmental Protection (1997);
- issues likely to cause most difficulty if not addressed as a priority, including legal repercussions, or where greatest uncertainty or concern has been expressed to date. A number of these are identified already in the River Basin Planning Strategy for the Scotland RBD;
- action which will encourage wider awareness raising and capacity building, which in turn will assist in identifying future priorities for the PWG.

4.2 Recommendations for the Responsible Authorities and the Planning Working Group

4.2.1 SEPA and the Scottish Executive

Recommendation 1: It is recommended that SEPA and the Scottish Executive work together to take forward the spatial expression of strategic water management issues in the second **National Planning Framework**, drawing upon the Scotland RBD Characterisation and Pressures and Impacts Analysis Report and any further work undertaken by SEPA to identify Significant Water Management Issues [3.3].

Recommendation 2: It is recommended that the revision of **PAN51: Planning and Environmental Protection** includes early planning advice on the interactions between Development Plans and RBMPs. [Note: Work on PAN51 commenced before this research was concluded] **[3.3]**.

Recommendation 3: It is recommended that the Scottish Executive, in consultation with SEPA, should consider whether there is a need for '**model**' policies covering water management as relevant national planning policy is drafted and/or revised. An alternative might be the dissemination of **suggested good practice policies** **[3.6]**.

4.2.2 SEPA

Recommendation 4: It is recommended that SEPA ensures that **internal policies and procedures** are in place to provide **consistent and timeous advice to planning authorities**, and to **monitor and review** the effectiveness of its advice in achieving co-ordination between RBMPs and Development Plans **[Overarching]**.

4.2.3 Planning Authorities

Recommendation 5: It is recommended that planning authorities respond to the opportunity to comment on relevant aspects of SEPA's draft **Significant Water Management Issues (SWMI) Report**, programmed for final publication in Spring/Summer 2007. The initial prioritisation of 'significant' issues and the potential contribution of land use planning to the existing and proposed measures for delivery of environmental objectives are likely to be of particular importance **[3.4/3.9]**.

4.2.4 SEPA and Planning Authorities

Recommendation 6: With respect to **information exchange**, given the increased emphasis on the presentation of mapped information and the use of electronic plan formats, it is recommended that SEPA and individual planning authorities give further consideration to how RBMP electronic information can be passed to planning officers involved in Development Plan preparation and how 'e-planning' could assist RBMP preparation **[3.7]**.

4.2.5 Establishing the Planning Working Group

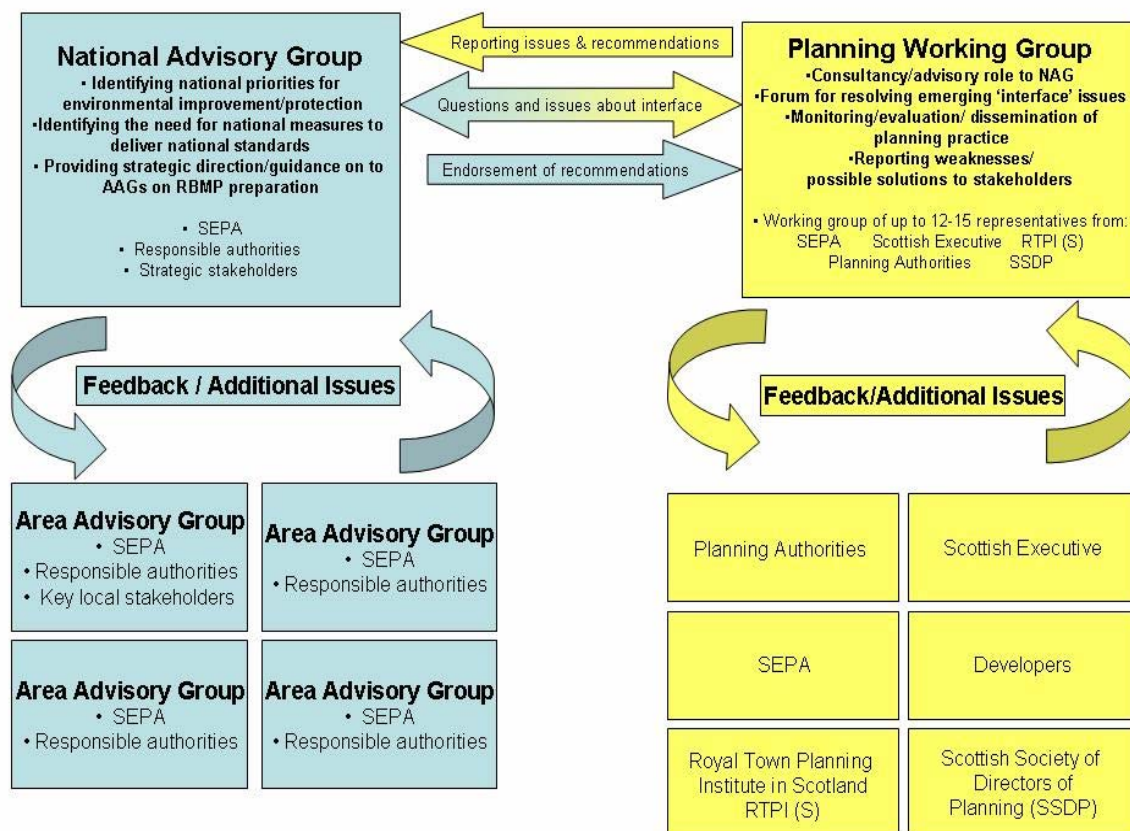
Recommendation 7: Given the responses to consultation on the draft River Basin Planning Strategy for the Scotland RBD, and the issues identified in this Report, the research findings support **the proposal to establish a Planning Working Group (PWG)**. The suggestion that the role of the PWG should be to raise awareness of the linkages between RBMPs and land use planning, identify any significant co-ordination issues and advise on the need for guidance is also supported **[3.1/ overarching]**.

Recommendation 8: As the **RBMP Plan of Action Report** will be made publicly available by the end of December 2006 and is likely to begin to address the issue of co-ordination with other planning systems, it is recommended that SEPA include an **update on the work of the PWG** as a means of encouraging wider dissemination and awareness raising **[3.4]**.

4.2.6 Composition and Terms of Reference for the PWG

Figure 4.1 below illustrates the proposed composition of the PWG and, importantly, where the group will sit in relation to the RBMP NAG and the structure already in place for responding to co-ordination issues on a case-by-case basis.

Figure 4.1: The Planning Working Group



It is likely that the membership will comprise or be drawn from:

- SEPA RBMP planners;
- SEPA planning managers and/or planning liaison officers;
- The Scottish Executive Development Department;
- The Scottish Executive Environment and Rural Affairs (SEERAD) Water Division;
- The Royal Town Planning Institute in Scotland (RTPI);
- The Scottish Society of Directors of Planning (SSDP);
- a cross section of local authority planners, to reflect the following:
 - geographical spread including both urban and rural areas;
 - current Structure/Local Plan coverage and future City Region/non City Region coverage;
 - experience of dealing with a range of water related issues including flood risk and both water resources and water quality management;

- particular interest in participating in the PWG, possibly identified from previous SEPA consultation/liaison and attendance at the planning authority roundtable meeting held during the course of this research.
- National Park representation.

At the outset, it is important to recognise that:

- (i) whilst the PWG will have a key role to play, members of the PWG may also be progressing initiatives or related actions in associated capacities, and other stakeholders may also have an interest in the work of the Group. An ongoing awareness of wider activity will be essential;
- (ii) the PWG will need to be supported, particularly by SEPA and the Scottish Executive. For example, the former will need to provide updates on the progression and implementation of the first RBMPs, whilst the latter will need to advise on the implementation of the Modernising Planning measures, in addition to further proposed amendments to national planning policy and guidance which may be of relevance.

Whilst the PWG will confirm its own aims, these are expected to include to:

- identify significant co-ordination issues and challenges;
- build consensus about how and when to address identified issues;
- provide agreed and consensual information to assist co-ordination;
- advise on the need for guidance in advance of the first RBMP;
- provide a forum for information exchange to build capacity and understanding across and between river basin and development planning;
- raise awareness of RBMP issues in development planning.

The PWG will focus initially on the period leading up to publication of the first RBMP at the end of 2009. However, there may well be merit in extending the life of the Group beyond this in a monitoring and evaluation role. As one of the aims of the PWG is to provide a forum for information exchange to build capacity and understanding, the group will need to be well managed, with lead responsibilities and systems for the dissemination of information identified clearly. It is intended that administrative support to the Group will be provided by SEPA.

4.2.7 Overarching Principles for the PWG

It is suggested that the inaugural meeting of the PWG includes time for a general discussion of the overarching principles which may underpin effective co-ordination and interaction between RBMPs and Development Plans. Whilst the list below is not exhaustive, support, or otherwise, for the following may merit further consideration:

- (i) the intention is not simply to avoid conflict and deliver the 'bare minimum' to meet statutory requirements but also to review how SEPA, the Scottish Executive, planning authorities and other relevant parties can work together positively to help ensure the two processes are mutually supportive;

- (ii) co-ordination and interaction is a two way process with both local authority planners and Development Plans informing the preparation of RBMPs, and SEPA and RBMPs informing the preparation of Development Plans;
- (iii) SEPA and local authorities are not starting 'from scratch', and need to identify and build upon existing good practice with respect to liaison and co-ordination;
- (iv) in both cases, participation should be proactive, with an emphasis on early involvement in the plan formulation processes. For example, local authorities should be involved in the current work which will inform preparation of the RBMPs, and SEPA should collaborate with local authority forward planning officers before draft plans are published for consultation;
- (v) systems are already in place to resolve competing priorities, including legislative instruction through the WEWS Act, RBMPs as material considerations in planning decisions and SEPA as consultee for Development Plans. Given both this, and the stated intention to encourage partnership working, conflict should be minimal. However, a failure to resolve potential differences could have significant consequences, particularly at the subsequent regulatory stage (the Controlled Activities Regulations and Development Control);
- (vi) a range of measures may be required to address co-ordination issues, including general awareness raising and capacity building, policy strengthening and refinement, and the provision of guidance and supportive training. However, whilst the need to amend primary or secondary legislation will remain under review, this is not currently expected to be necessary;
- (vii) the period of change for planning and the introduction of a new process of river basin planning provide both a challenge and an opportunity. Measures to encourage effective co-ordination and interaction will need to be flexible enough to work both with the current planning system and that resulting from the Executive's modernising planning agenda, and to incorporate refinements to reflect 'lessons learnt' from preliminary collaboration;
- (viii) there are mechanisms already in place to encourage the sharing of experiences and dissemination of good practice amongst Member States preparing RBMPs. The potential of the PWG to contribute to this should be considered.

4.2.8 Linkages between the PWG and the AAGs

Recommendation 9: As some AAGs may decide that it is appropriate to convene a 'Planning Issues Group', it is recommended that the PWG provides a strategic forum for discussing any co-ordination issues raised by individual planning groups and for disseminating examples of good practice to other AAGs [3.5].

4.2.9 Awareness Raising and the Need for Guidance and Training

Recommendation 10: Given the responses to consultation on the draft River Basin Planning Strategy for the Scotland RBD, and the issues identified during the course of this research, it is recommended that one of the key roles of the PWG is to advise on the need for guidance and raise awareness of the linkages between RBMPs and development planning. It is further recommended that consideration of this role is informed by the points outlined below [3.1 / overarching].

From the outset, opportunities to publicise both the findings of this research and the setting up of the PWG should be considered. Any guidance will need to build on existing good practice whilst highlighting 'what is different' and 'why this is important', i.e. both the benefits of effective co-ordination and the consequences if this fails to happen.

It is recommended that the following points are also given early consideration:

- the scope to draw upon **existing mechanisms** for disseminating guidance and raising awareness amongst land use planning and river basin management planning professionals, and for linking up with the existing programme of, for example, RTPI/Planning Exchange Seminars. Examples of the former may include the scope for progression of a revised or new national Planning Advice Note or a formal letter from the Scottish Executive to planning authorities, as issued previously in relation to Environmental Impact Assessment, accompanied by a Questions & Answers brief. Given the need to consider the cost implications of different options, inclusion of this subject area within the Scottish Executive's Planning Development Programme should also be considered as this includes a training budget;
- the need for **additional mechanisms** to disseminate guidance and raise awareness, including the role of the PWG in this and possible funding sources;
- the relative merits of **joint guidance/awareness raising** for land use planning and river basin management planning professionals versus separate guidance, or joint guidance including separate sections. Whilst joint progression might provide a useful vehicle for the stated aim of building consensus about how and when to address identified issues, this may, in practice, overcomplicate matters.

Given the encouraging response to the hypothetical example piloted at the planning roundtable meeting, further consideration should be given to the potential role of these in any guidance documentation, including:

- how such examples could best be used to deliver the messages that:
 - (i) whilst the RBMP will not prevent development from proceeding, it will require a number of stringent tests to be satisfied;
 - (ii) integration between RBMPs and Development Plans is best considered in proactive, not reactive, fashion, i.e. early on in the plan-making process before a draft Plan has been published for consultation, whilst alternatives are still being considered; and at key stages of the process thereafter.
- what examples might be appropriate at the (current) Structure and Local Plan levels respectively;
- how such examples could best reflect the majority of likely situations whilst also highlighting the more extreme 'worst case' scenarios;
- whether hypothetical examples can be replaced by 'real' good practice examples in the short term or whether this is a longer-term aspiration;
- how developers of a potential land allocation might input into the process;
- how SEA would fit into the process. For example, two hypothetical examples could be presented as alternatives that the planning authority would consider to meet their development requirements, with the planning authority and SEPA working together to determine assessment objectives which are consistent with the aims and measures of the RBMP.

4.2.10 Identifying Co-ordination Issues for Priority Consideration

Recommendation 11: It is recommended that agreement be reached at the inaugural meeting of the PWG group on potential co-ordination issues that may require priority consideration. It is further recommended that this be informed by the findings of this research as outlined below.

Potential co-ordination issues for consideration by the PWG include the following:

Timescale: 2006-2007

- the type of **generic measures within the PoMs** which are of relevance to Development Plan policies and proposals for managing development, including the appropriateness of those which have been suggested to date (Table 3.3 may provide a useful starting point for this), possible additions to the list and 'real life examples' [3.6].

Timescale: 2007-2009

- in the lead up to the preparation and implementation of the first RBMP, any issues of concern in relation to the following which may point to the need for further consideration and/or potential guidance:
 - the **administrative requirements** necessary to support effective co-ordination, including any means of avoiding too great a commitment for key personnel, for example, if the presence of strategic planning bodies has removed the need for each local authority to be represented on an AAG [3.5].
 - the process of **information exchange** between RBMP and Development Plan planners, including issues in relation to database compatibility and skills/resource requirements. Looking ahead, this may include consideration of the feasibility/usefulness of co-ordinating systems for information storage in line with government aims to bring together GIS datasets in a more accessible and coherent way [3.7].
 - **co-ordinated working at different stages of plan preparation** including:
 - RBMP 'characterisation' and establishing the baseline description for a Development Plan area [3.6];
 - setting objectives and drafting policies for the respective plans [3.6];
 - identifying development pressures on the water environment and determining land allocations [3.6];
 - reviewing the need for/usefulness of supplementary planning guidance, for example, when a Development Plan is not programmed for review in the short to medium term [3.8];
 - responding to SEA requirements, including establishing baseline information including pressures and trends, defining assessment objectives, and performance monitoring [3.10].

For discussion, mechanisms which could help ensure effective plan co-ordination include the following:

- developing a checklist to identify whether RBMP objectives and measures of relevance to planning are best addressed at the Structure or Local Plan level (under the current system) or through supplementary guidance, taking account of the Scottish Executive's desire to streamline Development Plan policies;
- considering the potential role of example 'best practice' Development Plan policies in ensuring that Development Plans reflect appropriately relevant aspects of RBMPs;
- considering the usefulness of hypothetical (at this early stage) case study examples, as piloted at the planning roundtable meeting for a theoretical settlement expansion. Such examples could be used to review:
 - the extent to which pressures and impacts identified in an RBMP could/should be taken into account in guiding strategic decisions about the scale, location and form of development (e.g. abstraction pressures, flood risk);
 - the 'achievability' of good water status in areas with a planning history of heavy industrial use and the need for any derogations/revised objectives;
 - the scope to secure benefits for the water environment through major development proposals, for example, morphological improvements and ecological benefits, including the role of the planning system in delivering these;
 - combined opportunities to achieve a high level of public participation and stakeholder involvement.

There may also be merit in the PWG 'casting the net wider' in looking for **examples of good practice**, for example in relation to the interactions between Development Plans and both Community Planning and Waste Planning and also co-ordination between the Environment Agency and local planning authorities in England and Wales [2.2].

4.2.11 Lifespan of the PWG

Recommendation 12: It is recommended that the PWG consider extending **the life of the Group** for a minimum two to three years after 2009, to monitor the effectiveness of co-ordination in the context of the published RBMPs, and in the light of this, to disseminate additional good practice and further consider the need for any guidance or advice. Although premature to form a firm judgement on this, there may also be merit in increasing the life of the Group beyond this, particularly given the implementation programme for the modernising planning initiatives, including the establishment of City Regions [Overarching].

4.2.12 Agenda for the Inaugural Meeting of the PWG and the Circulation of Supporting Material

A suggested agenda for the first meeting of the PWG is provided overleaf.

Whilst it is suggested that this report is circulated to the PWG in its entirety, the Executive Summary and this final chapter are likely to be of most relevance. Additional briefing material on RBMPs may also be of benefit in advance and should be an early agenda item. For example, participants are likely to be interested in what the plan(s) will look like,

how proposed actions will be expressed, and how much detail will be provided at each level of the RBMP (basin/sub basin), including which will equate to the scale at which planners commonly 'operate'.

Suggested agenda for the first meeting of the PWG

- | | | |
|----|--|--|
| 1. | Welcome and introductions, including overview of the intended purpose of the PWG | SEPA/Scottish Executive |
| 2. | Briefing/update on RBMPs | SEPA |
| 3. | RBMPs and Development Plans: outline of potential co-ordination issues

<i>Questions/feedback on current awareness of RBMPs and influence on development planning</i> | SEPA/LUC |
| 4. | Confirming the terms of reference for the PWG, incl:

<ul style="list-style-type: none"> - composition - chair/secretary - remit/objectives - overarching principles - identifying leads for different actions - information requirements - dissemination of material - frequency of meetings
<i>Discussion</i> | Led by SEPA/Scottish Executive |
| 5. | Confirming priority issues:

<ul style="list-style-type: none"> - presentation of priorities identified by research - identification of any further issues - prioritisation exercise - resource implications
<i>Discussion</i> | Led by SEPA/Scottish Executive with input from LUC |
| 6. | The way forward:

<ul style="list-style-type: none"> - actions arising (including timescale and lead responsibilities) - agenda and date for next meeting of the PWG
<i>Discussion</i> | SEPA/Scottish Executive |
| 7. | AOB | |

APPENDICES

Appendix I Relevant Publications

Appendix II Key WFD Issues Identified in National Planning Policy and Advice

Appendix III Planning Roundtable: List of Attendance

Appendix IV Draft Hypothetical Example

Appendix I Relevant Publications

Babtie Group (2001) *River Basin Management Planning in Scotland, Plan Preparation Report*, Scottish Executive: Edinburgh.

CIWEM (2004) *The Water Framework Directive Series: Integrated Catchment Management - Lessons for River Basin Management*, Post Conference Notes.

Environment Agency (2005) *Water for Life and Livelihoods – Consultation on a Strategy for River Basin Planning*, EA.

Environment Agency (2006) *The Water Framework Directive and Planning: Initial Advice to Planning Authorities in England and Wales*, EA.

EU Working Group 2.9 *Common Implementation Strategy for the Water Framework Directive (2000/60/EC)* Guidance document no 11 Planning process.

HMSO (2003) Scottish Statutory Instrument 2003 No. 610 *The Water Environment and Water Services (Scotland) Act 2003 (Designation of Scotland River Basin District) Order 2003*.

HMSO (2003) Statutory Instrument 2003 No. 3245 *The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003*.

HMSO (2004) Statutory Instrument 2004 No. 99 *The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004*.

HMSO (2006) Scottish Statutory Instrument 2006 No. 126 *The Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006*.

Scottish Executive (2001) *Rivers, Lochs, Coasts: The Future for Scotland's Waters*, HMSO: Edinburgh.

Scottish Executive (2003) *Planning Circular 3/2003 Environmental Impact Assessment (Water Management) (Scotland) Regulations 2003*, Scottish Executive: Edinburgh.

Scottish Executive (2004) *The Water Environment (Controlled Activities) (Scotland) Regulations 2004 Draft Regulations: Analysis of Responses to the Scottish Executive Consultation Final Report Paper 2004/17*, Scottish Executive: Edinburgh.

Scottish Executive (2004) *Model Policies in Land Use Planning in Scotland: A Scoping Study*, HMSO: Edinburgh.

Scottish Executive (2005) *Modernising the Planning System*, HMSO: Edinburgh.

Scottish Executive 20/12/05 Planning etc. (Scotland) Bill [As Introduced].

Scottish Executive (2006) *Pilot Model Policy Study: Conclusions and Next Steps*, HMSO: Edinburgh.

SEERAD (2001) *Shadow River Basin Management Plan*, Scottish Executive: Edinburgh.

SEPA (2004) *River Basin Management Planning Consultation Paper*,
www.sepa.org.uk/pdf/consultation/closed/2004/rbmp_strategy/rbmp_strategy.pdf

SEPA (2004) *Scottish River Basin Management Planning Strategy Consultation Digest*
www.sepa.org.uk/wfd/rbmp/html/digest/index.html

SEPA (2005) *Water Framework Directive Regulatory Regimes*,
www.sepa.org.uk/wfd/regimes/index.htm

SEPA (not dated) *An economic analysis of water use in the Scotland River Basin District*,
www.sepa.org.uk/pdf/publications/wfd/Article_5_Scotland_River_Basin_economic.pdf

SEPA (not dated) *Scotland River Basin District Characterisation and impacts analyses required by Article 5 of the Water Framework Directive* Summary Report, SEPA.

SEPA (not dated) *Solway Tweed River Basin District Characterisation and impacts analyses required by Article 5 of the Water Framework Directive* Summary Report, SEPA.

SEPA (not dated) *River Basin Planning Strategy for the Scotland River Basin District*, SEPA.

David Tyldesley and Associates (2003) *Environmental Assessment of Development Plans*,
Interim Planning Advice, Scottish Executive Social Research: Edinburgh.

Appendix II Key WFD Issues Identified in National Planning Policy and Advice

SPP1 The Planning System (2002)	Reference to material considerations including Waste Plans, but no direct references to water, the WFD, or RBMPs at present. General discussion of 'the prudent use of natural resources.' Notes that flooding and rainfall changes arising from climate change will lead to changing development contexts.
SPP2 Economic Development (2002)	Identifies national sites for development and provides guidance on site allocations through Structure and Local Plans. Little or no reference to water environment in relation to land allocations.
SPP3 Planning for Housing (2003)	Notes that housing development on the floodplain should be avoided, but does not refer to the water environment as a key factor influencing local authority housing land allocations. Notes that sites should be identified which avoid increasing requirements for flood protection.
NPPG4 Land for Mineral Working (Revised 2001)	Addresses the impacts of mineral workings on watercourses.
NPPG6 Renewable Energy Developments (Revised 2001)	Covers all types of renewable energy developments and notes impacts on water environment. Particularly detailed consideration of wave, anaerobic digestion and landfill gas and hydro power proposals. Refers to WFD in preparation at time of writing.
SPP7 Planning and Flooding (2004)	Notes that the potential of land to flood should be taken into account, with medium to high areas being identified as early in the process as possible. Recommends that FLAGS contribute to the plan preparation process. Notes different roles of planning at strategic and local planning levels, taking into account flood risk maps. Highlights links with RBMP but does not discuss means of ensuring co-ordination.
NPPG10 Planning and Waste Management (1996)	Notes that land allocations should take into account impacts on and risks to the water environment. Goes into depth on issues such as sewage. Notes the importance of regulations including the Urban Waste Water Treatment Directive.
NPPG13 Coastal Planning (1997)	Covers a wide range of relevant issues. Proposes a typological approach to defining the character of the coast, and therefore appropriateness for development. Emphasises the need for positive coastal zone management. Aims to manage environmental impacts of development on the water environment. Notes the role of Shoreline Management Plans and the importance of integrating them with Development Plans.

NPPG14 Natural Heritage (1999)	Notes the importance and sensitivities of lochs, ponds, watercourses and wetlands. Reference to WFD will require updating. Positive role of environmental features as part of development schemes noted, and commitment to enhancing features where possible is set out. Notes that culverting and canalisation should be avoided to minimise additional flood risk. Identifies where further information on riparian habitats, and water catchment management can be sought.
SPP15 Planning for Rural Development (2005)	Housing land supply issues in rural areas are raised, and it is recommended that Scottish Water and other partners play a role in facilitating development through infrastructure upgrading and expansion.
SPP16 Opencast Coal (2005)	Key impact on the water environment is noted. Reference made to 1998 Groundwater Regulations.
NPPG17 Transport and Planning (1999) (plus SPP17 Addendum 2003).	Impacts of development on the water environment noted. Role of inland waterways for sustainable transport and recreation is referred to.

The following key Planning Advice Notes (PANs) are of particular relevance to this study:

- PAN69 Planning and Building Standards Advice on Flooding (2004)
- PAN 61 Planning and SUDS (2001)
- PAN58 Environmental Impact Assessment (1999)
- PAN 51 Planning and Environmental Protection (1997)

In addition, the following PANs are also likely to be relevant:

- PAN64 Reclamation of Surface Mineral Workings (2002)
- PAN63 Waste Management Planning (2002)
- PAN60 Planning for Natural Heritage (2000)
- PAN53 Classifying the Coast for Planning (1998)
- PAN50 Controlling the Environmental Effects of Surface Mineral Workings (1996)
- PAN45 Renewable Energy Technologies (2002)
- PAN33 Development of Contaminated Land (2000)

Appendix III Planning Roundtable: List of Attendance

PLANNING ROUNDTABLE: LIST OF ATTENDANCE

Piers Blaxter, Aberdeenshire Council

Frank Bradley, Renfrewshire Council

Veronica Burbridge, RTPi in Scotland

Robin Edgar, Glasgow and the Clyde Valley Structure Plan Joint Committee

Graham Esson, Perth and Kinross Council

Tracey Peedle, Loch Lomond and The Trossachs National Park Authority

Peter Shellard, Dumfries and Galloway Council

Andrew Sikes, City of Edinburgh Council

Katherine Wood, Glasgow City Council

Project Steering Group

Neil Deasley, Principal Policy Officer (Planning and Environmental Assessment), SEPA

John Esselmont, Senior Policy Officer, Ayrshire Joint Structure Plan & Transportation Committee

Nick Evans, Planning and Development, Scottish Executive

Kirsty Irving, Research Manager (WFD), SNIFFER

Callum Sinclair, River Basin Management Planning Manager, SEPA

Project Team

Fiona Simpson, Land Use Consultants

Joanna Wright, Land Use Consultants

Appendix IV Draft Hypothetical Example

Hypothetical Settlement Expansion: Case Study Example

Aims

- to assist in exploring the potential interactions between development plans and RBMPs
- to seek to demonstrate that whilst the RBMP will not 'prevent' development from proceeding, where a deterioration in an environmental objective is predicted, it will require a number of (WFD) assessment tests to be satisfied
- *trial run to test the usefulness of the 'case study' approach*

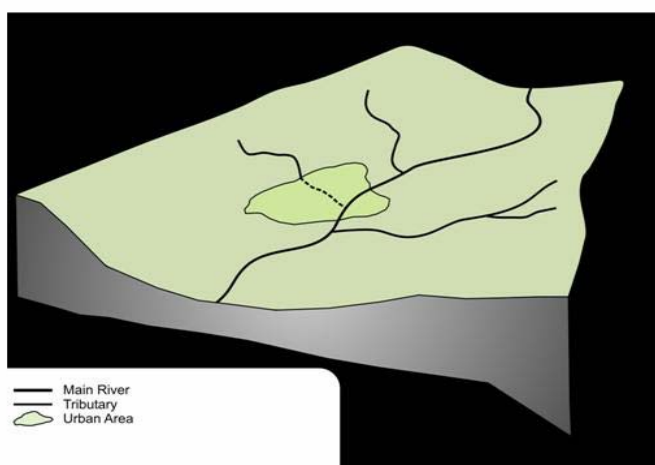
Assumptions

- (i) Structure Plan approved in June 2003 and does not deal specifically with the WFD
- (ii) Scotland River Basin Characterisation Report published in 2004
- (iii) Parallel preparation of RBMP (2009) and Local Plan (2006 - 2009)

RBMPs and Development Plans



Catchment Overview



RBD Characterisation Report:

- River Flow
 - major catchment with its upper waterbodies predicted to be of **good ecological status** and **not at risk** of failing objectives
 - urban and lower catchments predicted **not to be of good ecological status** and to be **at risk** of failing objectives

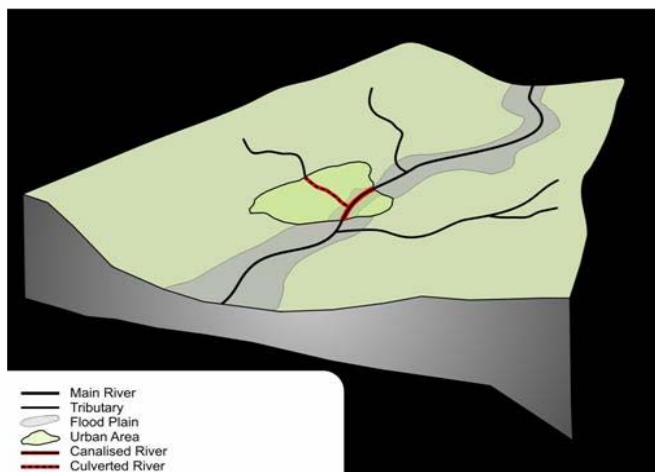
Structure Plan:

- City X
 - Structure Plan identifies the need for 1500 houses and 30 ha of high quality business, and economic development land

RBMPs and Development Plans



Urban Catchment

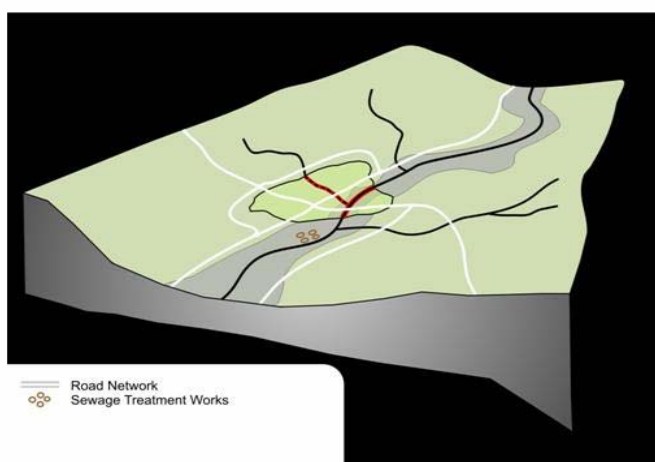


- previous encroachment into the floodplain
- sections canalised
- tributary culverted
- degraded river corridor poorly used by local residents
- waterbody predicted to be designated as **heavily modified**

RBMPs and Development Plans



Lower Catchment (I)

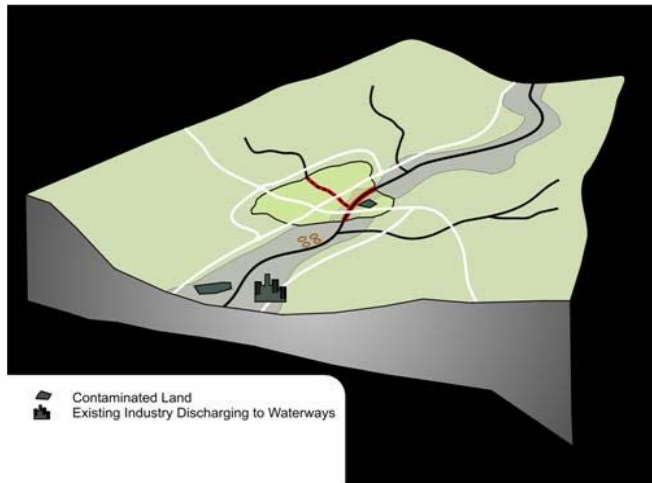


- Existing sewage treatment works:
 - located downstream
 - at capacity

RBMPs and Development Plans



Lower Catchment (II)



Identified to be at risk of failing to meet objectives and predicted to be of **poor ecological status** due to:

- diffuse pollution from derelict industrial sites
- point pollution sources

RBMPs and Development Plans



Structure Plan for City X:

- identifies the need for 1500 new houses within the area
- affords priority to the redevelopment of a surplus hospital estate for residential development BUT
- recognises that greenfield land release is also necessary
- acknowledges the importance of the waterside setting of the river BUT
- requires the Local Plan to allocate development outwith the 1:200 flood risk area

RBMPs and Development Plans



Consultative Draft Local Plan



Allocates:

A: two village type developments (each 600 greenfield units)

B: third village within the hospital site (200 brownfield and 100 greenfield units)

C: 30 ha greenfield business site near existing road infrastructure

RBMPs and Development Plans



Joint approach

- To comply with the WFD, SEPA would identify:
 - **waterbodies with a predicted deterioration in water quality, in potential breach of the Directive**
 - waterbodies not at risk from the proposed settlement expansion, assuming appropriate mitigation measures adopted (e.g. design standards, planning conditions etc.)

RBMPs and Development Plans



Joint approach

- Planning authority required to pursue either of the following steps:
 - (i) satisfy a series of tests to meet **derogation criteria**, including demonstration that:
 - the scheme is in the over-riding public interest
 - other 'reasonable alternatives' had been considered
 - alternative sites
 - reduced density of housing
 - application of SUDs
 - OR
 - (ii) take appropriate steps / incorporate adequate mitigation to prevent deterioration (e.g. provision of additional treatment infrastructure in advance of the proposed expansion)

Feedback

- Usefulness of case study approach:
 - relevance of this example?
 - level of ('technical') detail?
 - other possible scenarios?
- How might this example be dealt with (plan level or elsewhere)?