

Comments

Highland-wide Local Development Plan 2 - Main Issues Report (25/09/15 to 30/01/16)

Comment by	Scottish Government (Scottish Government)
Comment ID	320
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Comment

Transport Scotland - General Comments

The response below provides high level feedback at this stage and we would encourage continued engagement going forward, specifically we would be happy to comment on any draft policies or plans and meet to discuss when appropriate.

It is noted that the HwLDP Proposed Plan will be a planning policy-only Plan, with the three area LDPs delivering land-use allocations.

Issue 1b - Transport Scotland welcomes the proposal to replace the current spatial strategy, which is divided across three maps, with one overarching Spatial Strategy Map. It is noted, however, that the map as presented is not particularly easy to interpret. It is particularly difficult to distinguish the proposed road schemes and the title of the map key 'Efficient Travel Improvements' suggests that all of the infrastructure on the map, including all trunk roads, is to be improved which is not the case. This could be misinterpreted and it is recommended that the figure is refined and updated for inclusion with the LDP.

It is understood that as the new style Plan will be policy based, the existing HwLDP site specific policies and associated spatial content will not be taken forward. All spatial land use allocations and placemaking priorities will be set out in Area LDPs, with Housing Supply Targets being identified within the HwLDP and allocated in the Area LDPs. Transport Scotland would welcome dialogue on the identification of any potential transport impacts of the spatial strategy on the trunk road network and particularly on the approach and methodology of the Transport Appraisal. Discussions should focus on the overall Housing Supply Targets included within the HwLDP and that the specific land use allocations are to be outlined within the Area LDP's, and the implications this may present in appraising the HwLDP transport impacts.

Transport Scotland fully supports the policy of locating development where it can best be served by existing infrastructure, however the potential impacts of housing allocations on the strategic road network require to be understood.

Scottish Government - Housing Supply Targets and Housing Land Requirement

Table 1 of the MIR presents two scenarios (low and high) for housing supply targets but doesn't explain which one is favoured by the Council. Following discussions, we received additional information ('*Relationship Between the Highland 2015 HNDA and the Highland Wide LDP MIR*') from the Council on 27th November 2015. This information sets out how the Housing Supply Targets (HST) in Table 1 of the MIR have been derived.

We note that the "high" growth scenario represents the Council's policy view for their HST in line with SPP (para 115), of how many houses the Council wish to see delivered to maintain the levels of growth across Highland in line with the trends over the past 20 years. The Council's intention is that the Highland Wide LDP sets the parameters for Housing Land Requirement (HLR) for each of the subsequent area LDPs and that they set out the HLR (including generosity) based on local circumstances.

The Proposed Plan should therefore explain how the HSTs have been derived from the HNDA. It should also clearly set out that the high growth scenario is to be used as the HST to inform the HLR for your subsequent LDPs. This is an important issue to clarify in the Proposed Plan to ensure that readers are aware that subsequent LDPs will be using the high growth scenario.

The Proposed LDP should also set out how the Council will ensure that a minimum of 5 years effective land supply will be provided at all times.

The Council should consider including a 'flexibility policy' in the Proposed LDP which sets out how individual proposals will be considered where a shortfall in the 5 year effective housing land supply emerges.

Affordable Housing - The LDP should provide clear justification for any requirement for affordable housing of more than 25% of the total number of houses.

Tell us why you think this

Legislation requires that a LDP is to contain a map or maps (Proposals Map) describing the policies and proposals set out in the LDP. Consideration should be given to how the online mapping tool would relate to this requirement.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	321
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Tell us why you think this

Scottish Government

We welcome that town centres are at the top of the hierarchy. This fits with the Town Centre First Principle jointly developed by Scottish Government and COSLA. The Town Centre First Principle encourages the public sector to continue to invest in town centres and help communities thrive. The principle is about adopting an approach to decisions that considers the vibrancy of town centres as a starting point.

However, the diagram suggests that housing is not applicable in town centres. The National Review of Town Centres External Advisory Group Report (the Town Centres Review) identified town centre living as one of its themes. It highlights “*Footfall is key to achieving thriving, successful town centres. The best footfall is the residential kind, for people who live in a town centre will not only use its shops and institutions but will care for its safety and security in the evenings and at night.*” In its response the Scottish Government’s Town Centre Action Plan includes Town Centre Living as a key strand which states the Scottish Government endorses the idea of encouraging more people to live in town centres. The revised SPP sets out national policy direction that the planning system should consider opportunities for promoting residential use within town centres where this fits with local need and demand. And similarly through the Scottish Government’s Local Housing Strategy Guidance, we are seeking to encourage local authorities to fully consider the role that town centres can play as residential communities. We would therefore suggest the diagram be amended to reflect that town centre living is a key agenda that will be promoted where this fits with local need and demand.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	322
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Tell us why you think this

Scottish Government

The Proposed approach of including an overarching town centres first policy in line with Scottish Planning Policy is supported.

The preferred approach sets out the sequential order in which the town centre policy applies – we would though highlight that there is no mention of ‘local centres’, which the SPP (paragraph 68) puts on a par with town centres, and that the Council may wish to consider including these within the policy.

The list of uses to which the policy applies covers all those set out in SPP (paragraphs 60 and 68), and also specifies that restaurants and hotels are covered by the policy – these uses are appropriate in town centres and the Scottish Government is content with how the uses have been set out.

The preferred approach refers to retail impact assessment. SPP (2014) (para 71) introduced a similar requirement that “Where a new public building or office with a gross floorspace over 2,500m² is proposed outwith a town centre, and is contrary to the development plan, an assessment of the impact

on the town centre should be carried out". It would therefore be helpful to set out both requirements in the new LDP.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	323
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Tell us why you think this

Scottish Government

We are supportive of the proposed single policy promoting a three tier approach to rural development which seeks a more relaxed approach in fragile areas and a more restrictive approach to development in pressured areas around the major settlements. This is generally compliant with SPP which encourages plans to tailor policy to the local circumstances.

For pressured rural areas SPP paragraph 81 states that plans and decision making should set out the circumstances in which new housing outwith settlements may be appropriate, avoiding the use of occupancy restrictions. The preferred option as currently worded sits at odds with this. SPP paragraph 83 states that occupancy restrictions should not be imposed for housing in fragile rural areas.

With respect to paragraphs 2.12 – 2.14 – it is relevant to highlight the proposed continued use of occupancy restrictions within the policy. The Council should be aware that: SPP (Para 81) is clear that occupancy restrictions should be avoided in relation to development in rural areas. Circular 3/2012 replaced the guidance defined in the Chief Planner letter of 4th November 2011 on restricting occupancy conditions and there is a line to this effect at paragraph 11.

This Circular replaces and revokes Circular 1/2010 and the Annex to Circular 1/2010. It also translates into policy the advice contained in the Chief Planner's letter of November 4, 2011 regarding occupancy restrictions.' (Circular 3/2012)'. Paragraphs 49-51 of the circular deal with occupancy restrictions in more detail and the council should give due consideration to this and redraft the policy to ensure compliance.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	324
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Tell us why you think this

Scottish Government

It is unclear what new infrastructure, (e.g. education/utilities) might be needed to deliver the settlement strategy and what the phasing of this might be. Figure 1 – Spatial Strategy Map only addresses road improvements (although those are not clear on the map) and future broadband. Paragraph 275 of Scottish Planning Policy is clear that these matters should be addressed in the Local Development Plan and supplementary guidance.

Issue 5a 'Planning Obligations' addresses this to a degree but is reactive to development proposals coming forward and should be, as per Scottish Planning Policy paragraph 275, proactive in anticipating infrastructure needs.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
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Comment

Transport Scotland

The recognition given to the need to address sustainable transport is welcomed. The preferred approach of merging current Policies 28 and 29 to help place more emphasis on ensuring the built environment takes an active role in promoting healthy lifestyles and limiting car dependency is particularly relevant.

Transport Scotland also notes the proposal to review the Local Transport Strategy alongside the HwLDP and publish it as Supplementary Guidance, giving it more weight in decision making. TS would welcome further involvement in considering this process.

The proposal to introduce a new Strategic Transport policy is noted, which supports the connectivity of Highland communities and businesses by safeguarding existing assets and routes, and identifying and promoting improvements. Transport Scotland would seek continued involvement in discussions relating to the assessments, identification and delivery of proposed strategic improvements.

Scottish Government

We note that the section does not indicate how National Development 8 Long Distance Cycling and Walking Network will help to reinforce the approach of the planning authority and the development plan to sustainable travel. In addition, the section does not pick up on paragraph 5.14 of the National Planning Framework 3 which encourages the identification of at least one exemplar walking and cycling friendly settlement as a demonstrator site and node on the long distance cycling and walking network. It is expected that these elements would inform the proposed local development plan.

It is unclear what role electric vehicles play in the approach to sustainable transport. Scottish Planning Policy paragraph 275 is clear that development plans should support the provision of infrastructure necessary to support positive changes in transport technologies, such as charging points for electric vehicles.

The MIR does not address integration between transport modes. The proposed plan should address this matter, which is set out in paragraph 273 of Scottish Planning Policy.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
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Comment

Scottish Government - Outdoor Sports Facilities

Paragraph 3.15 and 'Option 1: Preferred Approach' refer to protecting playing fields and sports pitches. SPP (paragraph 226) contains specific reference to safeguarding "Outdoor Sports Facilities" - this is a broader term and encompasses (as defined in the Notification Direction) land used as -

- 1 outdoor playing fields extending to not less than 0.2ha used for any sport played on a pitch;
- 2 outdoor athletics tracks;
- 3 golf courses;
- 4 outdoor tennis courts, other than those within a private dwelling, hotel or other tourist accommodation; and
- 5 outdoor bowling greens.

It would therefore be useful if the policy in the Proposed Plan used the term 'Outdoor Sports Facilities' and sets out that these should be safeguarded from development subject to the exceptions which are detailed in SPP. This would ensure these facilities receive the policy protection expected by SPP and ensure provide consistency with the consultation and notification requirements.

Open space audit

Option 1 sets out that the Highland Council's Audit of Greenspace will no longer be required. Whilst the intention appears to be to identify strategic and settlement-wide Green Networks and key areas of open space in mapping and placemaking priorities - we would highlight that the quality aspect of the audit should still be maintained. (It is unclear whether the work to identify the placemaking priorities will have been informed by looking at the quality of the existing greenspace and any gaps in provision, and whether that work will fulfil the functions of the audit).

SPP (paragraph 222) sets out that development plans should be informed by relevant, up-to-date audits, strategies and action plans covering green infrastructure's multiple functions, for example open space, playing fields, pitches, outdoor access..." Further advice on open space audits and strategies is available at

<http://www.sh.gov.uk/planning-and-development/advice-for-planners-and-developers/greenspace-and-outdoor-access/open-space-audits-and-strategies/>. SPP states that development plans should promote consistency with the various green infrastructure related audits, strategies and action plans and reflect their priorities and spatial implications.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
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Tell us why you think this

Scottish Government

We are content with the preferred approach for renewable energy.

We believe that to best comply with the requirements of SPP it is appropriate for the wind energy spatial framework to sit alongside a supporting planning policy within the Highland Wide LDP.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
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Comment

Scottish Government

We are generally content with the preferred approach to managing the natural environment. We would, however, raise concerns about the ability to meet the requirements of the duty under the Water Environment and Water Services (Scotland) Act 2003 (Paragraph 195 of the SPP) to protect and improve Scotland's water environment with the proposed removal of policy 63 (in the monitoring report).

Similar concerns also relate to River Basin management Plans where it is noted that the Council will not take forward existing policy areas covered by other legislation. We would consider it useful for an explanation to be provided on the join up between the Water Framework Directive, River Basin Management Plans and planning to ensure compliance with the SPP.

Question 6

Do you wish to comment on any of the other amendments?

Comment by Scottish Government (Scottish Government)

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Consultation Point Question 4c) ([View](#))

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Tell us why you think this

Scottish Government

We are content with the preferred approach. The Council may want to refer to SG Online Planning Advice on "Planning and Heat" which has recently been updated when developing a strategy and policy for heat within the LDP. <http://www.gov.scot/Resource/0048/00488003.pdf>

Question 6

Do you wish to comment on any of the other amendments?

Comment by Scottish Government (Scottish Government)

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Tell us why you think this

Scottish Government

We are content with the preferred approach.

Tell us why you think this

Scottish Government

As you will be aware the Energy and Resources sub-committee of Heads of Planning Scotland have published a Position Statement on the Operation of Financial Mechanism to secure decommissioning Restoration and Aftercare of development sites available at <https://hopsotland.files.wordpress.com/2014/08/hops-6-7-15-position-statement-on-bonds-with-appendices2.pdf>

Tell us why you think this

Scottish Government

In relation to seeking funds from site operators for annual monitoring reports and associated Council visits, we suggest that the former appears to be consistent with the HOPS Position Statement on the Operation of Financial Mechanisms to Secure Decommissioning, Restoration and Aftercare of Development Sites (for non-opencast coal mineral developments). The appropriateness of the latter ask for funding for Council site visits should be considered by the Council in the light of the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regulations 2004.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
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Tell us why you think this

Transport Scotland

It is noted that the Plan proposes to address funding shortfalls by seeking planning obligations from all scales of development, including 1 to 3 house developments. This revised policy is aimed at addressing cumulative impacts of small scale development which currently is not subject to any planning obligations. This proposal is noted and Transport Scotland would welcome an opportunity for further engagement with the Council on the policy and as the Developer Contributions SG is developed.

Scottish Government

We are generally supportive of the Council's approach to considering cumulative impacts upfront (see para 20 of Circular 3/2012).

Option 1, the proposed 'planning obligations' policy and its accompanying text refer to planning obligations and contributions interchangeably. However, the term 'Planning Obligation' should only be used to refer to those contributions secured through section 75 of the Act.

The policy indicates that some contributions will be secured by other legal agreement (conditions may also be appropriate- see Circular 3/2012 para 15). Planning obligations should be used to secure mitigation required to make the development acceptable in planning terms and where they are used, they should meet the tests of Circular 3/2012.

In drafting the revised policy 31, we would direct the Council towards Circular 6/2013 paragraph 139. This indicates that Plans (not Supplementary Guidance) should set out the items for which contributions will be sought and the circumstances (locations and types of development) where they will be sought.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	332
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Tell us why you think this

Scottish Government

We note and are content with the approach outlined for SFRA to be applied at area LDP level.

In terms of the preferred option, we are supportive of the first bullet point – consideration of flood risk should be integral to assessing the effectiveness of a development site. On matters not to be taken forward we recognise that the Council might not want to continue with 'A preference for natural flood scheme measures ahead of engineered solutions', it will be important however for recognition of the role that natural flood management can play to be given in the proposed plan.

We note that you do not propose to take forward matters covered by other legislation etc. In taking this approach it will be important to ensure that there is no specific requirement of other legislation for planning to deliver or provide for aspects of that legislation. On flood risk for example, The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (as amended) require that when preparing strategic development plans and local development plans, planning authorities must

have regard to any approved flood risk management strategy or finalised local flood risk management plan relating to the strategic development plan and local development plan area. Presumably there is a role for planning in delivery of a number of pieces of legislation, policy and advice and it is important to ensure this is addressed in the LDP.

Adopted LDP Policy 64

We agree that proposals should avoid areas susceptible to flooding; development should also be prevented that would increase the probability of flooding elsewhere (SPP Para 256).

Bullet 3 of the policy should be revised to accord with paragraph 88 of the SPP; that new development requiring new defences against coastal erosion or coastal flooding will not be supported etc. In addition, paragraph 88 states that where appropriate, development plans should identify areas at flood risk and areas where a managed realignment of the coast would be beneficial. This should be considered in the development of the plan.

On the point in Policy 64 that development may be possible where in accordance with flood prevention or management measures as specified within a LDP allocation or development brief, it will be important to ensure that this approach accords with the flood risk framework in the SPP on development in built up areas – i.e. provided flood prevention measures to the appropriate standard exist, are maintained, are under construction or are a planned measure in a current flood risk management plan. Flood risk management plans will have a role in identifying what the appropriate standard should be.

It is important to ensure that policy in the proposed plan fully complies with the flood risk framework as set out in the SPP. In addition the proposed plan should protect land with the potential to contribute to managing flood risk (SPP para 262) and clarify that land raising should only be considered in exceptional circumstances (SPP para 265).

Please note that we have recently produced planning advice on flood risk that should be considered in the development of policy in this area.

<http://www.gov.scot/Topics/Built-Environment/Planning/Policy/Subject-Policies/natural-resilient-place/Flood-Drainage/Flood-risk-advice>

Adopted LDP policy 66

In relation to adopted LDP policy 66 Surface Water Drainage, please note that PAN 69 has now been superseded by the SPP and the on line flood risk advice linked to above. The SPP in particular states that the planning system should promote the avoidance of increased surface water flooding through requirements for SuDS and minimising the area of impermeable surface (para 255). The flood risk framework in the SPP applies to surface water flooding and is clear on the requirement for buildings and infrastructure to be free from surface water flooding where the annual probability is greater than 0.5%. Surface water drainage measures should have a neutral or better effect on the risk of flooding both on and off site. Paragraph 267 of the SPP states that drainage assessments will be required where drainage is constrained or problematic. Paragraph 268 is clear that SuDS should be adequate for the development and appropriate long term maintenance arrangement should be put in place. We would look for all these points to be addressed in taking forward policy in this area.

Please note that Sewers for Scotland is now in its third edition.

Question 6

Do you wish to comment on any of the other amendments?

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Tell us why you think this

Scottish Government

We are content with the preferred approach.

ii) Are there any other features that a Rural Economic Development policy should include?

Scottish Government

The Council should consider whether it would be appropriate to make policy provision for Hutting in the proposed plan (SPP paragraph 79 and glossary). It should be noted however that hutting is generally not accommodation aimed at a tourist market and if policy is considered appropriate consideration should be given to where such a policy would best fit in the LDP.

Question 6

Do you wish to comment on any of the other amendments?

Comment by	Scottish Government (Scottish Government)
Comment ID	334
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Question 6

Do you wish to comment on any of the other amendments?	. Crofting
	. Business and Industry
	. Tourism
	. Coastal and Marine Planning
	. Aquaculture
	. Electricity Transmission Infrastructure

Tell us what you think about our preferred approach for Crofting

Scottish Government

We would be keen to engage further in relation to the proposed changes to Policy 47 and the Council's Supplementary Guidance: Housing in the Countryside and Siting and Design. This is with particular

reference to how these changes will take into account the Chief Planners letter to the Council of 21 January 2016.

Tell us what you think about our preferred approach for Business and Industry

Scottish Government

In taking forward policy for business and industry it is not clear to what extent the following policy areas in the SPP have been or will be considered. It is important to ensure these are addressed in preparation of the proposed plan.

- 1 The promotion of home working, live work units, micro businesses and community hubs (para 95).
- 2 Identify any nationally important clusters of industries handling hazardous substances and safeguarding them (para 99).
- 3 Where existing business sites are underused, reallocation to enable a wider range of viable business or alternative uses should be considered (para 103).
- 4 Development which generates a significant freight movements should be located on sites accessible to suitable railheads or harbours of the strategic road network (para104)

Paragraph 6.8 – Table 9

National Development 10 'Strategic Airport Enhancements' of National Planning Framework 3 does not include Inverness Airport as a location where the adjoining business land is also part of the national development. This is a point of clarity. Nationally the airport remains significant and the impact of the airport for the highland wide area does not seem to have been addressed in the document in terms of the connectivity that the airport brings and the safeguarding or promoting activities needed across the area to support that transport node. National Planning Framework 5.23 is clear that enhancing air connectivity is essential and that the major airports provide a gateway to Scotland and the cities network.

Tell us what you think about our preferred approach for Tourism

Scottish Government

Paragraph 100 of the SPP states that strategic development plans should identify and safeguard any nationally or regionally important locations for tourism or recreation development in their areas. This may be appropriate for the Highland Wide LDP and consideration should be given to the identification of such sites with appropriate policy protection.

Tell us what you think about our preferred approach for Coastal and Marine Planning

Scottish Government

In relation to paragraph 6.11 of the MIR we note the reference to coastal characterisation that is no longer applied in SPP. It should be noted that characterisation is still included in the SPP (2014). Paragraph 89 states that plans should identify largely developed coast, areas subject to significant restraint and largely unspoiled areas of coast. Consideration should be given to the application of this characterisation in the preparation of the plan. It should also be noted that paragraph 89 provides for local variations within the broad classification where there is a specific locational need e.g. for onshore development associated with offshore energy.

We support your proposal for a replacement policy to ensure appropriate integration of land and marine planning. On this it will be important to have regard to policy in the national marine plan and any regional marine plans that may be emerging. It is important to note that the need for policy join up extends beyond the intertidal zone.

Policy consistency between marine and terrestrial plans will be crucial, particularly for those policy areas which have significant implications for both marine and terrestrial environments. This is likely to

include renewable energy; electricity networks; coastal and flood defence; fish farming; ports and harbours; public access, tourism and recreation; protected sites and species; waste water infrastructure; carbon capture and storage; and landscape and seascape. The vast majority of marine development is likely to have implications for the adjacent terrestrial environment. This could arise from the need for access or infrastructure; or more broadly in terms of employment. Development plan policy should address such potential implications and these common policy areas.

In addition, there should be mutual support for specific development proposals in marine and terrestrial plans which relate to each other. Each plan should make appropriate provision for resource or infrastructure requirements which may be necessary to support a development proposal in the other plan.

The National Marine Plan was adopted earlier this year, providing a statutory planning framework for decision making in the marine environment. The recognition of the National Marine Plan and the need for alignment between marine and terrestrial planning frameworks is welcomed, both on page 7 and on page 53. The linkage provided to both the National Marine Plan and Planning Circular 1/2015 is also useful.

However we recommend that the role of marine planning is further clarified, especially in relation to Para 6.11 where the emphasis appears to be on landscape considerations and the safeguarding of unspoilt areas of coast. The National Marine Plan (and forthcoming statutory marine plans) guides all decision making that may affect the marine area out to 200 nautical miles. Therefore the relevance to terrestrial planning considerations, and decision making by public authorities in general, extends to a wide range of development and activity below MHWS. The general planning principle of the National Marine Plan is a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of the Plan. Clarity on the National Marine Plan, its purpose, breadth and role in coastal policy should be more clearly presented as its policies and alignment with terrestrial policy are wider than safeguarding unspoilt coast and landscape. There is also benefit in indicating that forthcoming statutory Regional Marine Plans, once in place, will also influence decision making in the marine environment.

[For information - with regards to regional planning, the non statutory Plan for Pentland Firth and Orkney Waters which is under development offers a useful insight as to how marine policy could be developed at a regional level).

Tell us what you think about our preferred approach for Aquaculture

Scottish Government

We note the intention to streamline existing Policy 50 on Aquaculture to reflect the detailed provisions of the aquaculture supplementary guidance that is currently being prepared. The new LDP policy should be consistent with the requirement in *Scottish Planning Policy* to make positive provision for aquaculture developments. This includes setting out the main principles that development proposals will be expected to address within the context of the support that is given to the sustainable growth of the aquaculture sector in *National Planning Framework 3*.

Tell us what you think about our preferred approach for Electricity Transmission Infrastructure

Scottish Government

It is positive to see the High Voltage Electricity Transmission Network, National Development 4, addressed.

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Consultation Point

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Question 6

Do you wish to comment on any of the other amendments?

Question 7

Do you have any other comments on this document which have not been covered elsewhere? Please reference sections / paragraphs numbers of this document where appropriate.

Scottish Government

In relation to noise we would like to point out that there are 2 candidate noise management areas in Inverness and in this context draw attention to PAN1/11.