

**East Ayrshire Minerals Local Development Plan – Main Issues Report  
Consultation Response from the Scottish Government**

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RESPONSE
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### **Issue 5: Spatial Strategy – Coal**

#### Comment

The options are based on a sieving exercise which took account of areas designated for habitat (international, national and local designations). A 500m buffer was added to the boundary of the sites for the purposes of sieving. However Scottish Planning Policy paragraph 196 is clear that buffer zones should not be established around such sites. Doing so removes an area of land that could be considered as part of the area for search for surface coal extraction. Those buffer zones should be removed.

#### Q5

The preferred approach identifies areas of search as limited to those areas that are currently operational surface coal mines. It then identifies areas most likely to be suitable for development beyond the plan period, with a particular focus on two areas. The four outcomes of Scottish Planning Policy indicate a system that helps deliver new development. By not identifying new sites for development it is not clear how the preferred approach accords with the outcomes of Scottish Planning Policy, particularly when the preferred approach indicates a presumption against new surface coal mines outside the current operational areas will be taken for the plan period. Alternative 1 appears to be more akin to the delivery of the outcomes identified by Scottish Planning Policy. The alternative option indicates that there would be continued adverse cumulative impacts on communities because of the approach but does not state what those are, the likely degree of significance or whether any mitigation is available. Alternative option 2 does not identify a differentiation between areas of search within the plan period and beyond it so may not be compliant with Scottish Planning Policy, although it is noted this approach has been identified in at least one other planning authority area.

### **Issue 6: Spatial Strategy – Aggregates**

#### Comment

Whilst the criteria based approach is in-line with Scottish Planning Policy the requirement for a need for particular aggregates to be demonstrated goes beyond Scottish Planning Policy and could add undue complexity to the information required to support a planning application. We suggest that requirement is not included in the policy.

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We note that the criteria based approach leaves a shortfall of clay availability should new coal extraction not come forward. The text in paragraph 4.8.6 is suggestive of there being non-coal related locations for clay but the preferred option does not account for that. In the situation that coal extraction does not come forward, identification of sites for clay extraction would assist in providing compliance with the 10 year landbank requirements for construction aggregates of Scottish Planning Policy paragraph 238. However we note that rock, sand and gravel are principle construction aggregates.

### **Issue 12: Policy options for cumulative impacts on communities**

#### Comment

Preferred Option: The anticipated minimum buffer undermines and adds uncertainty to the case by case approach to buffer identification. Scottish Planning Policy paragraph 242 is clear that a case by case approach should be taken (notwithstanding the specific approach to buffer zones for surface coal extraction identified in paragraph 244 of SPP as noted in the MIR) . The policy should be clear that buffer zones will be established on a case by case basis.

Alternative Option: This does not comply with Scottish Planning Policy as it does not provide for case by case determination of buffer zones as advocated by paragraph 242.

### **Issue 14: Policy options for addressing cumulative impacts on settlements as a result of durations of permissions**

#### Comment

Preferred Option: This does not comply with national policy. Scottish Planning Policy paragraph 244 is clear that consent should only be granted for surface coal extraction proposals which are either environmentally acceptable (or can be made so by planning conditions) or provide local or community benefits which clearly outweigh the likely impacts of extraction. Scottish Planning policy does not expressly support time limited consents for the mitigation of impacts of surface coal mining. Although it is noted that the policy would not apply in the situation where there are no occupied dwellings within 2km of the site. It is also unclear if restoration must be complete within the 10 year time frame.

Alternative Option: The comments for the preferred option apply similarly to the alternative. However, in the alternative option it is more clear that restoration should occur within the 10 year time frame.

More broadly we appreciate that the final report to the Scottish Opencast Coal Task Force contained a recommendation to explore the scope of time-limited consents, however this has not been concluded. In the circumstances it would be useful to discuss time-limited consents with you further and establish how you aim to take this forward.

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**Issue 15: Policy options for the mechanism for collecting community benefit**

**Issue 16: Policy options for the contribution rate for community benefit**

**Issue 17: Policy options for the locational distribution of community benefit monies**

**Issue 18: Policy options for the types of projects funded by community benefit**

Comment

Legal advice should be sought in particular on the policy for collection and distribution of community benefit funds, given that the Council is clear that community benefit would not be a material consideration in the determination of a planning application.

Scottish Planning Policy paragraph 173 is designed for onshore renewables and is supported by guidance related to that sector. Paragraph 6.3.2 of the MIR takes the approach set out in paragraph 173 and applies it, minus the associated guidance, to minerals developments. We do not take a view on whether the approach signalled in the MIR is appropriate in the positioning of community benefit with regard to Minerals, merely highlight the basis on which community benefit is set out in Scottish Planning Policy.

**Issue 23: Policy options for the number of borrow pits**

**Issue 24: Policy options for borrow pits (non-location based assessment criteria)**

Comment

For the two above issues, it is not clear what the non-location based assessment criteria adds.

**Issue 25: Policy options for recycled aggregate facilities**

Comment

Alternative Option: This does not comply with national policy. It does not provide for the consideration of management facilities that are not on minerals sites but are nonetheless near to one or more than one minerals site. Scottish Planning Policy paragraph 182 supports the provision of a network of infrastructure to allow Scotland's waste and secondary resources to be managed in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to protect the environment and public health. This indicates that option 1 is overly restrictive.

**Issue 26: Policy options for the reworking of deep mining bings**

Comment

Alternative Option: There is no national planning policy that limits use of reclaimed material for restoration of other minerals sites and a policy approach which did so would likely to be difficult to enforce and unduly restrictive on the possible market for the material. That could be viewed as contrary to the Scottish Planning Policy sustainability principal policy which supports sustainable economic growth.

**Issue 27: Policy options for the extraction of secondary aggregates**

Comment

It appears this proposal is designed to deal with the more restricted supply of clay in the area, see comments on Issue 6 'Aggregates', in particular in relation to the proposed alternative. Neither policy goes far enough to provide reassurance that sites are available to ensure a 10 year supply of clay, although it is noted that rock, sand and gravel are principle construction aggregates.