

Issue 13	The Natural Environment	
Development plan reference:	3.9 – the Natural Environment Policy Group, page 40-43 NE1 - Environment and Conservation Policies, page 41 NE2 - Forestry, Woodland and Trees, page 42 NE3 – Biodiversity, page 43 NE4 - Green Infrastructure, page 43	Reporter: David Buylla
Body or person(s) submitting a representation raising the issue (including reference number):		
The Braes of the Carse Conservation Group (00391) Mountaineering Council of Scotland (00587) Portmoak Community Council (00638) Fiona Ross (00786) Carse of Gowrie Sustainability Group (00788) Loch Lomond & the Trossachs National Park Authority (00842) Dr J A T Woodford (00847) Cairngorms National Park Authority (00849) Councillor Michael Barnacle (02633) SportScotland (03185) Scottish Environment Protection Agency (03194)		Scottish Natural Heritage (05211) Perth & Kinross Tree Warden Network (08556) Forestry Commission Scotland (08988) Joan McEwen (09098) Scone Palace & Estate (09163) John Dewar Lamerkin Trust (09166) TACTRAN (09203) Methven & District Community Council (09221) SSE plc (09311) Arklay Guthrie (09692) Alistair Godfrey (09941) Friends of the Ochils (10221)
Provision of the development plan to which the issue relates:	Policy group covering the Natural Environment	
Planning authority's summary of the representation(s):		
<u>NE1 Environment and Conservation Policies general</u> Methven & District Community Council (09221/1/011): We strongly support these policies which are vital to quality of life. Portmoak Community Council (00638/1/012): Portmoak Community Council supports: Policy NE1A International Nature Conservation Sites; and Policy NE1B National Designations. Support for policy. <u>NE1A International Nature Conservation Sites</u> Scottish Natural Heritage (05211/5/001): We suggest the policy is amended as the wording of this policy as it stands is misinforming and does not comply with paragraph 134 of Scottish Planning Policy (SPP) (S4_Doc_082). It is only in cases where an Appropriate Assessment can not demonstrate that there will be no adverse affect on site integrity that bullet points (b) and (c) come into play. The policy as it is currently worded would imply that all three criteria would have to be met in all cases. <u>NE1B National designations</u> Loch Lomond & the Trossachs National Park Authority (00842/1/001): National Park		

should be included in Policy as National Designation to give protection against development listed in criteria Policy NE1B.

Cairngorms National Park Authority (00849/1/001): An addition to the wording of Policy NE1B should include National Parks as a National designation to give protection against development which would have an adverse impact through listed criteria.

NE1C Local designations

Perth & Kinross Tree Warden Network (08556/1/002): Local designations should be attributed to Perth & Kinross Council. Adding these attributions would provide a linkage for readers to understand the LDP

Dr J A T Woodford (00847/1/001): Local nature conservation sites are important as links, often with National or European designated sites. These have better protection- implies that local sites should have better protection because of this.

Friends of the Ochils (10221/1/001): The policy refers to ‘... a site designated...’ however there is no reference here as to how a site is to be designated? We ask that Perth & Kinross Council modify this policy to make it clear as to how a site will be so designated.

NE1D European Protected Species

Scottish Natural Heritage (05211/7/001): The structure of the policy confuses two different categories of protected species. Different levels of protection apply to European Protected Species and other species, and the policy should reflect this. Scottish Natural Heritage have suggested two options to improve the Protected Species policy element in the Plan outlined below:

Option A suggests changes to the current policy NE1D: European Protected Species. Option B suggests the removal of policy section NE1D from Policy NE1 and instead its incorporation into Policy NE3: Biodiversity.

Scottish Natural Heritage considers that “*placing the policy information regarding protected species in Policy NE3 may be a more logical approach and would ensure that any potential developers are aware of the requirements when protected species are present.*”

NE2 Forestry Woodland and Trees general

Forestry Commission Scotland (08988/1/001): A suitable reference should be included in the Plan (perhaps in the proposed Forestry and Woodland strategy Supplementary Guidance, although within Policy NE2 would be ideal) to confirm that any proposals where woodland removal is applied for these will be considered against the advice and guidance provided in the Scottish Governments Control of Woodland Removal (S4_Doc_187)” as confirmed by NPF2 (S4_Doc_554) (paragraph 94) and the combined SPP (paragraphs 146-148) (S4_Doc_081).

Perth & Kinross Tree Warden Network (08556/1/001): The published text is obscure as to its scope, and therefore open to confusion and weakness in application. It is deficient in not laying down essential policy regarding consultations from or with Forestry Commission for Scotland for new planting schemes, or for development control over trees in conservation areas, or for Tree Preservation Orders. Suggestions are made as to how the policy might be re-structured.

Methven & District Community Council (09221/1/012); Portmoak Community Council (00638/1/013): Support Policy NE2.

NE2A

Forestry Commission Scotland (08988/1/001), (08988/1/002): Policy NE2A should include a reference to best practice as contained in *BS5837 "Trees in Relation to Construction"* (Core_Doc_140) to comply with advice and guidance provided by the Scottish Governments "Control of Woodland removal (S4_Doc_187)" as confirmed by NPF2 (Core_Doc_020) and the combined SPP (Core_Doc_048).

Policy NE2A various minor amendments to wording are proposed.

The current wording of part (c) of the policy seems unduly restrictive on the types of woodland expansion that will be supported. Also there is an implication in the wording that there is a difference between a forest and woodland, but no definition is given.

Scottish Natural Heritage (05211/9/001): We recommend an amendment to the wording of Policy NE2A (b). It is important that individual trees be afforded just as much protection as woodlands. We do not consider the policy as currently presented provides an adequate level of protection as envisaged by SPP. SPP paragraphs 146-148 (S4_Doc_081) states that "*In cases of permanent removal of woodland for the purposes of conversion to another type of land use it will be necessary to comply with the criteria set out in Scottish Government Policy on Control of Woodland Removal (S4_Doc_187).*" Changes to the policy wording are therefore suggested.

SportScotland (03185/1/001): Policy NE2A (a) and (d) could both usefully make reference to sport & recreation value of trees, forests and woodlands which can be significantly important locations for outdoor sport and recreation and which we would like explicit reference made and policy protection and promotion afforded to.

Dr J A T Woodford (00847/1/002): I would like to see this policy give more explicit recognition to orchards. There still remain remnants of the traditional orchards that formerly played an important role in the economy of the Carse of Gowrie. Habitat Survey and Biodiversity Audit of Carse orchards 2010 (Core_Doc_118).

NE2B

Forestry Commission Scotland (08988/1/007): '*After 'Tree surveys' include 'prepared by competent and qualified arborists'*'

Scottish Natural Heritage (05211/9/002): It is important to ensure that any tree surveys are carried out by suitably qualified professionals. We do not consider the policy as currently presented provides an adequate level of protection as envisaged by SPP. SPP paragraphs 146-148 (S4_Doc_081) states that '*In cases of permanent removal of woodland for the purposes of conversion to another type of land use it will be necessary to comply with the criteria set out in Scottish Government Policy on Control of Woodland Removal (S4_Doc_187).*' Changes to the policy wording are therefore suggested.

SSE plc (09311/1/003): The policy as drafted does not recognise the difference between the two types of woodland (commercial and broadleaf with greater amenity value), which is an important distinction to make in development terms. Commercial forestry, as the title implies, has been planted for commercial reasons; there are generally forestry felling programmes and licence arrangements for forestry felling agreed with the Forestry Commission. There are a number of recent examples of wind energy developments which have been sited within or adjacent to commercial plantations, some of which requires to be removed to allow the development to proceed. In such situations, such a policy constraint, as set out in Policy NE2B, would be unduly restrictive to the consideration of wind energy proposals which require the removal of commercial forestry.

It would be more appropriate for the policy to recognise the difference between commercial woodland plantations and broad leaf plantations and trees which have amenity value, and apply different policy tests to each. It is recommended that this policy is re-drafted on this basis.

NE2 note

Scottish Natural Heritage (05211/9/003): SPP paragraph 146 (S4_Doc_080) states that *‘woodland of high nature conservation value should be identified in development plans along with relevant policies for its protection and enhancement.’* In relation to the final bullet point, as mentioned previously, individual trees may be just as important as larger wooded areas, in particular in relation to tourism i.e. Birnam Oak listed as one of the Forestry Commission’s Heritage Trees.

Forestry Commission Scotland (08988/1/007): Various suggested minor amendments are made with regard to the bullet points in the note accompanying this policy in order to confirm that any proposals where woodland removal is applied for will be considered against the advice and guidance provided in the Scottish Governments Control of Woodland Removal (S4_Doc_187) as confirmed by NPF2 (Core_Doc_020) and the combined SPP (Core_Doc_048).

NE3 Biodiversity

The Braes of the Carse Conservation Group (00391/1/004): Our members fully support the aims of Policy NE3; however the wording does not demonstrate a firm policy and commitment to apply the principles of the Tayside Biodiversity Partnership Planning Manual (Core_Doc_032). The policy should state that a survey of all protected species and habitats should be submitted with all applications for planning permission. In addition there needs to be a method of ensuring that mitigation is enforceable and also that it has to be continued in the long term.

Forestry Commission Scotland (08988/1/003): In introductory paragraph, after *‘wetlands’* include *‘woodlands’* - assumption- for completeness.

Scottish Natural Heritage (05211/10/001): Please refer to our comments under Policy NE1D in relation to this policy (suggestion that NE1D could be transferred to NE3).

Dr J A T Woodford (00847/1/003): Historic orchards often contain a rich assortment of biodiversity because of the stability of the habitats they provide. Surveys of some of the historic orchards in the Carse of Gowrie have shown these sites to be rich in biodiversity. These surveys form part of the Habitat Survey and Biodiversity Audit of Carse orchards 2010 (Core_Doc_118) which contribute to the forthcoming Tay Landscape Partnership Scheme supported by the Heritage Lottery Fund.

Alistair Godfrey (09941/1/008): Policy NE3 should encompass the wider implications of paragraph 126 of SPP (S4_Doc_079): *‘Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area.’* No specific wording is suggested - assumption- for clarity.

Arklay Guthrie (09692/5/001); Joan McEwen (09098/2/004); Councillor Michael Barnacle (02633/1/013); Methven & District Community Council (09221/1/013): Support for the Plan.

NE4 Green Infrastructure

Forestry Commission Scotland (08988/1/004): Paragraph (a) suggests that new developments will include new areas of green infrastructure and this is the wrong way round.

Scottish Natural Heritage (05211/11/001): We are concerned that no overall spatial direction has been given in the plan on how this green infrastructure should form part of a wider green network. We refer to SPP paragraph 130 (S4_Doc_083); *'Development plans should identify and promote green networks where this will add value to the provision, protection, enhancement and connectivity of open space and habitats in the city regions and in and around other towns and cities.'*

Developing a green network at a plan wide level rather than an individual settlement basis can have significant benefits to not only biodiversity interests but also to those living and working in the area through an enhanced environment, more sustainable travel patterns and opportunities for improved recreational access. The suggested wording provided above would draw on the opportunities and benefits of developing green infrastructure as a part of a wider green network in the Plan.

We note that TAYplan's Action Programme (S4_Doc_175) contains: *'Prepare a short and focused strategic green network strategy.'* We suggest it may be beneficial for the Council to work collaboratively with the Strategic Development Planning Authority on this issue to develop a green network for the Perth and Kinross area.

SportScotland (03185/1/002): *'Policy should be amended to state that "all proposals will be required to contribute to green infrastructure, as appropriate against the following criteria".'*

Scone Palace & Estate (09163/4/011): It is vital that the LDP provides support for rural enterprises and removes any *'unnecessary planning barriers'* (SPP paragraph 45 (S4_Doc_084)). The countryside should not be seen merely as a playground to be protected but as a vital living being that requires many levels of activity in order to remain sustainable on all levels. Criteria (c) of the policy should include *'rural enterprises'*.

Scottish Environment Protection Agency (03194/17/001): Recommend that the policy is amended to refer to surface water as this includes lochs and other water features such as manmade ponds or lade structures as well as watercourses in order that all the aspects of the water environment are afforded protection and are considered by developers in terms of opportunities for enhancement.

The expansion of the commitment within the policy to include all aspects of the surface water environment is in keeping with the Council's duties as a responsible authority under the Water Environment and Water Services (Scotland) Act 2003 (S4_Doc_189) to protect the water environment. Part 3 of the Act clarifies that *'the water environment means all surface water, groundwater and wetlands'*.

TACTRAN (09203/12/001); John Dewar Lamerkin Trust (09166/5/001); Mountaineering Council of Scotland (00587/1/001); Carse of Gowrie Sustainability Group (00788/1/008); Methven & District Community Council (09221/1/014): Support for the Plan.

Fiona Ross (00786/1/005): I am particularly concerned about the protection and maintenance of drainage channels (pows) in the Carse of Gowrie. Changes in agricultural

subsidies for drainage has contributed to more frequent flooding of Carse land in recent years, and there is a strong likelihood that the risk of local flooding will increase with the more intense and greater rainfall that is a predicted effect of climate change. As the LDP recognises, adequate protection, enhancement and management of watercourses, floodplains and wetlands is essential to alleviate flood risk. Support for the Plan.

Portmoak Community Council (00638/1/014): Portmoak Community Council supports Policy NE4 Green Infrastructure. In particular the protection, enhancement and management of open spaces. Support for the policy.

Modifications sought by those submitting representations:

NE1A International Nature Conservation Sites

Scottish Natural Heritage (05211/5/001): Policy (NE1A) is amended as follows:

“Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special areas of Conservation and Special Protection Areas) or Ramsar site, will only be permitted where:

- (a) an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or*
- (b) there are no alternative solutions, and*
- (c) there are imperative reasons of overriding public interest, including those of social or economic nature.”*

NE1B National Designations

Loch Lomond & the Trossachs National Park Authority (00842/1/001); Cairngorms National Park Authority (00849/1/001): An addition to the wording of Policy NE1B to include National Parks as a National designation.

NE1C Local Designations

Perth & Kinross Tree Warden Network (08556/1/002): In policy NE1C local designations should be attributed to PKC.

Dr J A T Woodford (00847/1/001): Implies local sites should be offered the same protection as European or National sites, or a better level of protection than that which the policy proposed offers. No specific suggestion is made as to how the policy should be amended.

Friends of the Ochils (10221/1/001): Include in policy how a site is to be designated (assume reference is to local site).

NE1D European Protected Species

Scottish Natural Heritage (05211/7/001): 2 alternatives are suggested, no preference is given:

‘Option A

- a) We suggest this policy is re-titled ‘Policy NE1D: Protected Species’.*
 - b) We are broadly happy with the policy section covering European Protected Species but suggest the remainder of the policy is reworded and restructured to reflect the other types of legislative protection afforded to protected species as follows:*
- Policy NE1D: Protected Species (New title)*
European Protected Species (New title)

'Planning permission will not be granted for development that would, either individually.....species at a favourable conservation status in its natural range.

Replace remainder of policy as follows:

Other Protected Species (New title)

Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation (Wildlife and Countryside Act 1981(as amended) and the Protection of Badgers Act (1992).

Option B

Remove the reference to Protected Species in policy NE1 and include it in Policy NE3:

Biodiversity to be amended as follows:

Change second paragraph: The Council will apply the principles of the Tayside Biodiversityand will take account of their Tayside Local Biodiversity Action Plan (LBAP) and relevant National and European legislation relating to protected species when making decisions about applications for development.

Insert the following text after bullet point (d) of policy NE3: Biodiversity:

Protected Species

European Protected Species

'Planning permission will not be granted favourable conservation status in its natural range. (same wording as originally proposed by Council in original NE1D)

Other Protected Species

Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation (Wildlife and Countryside Act 1981(as amended) and the Protection of Badgers Act (1992).'

NE2 Forestry Woodlands and Trees general

Forestry Commission Scotland (08988/1/001): A reference should be included within Policy NE2 to confirm that any proposals where woodland removal is applied for will be considered against the advice and guidance provided in the Scottish Governments Control of Woodland Removal as confirmed by NPF2 and the combined SPP.

Perth & Kinross Tree Warden Network (08556/1/001): '1. Add a preamble to say that the Local Planning Authority policies will be in line with Government's "The Scottish Forestry Strategy 2006".

2. Separate out policy content into 3 sub-paragraphs of Policy NE2 according to the Local Planning Authority functions regarding trees, viz:

(a) The Local Planning Authority as consultees from Forestry Commission Scotland regarding planting proposals and Tree Felling Licences. State that the Local Planning Authority will support such forestry & woodland management proposals as accord with their own policy & supplementary guidance (Forest and Woodland Strategy), unless material considerations of local economic, community or environmental importance suggest otherwise.

(b) The Local Planning Authority as a development management authority. State that the Council will support development proposals that accord with their adopted Forestry and Woodland Strategy and other relevant policies. State the requirements for tree and hedgerow surveys by approved professional arborists to accompany applications, together with (selectively) impact studies on the existing landscape framework around the site. Emphasise that (a) applications where the site has manifestly been cleared of trees to maximise development will not be favourably considered, and that (b) any planning conditions relating to trees will comprise protection during construction and management after completion.

(c) The Local Planning Authority's role in relation to conservation and protection of trees. Refer to (describe?) the Local Planning Authority's dual role as designators of conservation areas and promoters of Tree Preservation Orders. State the Council's resolve to include proposals for tree management and planting when preparing their Conservation Area appraisals, and emphasise the inclusion of hedgerows in the definition of trees. Resolve to develop a Model Tree Preservation Order as advocated in Circular 1:2011 as a means of expediting control, and resolve to take vigorous enforcement action against unauthorised topping, lopping or felling.

Supplementary Guidance. Express the resolution to produce this guidance as a 4th subparagraph of Policy NE2. State that the guidance will be developed with regard to Forestry Commission Scotland advice particularly that contained in their publication "The Right Tree in the Right Place" (S4_Doc_553). Review the need for the published list of objectives as a result of this. Commit the Council to public consultation before adoption'

NE2A

Forestry Commission Scotland (08988/1/001 & 08988/1/002): Suggest that in Policy NE2A 'reference is made to best practice as contained in BS5837 'Trees in Relation to Construction'' (Core_Doc_140)

Amend policy wording as follows:

Paragraph (a) Delete 'forests and'.

Paragraph (b) after 'existing' include 'trees and'. After 'especially' change 'woods' to 'those'.

Paragraph(c) after 'seek to expand woodland cover' delete ALL remaining text and rewrite with 'in line with the guidance contained in the Perth & Kinross Forestry and Woodland Strategy'.

Paragraph (d) delete 'protection and'.

Paragraph (e) After 'Conservation Areas and', include 'trees'. at the end of 'sites' delete 'and secure new tree planting in association with development'

Paragraph (f). After 'major developments' include 'and secure new tree planting in line with the guidance contained in the Perth & Kinross Forestry and Woodland Strategy'.

Scottish Natural Heritage (05211/9/001): Amend bullet point b)NE2A as follows: '(b) protect existing woodland and trees, especially those with high natural, historic and cultural heritage value.'

SportScotland (03185/1/001): Policy NE2Aa) and d) should make reference to sport and recreation value.

Dr J A T Woodford (00847/1/002): Policy should give more explicit mention to orchards.

NE2B

Forestry Commission Scotland (08988/1/007): Amend policy wording as follows:

'a. After 'Tree surveys' include 'prepared by competent and qualified arborists'

b. After 'seeks to' in the 'Note' section, include 'ensure that there is a presumption in favour of protecting woodlands and trees in compliance with paragraphs 146-148 of Scottish Planning Policy and Scottish Government's Control of Woodland Removal Policy'.

c. 3rd last bullet point – drop 'native' from the text

d. 1st, 2nd last and last bullet points. Delete 'forests',

e. New Bullet. 'To identify trees and woodlands of high nature conservation value in the Perth and Kinross area.'

Scottish Natural Heritage (05211/9/002): Amend first paragraph of Policy NE2B as follows:

"Tree surveys to be carried out by a suitably qualified person should accompany all applicationstrees on a site. There will be a presumption in favour of the retention of existing woodland and trees in compliance with paragraphs 146-148 of Scottish Planning Policy and Scottish Government's Control of Woodland Removal policy. In exceptional cases where the loss..... to be provided"

SSE plc (09311/1/003): Policy should be redrafted to recognise the difference between commercial woodland plantations and broadleaf plantations and trees which have amenity value, and apply different policy tests to each (does not specify what these should be).

NE2 note

Scottish Natural Heritage (05211/9/003): Note section of policy in relation to Supplementary Guidance: recommend the addition of the following bullet points.

- *'Identify trees and woodland of high nature conservation value in the Perth and Kinross area.*
- amend the final bullet point to read– *'promote the value of forests, woodlands and trees as a sustainable tourism asset'.*

Forestry Commission Scotland (08988/1/007): Changes of wording in the 'Note' section are proposed as follows:

'after 'seeks to', include 'ensure that there is a presumption in favour of protecting woodlands and trees in compliance with paragraphs 146-148 of Scottish Planning policy and Scottish Government's Control of Woodland Removal policy'.

3rd last bullet point – drop 'native' from the text

1st, 2nd last and last bullet points. Delete 'forests'

New Bullet. 'To identify trees and woodlands of high nature conservation value in the Perth and Kinross area.'

NE3 Biodiversity

The Braes of the Carse Conservation Group (00391/1/004): Policy should state that a survey of all protected species and all habitats should be submitted with all applications for Planning Permission. Policy also needs a method of ensuring that mitigation is enforceable and also that it has to be continued in the long term (do not state what this should be).

Forestry Commission Scotland (08988/1/003): In introductory paragraph, after 'wetlands' include 'woodlands'

Scottish Natural Heritage (05211/10/001): Possible removal of Policy NE1D from Policy NE1 and incorporation into Policy NE3 Biodiversity (cross reference Policy NE1)(option B)

Option B

Remove the reference to Protected Species in policy NE1 and include it in Policy NE3: Biodiversity to be amended as follows:

Change second paragraph: The Council will apply the principles of the Tayside Biodiversityand will take account of their Tayside Local Biodiversity Action Plan (LBAP) and relevant National and European legislation relating to protected species when making decisions about applications for development.

Insert the following text after bullet point (d) of policy NE3: Biodiversity:

Protected Species

European Protected Species

'Planning permission will not be granted favourable conservation status in its natural range. (same wording as originally proposed by Council in original NE1D)

Other Protected Species

Planning Permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation (Wildlife and Countryside Act 1981(as amended) and the Protection of Badgers Act (1992) (Core_Doc_031)."

Dr J A T Woodford (00847/1/003): Orchards deserve explicit recognition in the LDP under Policy NE3, no specific wording is suggested.

Alistair Godfrey (09941/1/008): *"Policy NE3, ...should encompass the wider implications of paragraph 126 of SPP: "Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area."* No specific wording is suggested.

NE4 Green Infrastructure

Forestry Commission Scotland (08988/1/004): *"Paragraph a) change wording to 'Any new development must take into account existing green infrastructure, protect and enhance this infrastructure and ensure that 'green' connectivity within and out-with the site is maintained and appropriately improved."*

Scottish Natural Heritage (05211/11/001): Amend wording at beginning of Policy NE4 : delete *"development will"* and change wording to

"The Council will require new development to contribute to the creation..... of green infrastructure by the:

- Bullet a) after ".....impact of the development" add "and link green infrastructure to the wider green network."

- Bullet d) after "....wider countryside", add "and provide new connections where required."

b). under the Note following Policy NE4, specify that the supplementary guidance will demonstrate the following:

- define the green network and provide a vision for how the network will develop.

- a spatial representation of the green network;

- opportunity areas where the network could be improved/enhanced;

- Further detail on how the Council will seek to ensure that development delivers improvements to the Green Network i.e. Green infrastructure, master planning, connections to greenbelt etc".

SportScotland (03185/1/002): *"Policy should be amended to state that all proposals will be required to contribute to green infrastructure, as appropriate, against the following criteria"* No specific wording is suggested.

Scone Palace and Estate (09163/4/011): The policy should include *'rural enterprises'* in the list of uses in criteria (c) so that the policy states:

"Development will contribute to the creation, protection, enhancement and management of green infrastructure by the:...

(c) Protection of the countryside from inappropriate development whilst supporting its positive use for agriculture, recreation, biodiversity, health, education, tourism, and rural enterprises."

Scottish Environment Protection Agency (03194/17/001): Part (f) of this policy delete “*watercourses*” and replace with “*surface water*”

Summary of responses (including reasons) by planning authority:

NE1A International Conservation Sites

Scottish Natural Heritage (05211/5/001): The comments made by Scottish Natural Heritage are noted, and it is acknowledged that the policy as written is more restrictive than that included in the SPP; this was not the Council's intention.

If the Reporter is so minded to accept the wording proposed by Scottish Natural Heritage the Council would be comfortable with this change.

NE1B National Designations

Loch Lomond & the Trossachs National Park Authority (00842/1/001); Cairngorms National Park Authority (00849/1/001): The suggestion that National Parks should be identified under Policy NE1B is not accepted. National Parks do undoubtedly include the type of designation which this policy is designed to protect (National Scenic Areas, Sites of Special Scientific Interest, National Nature Reserves), however, as the National Parks are not included in the Local Development Plan area, having the requirement to produce their own LDPs it is not necessary, and could be misleading, to include the National Parks within the definition of Policy NE1B.

No modification is proposed to the Plan.

NE1C Local Designations:

Perth & Kinross Tree Warden Network (085556/1/002); Dr J A T Woodford (00847/1/001); Friends of the Ochils (10221/1/001): It is not for the Local Development Plan to explain the mechanisms by which different designations are made whether it be by statute or designation by a Local Authority, however whilst the importance of local sites is recognised, it would be inappropriate to afford them the same level of protection as that afforded to sites of international or national importance.

No change is proposed to the policy as such, however, if the Reporter is so minded as to amend the introductory phrase ‘*development which would affect an area designated by the Local Planning Authority as being of local nature....etc*’ the Council would consider this may assist in the comprehension of the policy and how these designations are made, and would be comfortable with this slight clarification which would have no implication for any other aspect of the Plan.

NE1D European Protected Species

Scottish Natural Heritage (05211/7/001): Scottish Natural Heritage have suggested two alternatives for this part of the policy. The Council does not oppose the suggestions which it considers may clarify the position with regard to European Protected species, and other protected species, such as those afforded protection under the Wildlife & Countryside Act 1981 (as amended) and Badgers under the Protection of Badgers Act 1992 (as amended) (Core_Doc_031).

Perhaps the most logical suggestion is option B, however, should the Reporter be so minded as to accept either option A or Option B as suggested by Scottish Natural Heritage, the Council would be comfortable with either suggestion as they would have no detrimental impact on any other aspect of the Plan.

NE2 Forestry Woodlands and Trees general

Forestry Commission Scotland (08988/1/001); Perth & Kinross Tree Warden Network (08556/1/001): The request that reference be included within Policy NE2 to confirm that any proposals where woodland removal is applied for will be considered against the advice and guidance provided in the Scottish Governments Control of Woodland Removal as confirmed by NPF2 and the combined SPP is accepted, and will be one of the underlying principles of the Supplementary Guidance being prepared in accordance with the footnote of the policy.

The Council does not consider it necessary to restructure the policy along the lines suggested by the Perth and Kinross Tree Warden network. There are a number of suggested minor changes proposed to the policy by others (covered below), and these, together with the Supplementary Guidance will adequately cover the issues raised. As required by statute the Supplementary Guidance will be subject to Public consultation prior to adoption.

No modification is proposed to the Plan.

NE2A

Forestry Commission Scotland (08988/1/001 & 08988/1/002); Scottish Natural Heritage (05211/9/001): A number of minor changes to the policy wording are proposed by the Forestry Commission and Scottish Natural Heritage none of which conflict with each other.

If the Reporter is minded to recommend these minor changes, the Council would be comfortable with these as they do not have implications for other aspects of the Plan.

SportScotland (03185/1/001): Sport Scotland wish the policy to acknowledge the value of woodlands to sport and recreation, this is certainly something which the Council recognises. This could be achieved by adding '*sport and recreation*' after '*communities*' under NE2A (a) and adding '*sport and recreation*' after '*amenity*' under NE2A (d).

If the Reporter is so minded the Council would be comfortable with this recognition being made in the context of this policy.

Dr J A T Woodford (00847/1/002): Dr Woodford requests that a specific mention of Orchards be included within the policy. Orchards are covered under NE2A(b) '*trees, woodlands, especially those with high natural, historic and cultural heritage value*' and again under NE2A(d).... '*groups of trees, important because ofhistoric or cultural interest*'.

Should the Reporter be so minded as to add, for the sake of clarity '*including orchards*' at the end of NE2A (b) and after '*groups of trees*' in NE2A(d) then the Council would be comfortable with this as it would have no implications for other aspects of the Plan.

NE2B

SSE plc (09311/1/003): SSE plc requests that the policy should be redrafted to recognise the difference between commercial woodland plantations and broadleaf plantations and trees which have amenity value, and apply different policy tests to each; however, they do not specify what these should be. The policy is intended to cover all types of woodland and the Council does not consider it necessary to make these distinctions. Where it is agreed that the loss of woodlands is inevitable Policy NE2B requires mitigation measures to be provided.

Forestry Commission Scotland (08988/1/007); Scottish Natural Heritage (05211/9/002): The suggestion by both Scottish Natural Heritage and the Forestry Commission (and also mentioned by the Perth and Kinross Tree Warden Network (08556/1/001)) that there should be clarification under Policy NE2B that any tree surveys should be carried out by competent and qualified arborists is accepted, and is something which the Council would have expected.

For clarity however, should the Reporter be so minded as to include this specification, the Council would be comfortable with this as it would have no implications for any other aspect of the Plan.

It is anticipated that the Supplementary Guidance will make appropriate reference to SPP and Scottish Government's Control of Woodland Policy (S4_Doc_187); there is therefore no need to make specific reference to it in the policy itself.

No modification is proposed to the Plan.

NE2 note

Scottish Natural Heritage (05211/9/003); Forestry Commission Scotland (08988/1/007): A number of suggestions are made by the Forestry Commission in relation to the scope and content of the Supplementary Guidance. The Council has no issues with the suggestions made. The Council is unlikely to have the resources available which would be required for the identification of all trees and woodlands of high nature conservation value; however the Council is supportive of the identification of key areas where nature conservation is of primary importance. This issue is more appropriately covered by Policy NE4 Green Infrastructure (below). The Council has no objection to the other suggestions made with regard to the suggested wording.

If the Reporter is so minded to include the suggested wordings in the note which will guide the preparation of the guidance the Council would be comfortable with the suggestions made with the exception of the reference to the identification of trees and woodlands of high conservation value which the Council considers is more appropriately dealt with under Policy NE4.

NE3 Biodiversity

The Braes of the Carse Conservation Group (00391/1/004): The policy states that a survey will be required where one or more protected species is known or suspected. It would be unduly onerous to require a survey be carried out for every application. Planning applications can be required for even quite minor matters, in situations where a survey would clearly be inappropriate. The policy allows the Council to request a survey where it is deemed appropriate.

No modification is proposed to the Plan

Forestry Commission Scotland (08988/1/003): Have requested the inclusion of 'woodlands' in the preliminary comment of the policy. The policy does specify '*and habitats that support rare or endangered species*' which can of course include woodlands, and therefore it could be argued that there is no need to include woodlands in the specified list.

If the Reporter is so minded as to include woodlands in this preliminary part of the policy, the Council would be comfortable with the suggestion as it has no implications for any other part of the Plan

Scottish Natural Heritage (05211/10/001): Have suggested that NE1D could be removed from Policy NE1 and incorporated into the NE3 Biodiversity policy. The Council's comments on this suggestion were given under Policy NE1.

In addition Scottish Natural Heritage have requested the inclusion of an additional phrase after bullet point d) in policy NE3. The Council does not oppose this suggestion, although it does appear repetitious of NE1, it could be advantageous for the avoidance of doubt to restate the position with regard to protected species in the NE3 Biodiversity Policy.

If the Reporter is so minded to include this, the Council would be comfortable with this suggestion.

Dr J A T Woodford (00847/1/003): The Biodiversity Supplementary Guidance which has been prepared mentions orchards and therefore it is not considered necessary to specifically mention orchards in the biodiversity policy. A previous response given in this Schedule 4 under Policy NE2A considers the requirement to mention orchards and this is seen as the most appropriate place for their consideration in the Plan.

No modification is proposed in the Plan.

Alistair Godfrey (09941/1/008): Mr Godfrey refers to paragraph 126 of SPP (S4_Doc_079), however he does not make a specific suggestion as to how the Plan should be amended to take account of his concerns. Policy NE4 considers Green Infrastructure, and this policy seeks to protect, enhance and manage wildlife corridors etc. The Tayside Biodiversity Partnership (TBP) is to review the Local Biodiversity Action Plan (LBAP) (Core_Doc_033) in the next year or so, and this will take account of the new Scottish Biodiversity Strategy which, although not published at the time of writing is expected to have an ecosystem led approach. As Policy NE3 supports the principles of the TBP LBAP, it is anticipated this will go at least some way to allaying Mr Godfrey's concerns.

No modification is proposed to the Plan.

NE4 Green Infrastructure

Forestry Commission Scotland (08988/1/004); Scottish Natural Heritage (05211/11/001); SportScotland (03185/1/002); Scottish Environment Protection Agency (03194/17/001): The Forestry Commission, Scottish Natural Heritage and SportScotland have all made suggestions which would clarify the intentions of the Policy to require development to contribute to the creation, protection, enhancement and management of green infrastructure. The Council is not opposed to the suggested form of words in relation to the first sentence of the policy but perhaps that suggested by Scottish Natural Heritage is the clearest. The proposed additions to bullet points a) and d) also suggested by Scottish Natural Heritage would have the same implications which it would appear the Forestry Commission seek.

Should the Reporter be so minded to make these minor changes the Council would be comfortable with these changes as they would have no impact on any other aspects of the Plan.

Scottish Environment Protection Agency has requested the term '*watercourses*' be replaced by '*surface water*' in part (f) of the policy, for clarity and accuracy. The term *watercourses* is intended to include all water bodies, and the Council considers replacing this term with '*surface water*' could exclude certain water bodies, such as culverts

No modification is proposed to the Plan.

Scone Palace & Estate (09163/4/011): The Council is supportive of rural enterprises as is clearly demonstrated by Policy ED3: Rural Business and Diversification (S4_Doc_395). The list included in Policy NE4 could never be exhaustive, and the Council does not consider adding '*rural enterprises*' to subsection (c) of the policy would add clarity to its meaning.

No modification is proposed to the Plan.

Scottish Natural Heritage (05211/11/001): Have requested that the note at the end of the policy gives more detail on what the Supplementary Guidance will contain, they acknowledge that details will be included within the Supplementary Guidance.

The Council would be comfortable with the respondent's suggestions, if the Reporter is so minded to include these in the note appended to the policy.

Reporter's conclusions:

Policy NE1A International Nature Conservation Sites

1. The wording of this policy applies its three assessment criteria, (a) to (c), to all proposals which could have a significant effect on a site designated under the Habitats Directive or Birds Directive. Scottish Planning Policy (SPP), which reflects the requirements set out in the Habitats Regulations, requires an appropriate assessment to be undertaken where it is thought likely there would be significant effects in order to identify any implications for the site's conservation objectives. Only where that assessment cannot demonstrate that there would not be an adverse effect would the provisions of criteria (b) and (c) apply. The policy's more onerous requirement, which the council recognises as unintentional, should be modified in the manner suggested by Scottish Natural Heritage (SNH).

Policy NE1B National designations

2. Although no part of either the Loch Lomond and the Trossachs National Park or the Cairngorms National Park is within the plan area, either could potentially be affected by development that would be assessed against this policy. Therefore, as a national designation, it would be appropriate for national parks to be included within its scope.

Policy NE1C Local designations

3. It would improve the clarity of the policy if it were made clear that local designations are those designated by the council rather than some other body. However, it would not be appropriate for the policy to provide detail of the designation process, as that would not assist in the policy's effectiveness at considering individual development proposals. Any particular value that a locally designated site might have, for example in providing a link with a national designated site, would be recognised and adequately taken into account in the requirement within the existing policy wording to consider the objectives behind the site's designation.

Policy NE1D European Protected Species

4. The plan's clarity would be improved if protected species issues were dealt with in

Policy NE3 along with other biodiversity issues. Modifications to the wording are also required in order to differentiate between European and other levels of species protection. These are dealt with below in the consideration of Policy NE3. Policy NE1D should therefore be deleted.

Policy NE2 Forestry, Woodland and Trees general

5. It would improve the clarity of the plan if this policy confirmed the council's commitment to following the advice and guidance in the Scottish Government's Control of Woodland Removal document when considering tree removal proposals. The simplest way to incorporate this, which would also reflect the council's stated intentions for supplementary guidance, would be through an addition to the Note in Policy NE2B.

6. There would be no benefit in reorganising Policy NE2 so that it had three rather than two subdivisions, each reflecting a different aspect of the council's function with regard to trees. The purpose of the Proposed Plan is to provide a policy framework for the consideration of development proposals, which will be used in the consideration of planning applications. The council's role as a consultee on felling licence applications to Forestry Commission Scotland (FCS) is not within the scope of the Proposed Plan and should not be referred to. And it would also be unnecessary for the Proposed Plan to set out how the council, in designating conservation areas and making tree preservation orders will take account of trees. Such matters might beneficially be set out in supplementary guidance but would not be necessary or beneficial to include within the Proposed Plan itself.

Policy NE2A

7. Several modifications are proposed, which would not alter the effect of the policy but would provide greater detail on the criteria that proposals should satisfy in order to be supported. The council is not opposed to such modifications, which would improve the value of the policy to prospective developers of sites where trees are likely to be an issue.

Policy NE2B

8. There is a material difference between the issues to be considered when assessing a development proposal that might require the removal of a commercial woodland plantation and one that affected a natural or semi-natural woodland of broad leaf or mixed composition. The policy requires a tree survey whenever there are existing trees on a site, but it would be unreasonable to expect an applicant to commission a survey of a plantation that was as detailed as would be justified for a site containing trees of greater amenity and/or nature conservation value. Nevertheless some form of survey is likely to be appropriate for proposals involving the loss of plantation trees, even if simply to identify the extent of tree cover to be removed. It would be inappropriate therefore to exempt such proposals from the requirements of this policy. A minor modification is recommended to confirm that the level of detail required in any survey will be commensurate with the value of the trees in question, which should be agreed in advance with the council.

9. It would be reasonable and helpful for the policy to confirm that tree surveys should be undertaken by a competent person. It would improve the policy's clarity and its consistency with SPP if it made reference, as SPP does, to the Scottish Government Policy on Control of Woodland Removal, including the presumption in favour of protecting

woodland resources, which that document sets out. Again however, a distinction needs to be drawn between plantations and other woodland, as works involving the temporary deforestation of plantations are not regarded as woodland removal under the Scottish Government policy. For this reason, it would be inappropriate for the presumption in favour of protecting woodland resources to apply to woodland plantations which are to be felled and restocked.

Policy NE2 note

10. The note sets out the intended contents of supplementary guidance, which is not subject to this examination. However, it also highlights to users of the Proposed Plan, tree related issues that the council considers particularly important. As individual trees could potentially have significance it would be appropriate for the note to make reference to these as well as to woodlands. Although Policy NE4, which is discussed below, deals with nature conservation issues, it would be logical also to highlight the importance of this issue in relation to trees and woodlands in the note to Policy NE2. The resource constraints in identifying in the supplementary guidance all trees and woodlands of high conservation value are recognised and it would be counter-productive if such an exercise were not completed comprehensively. However, SPP is clear that woodland of high nature conservation value should be identified in development plans. The council's suggestion of identifying trees and woodland where nature conservation is of primary importance would be an appropriate compromise.

11. The various detailed changes requested by FCS are accepted by the council and would ensure that the note more closely followed SPP and offered clearer guidance for users of the plan.

Policy NE3 Biodiversity

12. In accordance with SPP, the plan should not only protect and enhance designated wildlife habitats and species but should adopt a broader approach, taking into account the ecosystems and natural processes in the area. A minor modification to the wording of the policy would more clearly confirm that this is the policy's intention. With such modification, it would be unnecessary for the policy to list examples of types of habitat that would be protected or to add woodlands or orchards to the text.

13. It would be unreasonable for the policy to expect all applications for planning permission to be accompanied by a protected species / habitats survey, as many minor proposals could not conceivably affect such interests. The effectiveness of any proposed mitigation is of great importance but the enforceability of mitigation proposals does not need to be referred to in the policy, as mitigation that could not be enforced or was otherwise unlikely to be effective would not be mitigation at all.

14. As stated above, there is logic in relocating protected species issues from Policy NE1D to Policy NE3, which deals with biodiversity in all its forms. The suggested modifications would clarify the distinction between species protected under European legislation and those which have other forms of protection. There would be no repetition of Policy NE1, as NE1D, which deals with European protected species in the proposed plan, is recommended to be deleted.

Policy NE4 Green Infrastructure

15. Modifications requested by SNH and FCS, to which the council is not opposed,

would achieve the same purpose of improving the clarity of the policy's intentions particularly in the area of "green" connections both within a site and with other land in the locality. A combination of the suggested modifications would add the most value to the policy. SPP requires development plans to identify and promote green networks where appropriate. The plan provides spatial direction to this in its identification of the Perth Lade Green Corridor, for which there is a specific policy (NE6) aimed at protecting and enhancing this asset and providing linkages into development sites at Ruthvenfield Road and Tulloch Marshalling Yards. Further direction is given in the site-specific developer requirements for the major site allocations, which require green networks to be designed into developments at the master planning stage. However, the council is content with the request to specify in the note to the policy that supplementary guidance will provide more spatial direction for the development of the network and this would further assist in its successful achievement.

16. Point (c) in the policy seeks to protect the countryside from inappropriate development while supporting certain appropriate uses such as agriculture and tourism. The term "rural enterprises", which it is requested be added to the list, is insufficiently precise as it could include any business activity that was promoted in a rural area, regardless of whether it was suited to such a location.

17. Point (f) relates to watercourses, floodplains and wetlands. The term "watercourses" would adequately cover drainage channels, which are important for flood alleviation. It was not the council's intention for the protection offered by this aspect of the policy not to apply to other water bodies such as lochs but this is the impression that could be gained from the existing wording. However, the suggested alternative term "surface water" could be interpreted to exclude culverts, which would also be undesirable. A suitable modification, which would avoid this confusion, would be the addition of "waterbodies" to the existing list of water environment features.

Reporter's recommendations:

Policy NE1A International Nature Conservation Sites

1. Modify Policy NE1A to read as follows:

"Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special Areas of Conservation and Special Protection Areas) or Ramsar site, will only be permitted where:

- (a) an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or*
- (b) there are no alternative solutions, and*
- (c) there are imperative reasons of overriding public interest, including those of social or economic nature."*

Policy NE1B National Designations

2. Modify the first sentence of the policy to read as follows:

"Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve, will only be permitted where the Council as Planning Authority is satisfied that:"

NE1C Local designations

3. Modify the first sentence of the policy to read as follows:

“Development which would affect an area designated by the Planning Authority as being of local conservation or geological interest will not normally be permitted, except where the Council as Planning Authority is satisfied that:”

NE1D European Protected Species

4. Delete the policy.

NE2 general

5. Add an additional bullet point to the Note section in NE2B to read as follows:

“apply the guidance and advice in the Scottish Government’s Control of Woodland Removal Policy when considering proposals for tree removal.”

NE2A

6. Modify the policy wording to read as follows:

“The Council will support proposals which:

- (a) deliver woodlands that meet local priorities as well as maximising benefits for the local economy, communities, sport and recreation and environment;*
- (b) protect existing trees, woodland, especially those with high natural, historic and cultural heritage value;*
- (c) seek to expand woodland cover in line with the guidance contained in the Perth and Kinross Forestry and Woodland Strategy;*
- (d) encourage the good management of amenity trees or groups of trees important for amenity, sport and recreation or because of their cultural or heritage interest;*
- (e) ensure the protection and good management of amenity trees, safeguard trees in Conservation Areas and trees on development sites in accordance with BS5837 “Trees in Relation to Construction”.*
- (f) seek to secure establishment of new woodland in advance of major developments where practicable and secure new tree planting in line with the guidance contained in the Perth and Kinross Forestry and Woodland Strategy.”*

NE2B

7. Modify the policy wording to read as follows:

“Tree surveys, undertaken by a competent person, should accompany all applications for planning permission where there are existing trees on a site. The scope and nature of such surveys will reflect the known or potential amenity, nature conservation and/or recreational value of the trees in question and should be agreed in advance with the council. The Council will follow the principles of the Scottish Government Policy on Woodland Removal. In accordance with that document, there will be a presumption in favour of protecting woodland resources except where the works proposed involve the temporary removal of tree cover in a plantation, which is associated with clear felling and restocking. In exceptional cases where the loss of individual trees or woodland cover is

unavoidable, the Council will require mitigation measures to be provided.

NE2 note

8. Modify the first bullet point to read as follows:

- *“promote multi-objective woodland management that delivers environmental, economic and social benefits;”*

9. Modify the sixth bullet point to read as follows:

- *“conserve and expand riparian woodlands using appropriate species for the benefit of biodiversity and flood alleviation purposes.”*

10. Modify the seventh bullet point to read as follows:

- *“promote community participation in woodland planning and management;”*

11. Modify the eighth bullet point to read as follows:

- *“promote the value of trees and woodlands as a sustainable tourism asset.”*

12. Add an additional bullet point, worded as follows:

- *“To identify trees and woodlands in the Perth and Kinross area where nature conservation is of primary importance.”*

NE3 Biodiversity

13. Modify the first paragraph of the policy to read as follows:

“The Council will seek to protect and enhance all wildlife and wildlife habitats, whether formally designated/protected or not, taking into account the ecosystems and natural processes in the area.”

14. Modify the second paragraph to read as follows:

“The Council will apply the principles of the Tayside Biodiversity Action Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) and relevant national and European legislation relating to protected species when making decisions about applications for development.”

15. After requirement (d) insert the following text:

“European Protected Species

Planning permission will not be granted for development that would, either individually or cumulatively, be likely to have an adverse effect upon European protected species (listed in Annex IV of the Habitats Directive (Directive 92/43/EEC)) unless the Council as planning authority is satisfied that:

- (a) there is no satisfactory alternative, and*
- (b) the development is required for preserving public health or public safety or for other*

imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.

In no circumstances can a development be approved which would be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range.

Other protected species

Planning permission will not be granted for development that would be likely to have an adverse effect on protected species unless it can be justified in accordance with the relevant protected species legislation (Wildlife and Countryside Act 1981 (as amended) and the Protection of Badgers Act (1992)."

NE4 Green Infrastructure

16. Modify the first paragraph to read as follows:

"The Council will require all new development to contribute to the creation, protection, enhancement and management of green infrastructure by the:"

17. Modify point (a) to read as follows:

"(a) incorporation of green infrastructure into new developments, particularly where it can be used to mitigate any negative environmental impact of the development and link green infrastructure to the wider green network; "

18. Modify point (d) to read as follows:

"protection, enhancement and management of open spaces and linkages for active travel or recreation, including links between open spaces and the wider countryside and the provision of new connections where required;"

19. Modify point (f) to read as follows:

"protection, enhancement and management of watercourses, waterbodies, floodplains and wetlands which are important contributors to the network of blue and green corridors for the alleviation of flood risk, wildlife, recreation and the amenity needs of the community."

20. Modify the Note to read as follows:

"Supplementary Guidance will be prepared expanding on how development can comply with this policy. This will also define the network and provide a vision for how it will develop, provide a spatial representation of the network and identify opportunity areas where the network could be improved."