

Issue 16	A Natural Resilient Place	
Development plan reference:	Section 3.3 A Natural Resilient Place, pages 59-62 Policy 36: Environment and Conservation, page 63 Policy 37: Landscape page 64 Policy 38: Forestry, Woodland and Trees, page 65-67 Policy 39: Biodiversity, pages 68-69 Policy 40: Green Infrastructure, page 69	Reporter:
Body or person(s) submitting a representation raising the issue (including reference number):		
Brian Rickwood (0035) Mr Stuart Nichol (0041) Braes of the Carse Conservation Group (0161) Scottish Natural Heritage (SNH) (0353) Alistair Godfrey (0410) Kristin Barrett (0423) Scottish Government (0451) Woodland Trust Scotland (0462) Kinross-shire Civic Trust (0526) Scott Paterson (0528) Portmoak Community Council (0541) The Royal Society for the Protection of Birds (RSPB) (0546) Councillor Michael Barnacle (0584) Scottish Power Renewables (0625) Bruce Burns (0663) Scottish Environmental Protection Agency (SEPA) (0742)		
Provision of the development plan to which the issue relates:	Policies relating to the protection and enhancement of the natural environment pages 59-69	
Planning authority's summary of the representation(s):		
<b>Section 3.3 A Natural Resilient Place</b>  <u>Section 3.3 A Natural, Resilient Place (pg 60)</u>  SNH (0353/01/033) Recommend the Plan states its intent to review and identify local nature conservation sites within the lifespan of the Plan. They consider that Local nature conservation sites are under represented in Perth and Kinross and offer to advise Tayside LBAP and the Council in developing a methodology for the review and identification of sites in accordance with para 197 of Scottish Planning Policy (SPP) (CD004). The respondent acknowledges that the Council does not have the resources to deliver this, and advise that SNH could explore what resource they would be able to contribute.  <u>Spatial Strategy for "A Natural, Resilient Place" paragraph on page 61 and Strategy Map "A Natural Resilient Place" and legend on page 62</u>		

SNH (0353/01/032) Considers that the paragraph on page 61 and Strategy Map 4 should be amended to accord with Scottish Planning Policy para 196 (CD004). They support the intent of this paragraph and map but do not consider that they adequately or consistently capture the correct natural assets. The map is not of a sufficient spatial scale to enable these to be identified and located in terms of development.

## **Policy 36: Environment and Conservation**

### General

Councillor Michael Barnacle (0584/01/019) raises concerns regarding the commissioning of habitat reports by applicants and instead advocates for these to be commissioned by the Council and the applicants' subsequently billed, as this is often an issue where reports are not considered 'independent'.

### Policy 36A: International Nature Conservation Sites

Scottish Government (0451/01/015) and RSPB (0546/01/009) seek an additional policy criterion in relation to compensatory measures to protect the Natura network and ensure compliance with SPP (para 208) (CD004) and the Conservation (Natural Habitats, & c.) Regulations 1994 (CD026). RSPB (0546/01/009) also seek additional text to ensure applications are supported by sufficient information to allow the Council to assess proposals in line with the requirements.

### Policy 36C: Local Designations

Portmoak Community Council (0541/01/006) seek that the Lomond Hills Regional Park be extended in to Perth & Kinross.

### *Local Landscape Areas*

Scottish Power Renewables (0625/01/005) seek a change to Policy 36C to better clarify the Scottish Government position in relation to the SPP Spatial Framework for Wind (CD004) which identifies Group 3 areas (including local designations) as likely to be acceptable for wind farm development subject to detailed consideration against identified policy criteria. Scottish Power Renewables identifies SPP (CD004, paras 169, 196, 203) in support of this position.

SNH (00353/01/010) & Councillor Michael Barnacle (0584/01/014A) seek a change to Policy 36 to move paragraph on Local Landscape Areas from Policy 36C into Policy 37.

Alistair Godfrey (0410/01/010A) seeks an update to the adopted Landscape Supplementary Guidance to reflect SPP (CD004) and amended Policy 29 (Gardens & Designed Landscapes).

Councillor Michael Barnacle (00584/01/014B); Kinross-shire Civic Trust (0526/01/010): raise concerns or object to the Cleish Hills and Devon Gorge areas were excluded as a Special Landscape Area/Local Landscape Area and seek a review of this exclusion (RD058). Councillor Barnacle has concerns regarding the consultant's designation exercise.

Braes of the Carse Conservation Group (0161/01/006) support Policy 36C as it provides

further development restriction in the Carse area.

### Local Designations

SNH (00353/01/010) recommends the wording contained in the existing Local Development Plan (CD014, page 40) in relation to locally designated sites is incorporated in to Policy 36 to ensure consideration of other local interests and designations, and locally important areas are adequately identified in Perth and Kinross. Reference is made to SPP para 196 (CD004) in this regard.

## **Policy 37: Landscape**

### Orchards

Braes of Carse Conservation Group (0161/01/009) supports the Landscape policy but wish it to be extended to specifically protect the fruit orchards of the Carse from development.

### Local Landscape Areas

SNH (00353/01/010) Councillor Michael Barnacle (0584/01/014A): recommend paragraph on Local Landscape Areas is moved from Policy 36C into Policy 37. These submissions are addressed in Policy 36 above.

### Hill Tracks

Alistair Godfrey (0410/01/010b): States that hill tracks will rarely be compatible [with landscapes] and SNH guidance on *constructed tracks in the Scottish Uplands* (2015)(CD118) should be the required standard.

### Landscape Design (37(e))

Scott Paterson (0528/01/002): suitable landscape enhancement and mitigation should involve sympathetic, sustainable and long-term benefits for both people and biodiversity – creation of wildflower meadows, wildflower verges, nest boxes etc.

### Landscape Assessments

SNH (0353/01/011): requests an addition to developer requirements in Policy 37 that proposals will need to demonstrate..(h) they are informed by relevant landscape capacity studies where available in order to ensure evidence based decision making in relation to landscape capacity.

### Wild Land Areas

Scottish Government (0451/01/016): Criterion (d) of Policy 37 is broader than the policy set out in SPP. SPP para 200 is clear that safeguarding is for areas on 2014 SNH map of wild land areas (<https://www.nature.scot/professional-advice/landscape-change/landscape-policy-and-guidance/landscape-policy-wild-land>) and not beyond those areas. The approach is set out in SPP para 215.

SNH (0353/01/011) and Scottish Government (0451/01/016): Note that proposed test regarding Wild Land Areas is the test for national designations in SPP (CD004) para 212, and not appropriate for Wild Land. If a test is desired the test in SPP para 215 should be used. Per SNH (0353/01/011) the test should read “Development which would affect a Wild Land Area will only be permitted where the Council as Planning Authority is satisfied that: it can be demonstrated that any significant effects on the qualities of these areas can

be substantially overcome by siting, design or other mitigation.”

SNH (0353/01/011) Recommends inserting map of Wild Land Areas to ensure WLAs are spatially identified per SPP (CD004) para 200.

### Renewable Energy

Scottish Power Renewables (0625/01/006) Policy should acknowledge some landscape change will be deemed acceptable in the promotion of low carbon technologies. Windfarms give rise to landscape change but the test is whether effects are acceptable on balance taking account of wider need for low carbon technologies, socio economic benefits etc. Also SPP (CD004) para 203 re statutory designated sites “designation does not impose automatic prohibition on development”

## **Policy 38: Forestry, Woodland and Trees**

### General

Woodland Trust Scotland (0462/01/023) seeks a change to Policy 38 to add reference to native woodland creation, due to the multiple benefits that native woodland creation has for the environment and other objectives.

Councillor Michael Barnacle (0584/01/020) raises concerns regarding the commissioning of tree reports by applicants and instead advocates for these to be commissioned by the Council and the applicants’ subsequently billed, as this is often an issue where reports are not considered ‘independent’.

### Policy 38A

SNH (0353/01/012) seek to change Policy 38A to include additional wording to ensure there is policy coverage for new street planting where appropriate to enhance green infrastructure and in accordance with Policy 1 (Placemaking).

Alistair Godfrey (0410/01/011) and Bruce Burns (0663/01/005) seek the following changes to Policy 38A:

- The definition of a woodland should be set out in policy and ensure support for Scottish Soil Framework (RD076), NPF3 (CD003), EU Habitats Directive (CD092) and UN Convention on Biological Diversity (RD089).

### Policy 38B

SNH (0353/01/012) recommends the following changes to Policy 38B:

- Amend text in paragraph 1 to ensure most appropriate professional undertakes the survey.
- Delete text relating to woodland removal as it does not accord with the CWRP (CD007), and instead use the statement that development will be expected to fully accord with the requirements of the CWRP.

Alistair Godfrey (0410/01/011) seeks changes to Policy 38B taking in to account the following points:

- Tree and woodland survey requirements in relation to EIA regulations (CD028).
- Change in terminology in relation to compensatory planting and specifically the term ‘new native woodland’ which is confusing. Specific reference is made to Forestry Commission guidance (CD094).
- Requirement of Scottish Forestry Strategy (2006) (CD115) to target action to

'maintain and enhance ancient woodland features in Plantations on Ancient Woodland Sites (PAWS)'.

Alistair Godfrey (0410/01/011) supports the section in Policy 38B stating that 'there is a strong presumption against removing ancient semi-natural woodland' as this supports SPP (CD004).

Woodland Trust Scotland (0462/01/024) seeks a change to the final paragraph of Policy 38b to include reference to Long-Established Woodland of Plantation Origin (LEPO) when referring to ancient woodland, to help protect all forms of ancient woodland (not just semi-natural woodland), which is an important and irreplaceable resource that must be protected from development.

Councillor Michael Barnacle (0584/01/015) raises concerns with inappropriate felling by developers suggesting tree protection is not strong enough and that TPOs alone are insufficient to safeguard important groups of trees.

#### Policy Map E – High Nature Conservation Woodland

SNH (0353/01/012) supports the intent of Policy Map E however note that this does not fully reflect the types of woodland listed in page 7 of the CWRP (CD007).

#### Site Allocations

Woodland Trust Scotland (0462/01/018) seeks changes to site allocations where compensatory and screening tree planting is required to ensure that native tree planting is specified to increase the area of native woodland in Scotland. It is suggested that this could also be a policy of the Council to specifically request native tree planting.

Woodland Trust Scotland (0462/01/019) considers that site allocation boundary maps could better illustrate where they are adjacent to Ancient Woodland, as any development on this irreplaceable habitat is considered unacceptable and cannot be replaced by any compensatory planting.

#### Supplementary Guidance

Alistair Godfrey (0410/01/011) and Bruce Burns (0663/01/005): seek one or more of the following changes to the Forest & Woodland Strategy Supplementary Guidance:

- Guidance has little reference to legislation and requires to be compliant with SPP para 216 (CD004) and Control of Woodland Removal Policy (CWRP) (CD007), particularly the section on woodland removal.
- Ensure local context is taken in to account when considering compensatory planting, based on recent planning decision.

Woodland Trust Scotland (0462/01/018) considers that native trees should be specified for required compensatory or screen planting for development proposals, and that this could be included in associated Supplementary Guidance.

#### Orchards

Braes of the Carse Conservation Group (0161/01/010) support Policy 38 however would like to see various changes to the policy to specifically protect fruit orchards in the Carse from development (RD056).

### **Policy 39 Biodiversity**

## Orchards

Braes of Carse Conservation Group (0161/01/011) supports the Biodiversity policy but wish it to be extended to specifically protect the fruit orchards of the Carse from development.

## EIA Developments

SNH (0353/01/013) recommends removing “large” from definition of developments requiring an EIA in paragraph 39(a) as a development does not need to be large to require an EIA.

## EEC Directive references

Alistair Godfrey (0410/01/012) states that Directive 92/43/EEC (CD092) is a legal obligation to maintain habitats and species in Annex I and II at a favourable conservation status by maintenance or improvements and losses are reportable under article 17 and requests provisions included in policy. Annex IV paragraph is better clarified with reference to Articles 12 and 13.

## Developer Requirements

Kristin Barrett (0423/01/005) noting measures to enhance biodiversity on map notes would like to see more specific requirements for developers to minimise destruction of biodiversity; requesting exactly which bits of dyke, fencing, hedging and associated greenery to be left intact to be specified.

Scott Paterson (0528/01/003):

- Ensure surveys are undertaken by suitable specialist at appropriate time with no leeway for developers.
- Biological site records should be requested and incorporated into applications.
- Mitigation to be strictly adhered to and implemented.
- Opportunities for biodiversity should be considered/implemented at every opportunity.
- Development design should incorporate significant element of areas to benefit biodiversity.

RSPB (0546/01/022): Swifts are on the amber list of Birds of Conservation Concern and on the Scottish biodiversity List and they believe the loss of nest sites is a key driver in dramatic decline. Including swift bricks in new buildings would help the Council meet its Biodiversity Duty. Request adding requirements for swift mitigation e.g. swift bricks in settlement summaries or developer requirements in Stanley, Luncarty, Inchtute, Balbeggie, Burrelton, Spittalfield, Perth area.

Brian Rickwood (0035/01/002): fails to see how housebuilding can enhance biodiversity as quoted in housing proposals. Little evidence that flora and fauna of an area are enhanced by new housing estates.

## Policy Wording

RSPB (0546/01/010): welcomes the policy but the current wording does not place a firm obligation to demonstrate that all ecological impacts can be satisfactorily mitigated, nor a



definite requirement for a development to enhance the biodiversity value of the site per duties in Nature Conservation (Scotland) Act 2004 (CD032) and SPP (CD004) para 194.

- Requests replacing “clear evidence can be provided” in third paragraph with “clear evidence is submitted”.
- In point (b) replace “can enhance the existing biodiversity” with “would enhance the existing biodiversity of the site”

Scottish Power Renewables (0625/01/007): objects to policy wording and requests that where terms “detrimental” or “adverse effect” are used should be preceded by “unacceptable”. SPP (CD004, para 202) recognises adverse impacts may arise and remain – decision is whether effects are acceptable in context of overall planning balance taking account of mitigation etc. SPP (CD004, para 204) states precautionary principle should not be used to impede development without justification. Evidence is needed in support of making a statement re significant irreversible damage as well as consideration to be given to scheme design, review of latest research to avoid this.

### Supplementary Guidance

RSPB (0546/01/010): notes reference to “Planning for Nature” but not aware of such a document. Welcome detailed guidance on ecological survey and mitigation requirements and best practice and consider it should be statutory supplementary guidance to give it sufficient weight.

### Supporting Comments

The Woodland Trust (0462/01/025): supports the statement that the Council will protect and enhance all wildlife and wildlife habitats whether protected or not and is delighted to see the Council’s ambitious stance.

### **Policy 40: Green Infrastructure**

SNH (0353/01/006): It is unclear how the strategic green network has been identified on Strategy Map 4 (page 62) so it is recommended a caveat is inserted that this will be reassessed as part of the review of the SG.

The Council should produce spatial maps of existing and proposed green networks at local settlement scale. This will enable more meaningful identification of local green network priorities including new links where required, and opportunities for green infrastructure delivery at a site level. The Supplementary Guidance does not provide spatial representation of green networks clearly enough at the settlement scale to enable it to be used to inform specific development opportunities and proposals. Spatial identification of green networks will show developers where these routes are and illustrate opportunities for linking and enhancing these through development.

Stuart Nichol (0041/01/001): Designate the A93 from Perth to Glenshee as a strategic green network and add it to Strategy Map 4. This would reinforce the ‘Snow Road’ tourism from Blairgowrie to Granton on Spey, promoted by Cairngorm National Park.

Scottish Government (0451/01/008): To better reflect the SPP, additional wording should be inserted into Policy 40 and/or Policy 14B to encourage opportunities for a range of community growing spaces, not just allotments.

Woodland Trust Scotland (0462/01/026): Welcomes the policy but would like further clarity whether “all development” refers to any size of development, including even one house or housing extension. Point (ii) in section (d) should include native trees and native woodland. Native trees and woodland are the best adapted to Scotland’s environment and the Council should show a firm commitment to increase the area they cover.

SEPA (0742/01/009): Requires a change to the policy wording to "mitigate any negative environmental impacts of the development and create linkages to wider green and blue networks". The two are not mutually exclusive and development may be able to achieve both.

#### **Modifications sought by those submitting representations:**

### **Section 3.3 A Natural Resilient Place**

#### Section 3.3 A Natural, Resilient Place (pg 60)

SNH (0353/01/033) Seeks that the Plan states its intent to review and identify local nature conservation sites within the lifespan of the Plan.

#### Spatial Strategy for “A Natural, Resilient Place” paragraph on page 61 and Strategy Map “A Natural Resilient Place” and legend on page 62

SNH (0353/01/032) Seek the following wording changes to the paragraph on Page 61: "The spatial strategy aims to protect and enhance these unique attributes, to ensure that we allow future generations to enjoy the same benefits as us. The map on the following page demonstrates the international, national and local natural heritage designations in Perth and Kinross. we intend to protect through national and local policy) This policy grouping aims to build the resilience of our cities and towns...."

SNH (0353/01/032) Seek the identification of the specific international, national and local designations on Strategy Map 4 (re Policy 36) and in the legend at an appropriate size and scale so these can be identified by developers. They also seek the provision of a separate map showing flood risk areas.

### **Policy 36: Environment and Conservation**

#### General

Councillor Michael Barnacle (0584/01/019) does not seek specific changes but raises concerns regarding the commissioning of habitat reports by applicants and instead advocates for these to be commissioned by the Council and the applicants’ subsequently billed.

#### Policy 36A: International Nature Conservation Sites

Scottish Government (0451/1/015) seeks the inclusion of an additional policy test using the following text: ‘(d) and suitable compensatory measures have been identified and agreed’.

RSPB (0546/01/009) seeks to amend criterion (c) of Policy 36A to include an additional policy test in relation to compensatory measures to protect the Natura network. An



additional line of text is also sought to ensure applications are supported by sufficient information to allow the Council to assess proposals in line with the requirements.

### Policy 36C: Local Designations

Scottish Power Renewables (0625/01/005) seeks the following changes to Policy 36C to better align with SPP requirements:

- Clarify position of local designations in relation to Groups 1, 2 and 3 of SPP Table 1 Spatial Framework for Wind (CD004).
- Explicitly state that there will be a presumption in favour of low carbon technologies recognising their contribution to the attainment of a low carbon economy, in addition to the social and economic benefits of a development, in this context.

Portmoak Community Council (0541/01/006) seeks that the Lomond Hills Regional Park be extended in to Perth & Kinross.

### *Local Landscape Areas*

SNH (00353/1/010) & Councillor Michael Barnacle (0584/0/014A) seek a change to Policy 36 to move paragraph on Local Landscape Areas from Policy 36C into Policy 37.

Alistair Godfrey (0410/01/010a) seeks an update to the adopted Landscape Supplementary Guidance (CD292) to reflect SPP (CD004) and amended Policy 29.

Councillor Michael Barnacle (00584/01/014B); Kinross-shire Civic Trust (0526/01/010) object to or seek an urgent review of the exclusion of the Cleish Hills and Devon Gorge area as a Special Landscape Area/Local Landscape Area.

### *Local Designations*

SNH (00353/01/010) recommends the following wording contained in the existing Local Development Plan (CD014) in relation to locally designated site is incorporated in to Policy 36c (local designations): '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:

- (a) the objectives of designation and the overall integrity of the designated area would not be compromised; or
- (b) any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.'

### **Policy 37: Landscape**

#### Orchards

Braes of Carse Conservation Group (0161/01/009): Extend Policy 37 to protect fruit orchards

#### Hill Tracks

Alistair Godfrey (0410/01/010b) not specific about change sought but notes that hill tracks will rarely be compatible [with landscapes]; and requests that SNH guidance on Constructed Tracks in the Scottish Uplands (2015) (CD118) be the required standard.

### Landscape Design (37(e))

Scott Paterson (0528/01/002) not specific about change sought but comments on para (e) re landscape design that suitable landscape enhancement and mitigation should involve sympathetic, sustainable and long-term benefits for both people and biodiversity – creation of wildflower meadows, wildflower verges, nest boxes etc.

### Landscape Assessments

SNH (00353/01/010): add paragraph to Policy 37 “h) they are informed by relevant landscape capacity studies where available”

### Wild Land Areas

Scottish Government (0451/01/16): Modify Policy 37(d) to read “they safeguard the character of areas of wild land identified on the 2014 SNH Wild Land Areas map”

SNH (0353/01/011); Scottish Government (0451/01/016): Replace current paragraph regarding Wild Land with test which accords with SPP (CD004, para 215): Per SNH (0353/01/011): “Development which would affect a Wild Land Area will only be permitted where the Council as Planning Authority is satisfied that: it can be demonstrated that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation”.

SNH (0353/01/011): Insert map of Wild Land Areas

### Renewable Energy

Scottish Power Renewables (0625/01/006) requests that policy should acknowledge some landscape change will be deemed acceptable in the promotion of low carbon technologies.

## **Policy 38: Forestry, Woodland and Trees**

### General

Woodland Trust Scotland (0462/01/023) seeks a change to Policy 38 to add reference to native woodland creation, due to the multiple benefits that native woodland creation has for the environment and other objectives.

Councillor Michael Barnacle (0584/01/020) does not seek a specific change but raises concerns regarding the commissioning of tree reports by applicants and instead advocates for these to be commissioned by the Council and the applicants’ subsequently billed.

### Policy 38A

SNH (0353/01/01/012) seeks a change to Policy 38A to add the following additional wording [highlighted in italics]: ‘ensure the protection and good management of amenity trees, *plant new street trees where appropriate*, safeguard trees in Conservation Areas...’

Alistair Godfrey (0410/01/011) and Bruce Burns (0663/01/005) seek the following changes

to Policy 38A:

- Woodland to be defined in the Policy as ‘a functioning ecosystem with associated soils, vegetation, invertebrates and vertebrates that are independent, as recognised’, and demonstrate support for Scottish Soil Framework (RD076), NPF3 (CD003), EU Habitats Directive (CD092) and UN Convention on Biological Diversity (RD089)..

### Policy 38B

SNH (0353/01/012) seeks the following changes to Policy 38B:

- Change text in paragraph 1 to read ‘tree and woodland surveys, undertaken by a suitably qualified professional.’
- Delete the following text from paragraph 3 relating to woodland removal: ‘Woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form a part of this balance.’
- Delete the following text from paragraph 4 relating to woodland removal: ‘It should be noted that there is a strong presumption against removing ancient semi-natural woodland, woodland integral to the value of designated or special sites, and woodland where its removal would lead to fragmentation or disconnection of important forest habitat networks.’

Alistair Godfrey (0410/01/011) seeks the following changes to Policy 38B:

- Revise section on tree surveys to include reference to requirement for woodland surveys for EIAs and for surveys to be undertaken by competent surveyors at a time of year when Ancient Woodland Indicators can be identified and length of survey time is proportionate to the size and complexity of the woodland. Revise section to also make reference to EIA Regulations 2017 (CD028), particularly Schedule 4.
- Add in reference to Forestry Commission Guidance (CD094) for the sentence on compensatory planting.
- Add in section to refer to support for Scottish Forestry Strategy 2006 (CD115) and required action to ‘maintain and enhance ancient woodland features in Plantations on Ancient Woodland Sites (PAWS)’.

Woodland Trust Scotland (0642/01/024) seeks a change to the final paragraph of Policy 38B to include reference to Long-Established Woodland of Plantation Origin (LEPO) when referring to ancient woodland.

Councillor Michael Barnacle (0584/01/015) does not seek a specific change but raises concerns with inappropriate felling by developers suggesting tree protection is not strong enough and that TPOs alone are insufficient to safeguard important groups of trees and that protection of trees through TPOs is not mentioned in the Policy.

### Policy Map E – High Nature Conservation Woodland

SNH (0353/01/012) does not seek a specific change but it is assumed that SNH would like a note added to Policy Map E to reflect that the woodland types on the map do not fully reflect the types of woodland listed in the CWRP (CD007).

### Site Allocations

Woodland Trust Scotland (0462/01/018) seeks changes to site allocations where compensatory and screening tree planting is required to ensure that native tree planting is specified. It is suggested that this could also be a policy of the Council to specifically request native tree planting.

Woodland Trust Scotland (0462/01/019) raises concerns that site allocation boundary maps do not show the location of ancient woodland however no specific changes are sought.

### Supplementary Guidance

Alistair Godfrey (0410/01/011) and Bruce Burns (0663/01/005) seek one or more of the following changes to the Forest & Woodland Strategy Supplementary Guidance:

- Guidance has little reference to legislation and requires to be compliant with SPP (2016) (CD004) and Control of Woodland Removal Policy (CWRP) (CD007), particularly the section on woodland removal.
- Ensure local context is taken in to account when considering compensatory planting, based on recent planning decision.

Woodland Trust Scotland (0462/01/018) does not seek a specific change but considers that native trees should be specified for required compensatory or screen planting for development proposals, and that this could be included in associated Supplementary Guidance.

### Orchards

Braes of the Carse Conservation Group (0161/01/010) seek the following changes to Policy 38:

- Terminology within the Policy should refer to orchards specifically and not rely on other terms such as 'woodland' or 'trees'.
- Policy 38B should be amended to specifically avoid orchards being removed unless it would achieve significant and clearly defined additional public benefits.
- Content from the existing Forest and Woodland Strategy Supplementary Guidance (CD101) should be given more emphasis in the policy statements with clear and enforceable requirements on preservation and restocking of trees.

## **Policy 39 Biodiversity**

### Orchards

Braes of Carse Conservation Group (0161/01/011): Extend Policy 39 to protect fruit orchards

### EIA Developments

SNH (0353/01/013): Change "large developments" to "developments" in para 39(a)

### EEC Directive References

Alistair Godfrey (0410/01/012) requests references to Directive 92/43/EEC article 17 (re Annex I and II) and 12 & 13 (re Annex IV) (CD092) be included in policy.

## Developer Requirements

Kristin Barrett (0423/01/005) requests exactly which bits of dyke, fencing, hedging and associated greenery to be left intact to be specified.

Scott Paterson (0528/01/003). Not specific about changes sought but states:

- Ensure surveys are undertaken by suitable specialist at appropriate time with no leeway for developers.
- Biological site records should be requested and incorporated into applications.
- Mitigation to be strictly adhered to and implemented.
- Opportunities for biodiversity should be considered/implemented at every opportunity.
- Development design should incorporate significant element of areas to benefit biodiversity.

RSPB (0546/01/022): Add specific reference to enhancement for swifts (e.g. incorporation of swift bricks into new buildings) in the settlement summary or add to enhancement of biodiversity bullet in the developer requirement lists for sites within: Stanley, Luncarty, Inchtute, Balbeggie, Burrelton, Spittalfield, Perth area.

Brian Rickwood (0035/01/002) not specific about change sought but challenges position that housing proposals can enhance biodiversity.

## Policy Wording

RSPB (0546/01/010)

- Replace “clear evidence can be provided” in third paragraph with “clear evidence is submitted”.
- In point (b) replace “can enhance the existing biodiversity” with “would enhance the existing biodiversity of the site”

Scottish Power Renewables (0625/01/007) objects to policy wording and requests that where terms “detrimental” or “adverse effect” are used should be preceded by “unacceptable”.

## Supplementary Guidance

RSPB (0546/01/010) “Planning for Nature” Supplementary Guidance should be statutory

## **Policy 40: Green Infrastructure**

SNH (0353/01/007): State that Strategy Map 4 will be reassessed as part of the Supplementary Guidance review. The Guidance should identify existing green networks at settlement scale and illustrate opportunities for enhancement.

Stuart Nichol (0040/01/001): Designate the A93 from Perth to Glenshee as a strategic green network and add it to Strategy Map 4.

Scottish Government (0451/01/008): Additional wording could be inserted to encourage opportunities for a range of community growing spaces, not just allotments.

Woodland Trust Scotland (0462/01/026):

- Clarify whether “all development” refers to any size of development, including even one house or housing extension.
- Point (ii) in section (d) should include native trees and native woodland.

SEPA (0742/01/009): Requires a change to the policy wording to "mitigate any negative environmental impacts of the development and create linkages to wider green and blue networks".

### **Summary of responses (including reasons) by planning authority:**

#### **Section 3.3 A Natural Resilient Place**

##### Section 3.3 A Natural, Resilient Place (pg 60)

SNH (0353/01/033) As discussed in more detail in Schedule 4 Policy 36, the Council is currently engaging with the Tayside Biodiversity Partnership and SNH to consider a mechanism for site assessment and adoption. However, the Council does not currently have the resources to formally carry out assessment of LBS or further geodiversity sites and assessment is unlikely to occur before the next LDP. It is hoped that the Council will be in a position to include LBS within LDP3, subject to the appropriate level of resources being available to progress this work.

No modification is proposed to the Plan.

##### Spatial Strategy for “A Natural, Resilient Place” paragraph on page 61 and Strategy Map “A Natural Resilient Place” and legend on page 62

Scottish Natural Heritage (0353/01/032) The strategic map for A Natural Resilient Place is intended to be an overview of the key natural assets that PKC has within its area. The map was created to provide a simple overview of the strategic areas for consideration in terms of landscape designations and to demonstrate potential connections in terms of the strategic green network. The map is intentionally simplified so that these areas are clear at a strategic scale. It is not intended to be used to determine where development may or may not be located – this is dealt with at a local level through the settlement statements and site allocations. The flooding data is also provided as an overview of the watercourses within the wider area and not intended to be used on a local level. The Council do not consider it is required to create an additional map specifically for the flooding data as it considers Strategy Map 4 to provide a clear overview of the natural assets of PKC, including the rivers and lochs, all of which contribute to the international, national and local designations.

No modification is proposed to the Plan. Nonetheless, in terms of the text in the paragraph and the key on the map, the Council have no objection to making the modification to the paragraph and updating the key to acknowledge the internationally designated areas. Change paragraph wording to: "The spatial strategy aims to protect and enhance these unique attributes, to ensure that we allow future generations to enjoy the same benefits as us. The map on the following page demonstrates the international, national and local natural heritage designations in Perth and Kinross. This policy grouping aims to build the resilience of our cities and towns....". Change legend on map to International/national designations.



## **Policy 36: Environment & Conservation**

### General

Councillor Michael Barnacle (0584/01/019): the adequacy of habitat reports is considered through the planning application process and it is not considered reasonable for the Council to have the added responsibility to commission and procure reports on behalf of applicants.

No modification is proposed to the Plan.

### Policy 36A: International Nature Conservation Sites

Scottish Government (0451/01/015); RSPB (0546/01/009): To ensure compliance with SPP (para 208) (CD004) and the Conservation (Natural Habitats, & c.) Regulations 1994 (CD026), the Council would be comfortable with additional policy wording (as suggested by Scottish Government and RSPB) as an additional criterion of Policy 36A to ensure development proposals provide suitable compensatory measures in relation to impacts on the Natura network. If the Reporter is minded to accept the suggested modifications the Council would be comfortable adding in the following additional criterion in to Policy 36A as it would not have any implications for any other aspect of the Plan: 'compensatory measures are provided to the satisfaction of the Council to ensure that the overall coherence of the Natura network is protected.'

In relation to RSPB's suggested change regarding a requirement that sufficient information is submitted as part of any proposal, this is a standard issue across all policies where information is sought. It is therefore not considered necessary to include specific text seeking this information from applicants through Policy 36A. In addition, the Council are ordinarily required to address any impacts on Natura 2000 sites before a decision can be reached through the Habitats Regulations Assessment process and therefore sufficient information to enable an informed decision will be sought in the first instance anyway.

No modification is proposed to the Plan.

### Policy 36C: Local Designations

Scottish Power Renewables (0625/01/005): the Council is comfortable with the suggested change by SNH (0353/01/009) in relation to Policy 31 (Renewable & Low Carbon Energy) [see Issue 14] to include a table setting out the requirements of the Spatial Framework for Wind which would provide in more detail the relevant considerations under each of the three groups, including Group 3 areas where wind farm development is likely to be acceptable subject to detailed consideration against identified policy criteria. By virtue of having the Spatial Framework identifying a hierarchical approach to wind farm development and incorporating international and national designations within this under the first two groups, it is implicit that local designations fall within the Group 3 areas. It is not considered necessary to include additional text as suggested in relation to paragraphs 196 and 203 of SPP (CD004) as it goes beyond the required text to detail the requirements of the Spatial Framework for Wind. Instead, should the Reporter be minded to accept the modification, the Council would be comfortable with an additional sentence in Policy 31D after the SPP: Spatial Framework for Wind table to state: 'Please note that Group 3 areas include local designations such as Local Landscape Areas and developers will be required to take such designations in to account in preparing and submitting

proposals.'

Portmoak Community Council (0541/01/006): The Council does not propose to extend the existing Regional Park boundary for the Lomond Hills at this stage in the plan-making process. The Council will from time to time consider the merits for extending the regional park boundary however there are significant resource implications for designating and managing a regional park and therefore the Council does not propose such a designation or review at this time. To formally promote and manage the remaining area of the Lomonds Hills as an extended regional park would require significant resources to be allocated from the Council budget.

It is also considered that the area of the Lomond Hills within the PKC administrative boundary is not as easily accessed by all users as other areas of the hill range. For example, the existing Regional Park in Fife is served by a variety of accessible car parks such as at Craigmead and East Lomond and therefore already has optimum opportunities to formally promote recreational use of the hills for all users. Opportunities to further promote recreational use at the Perth & Kinross side of the hill range are therefore limited, without significant investment in parking and path facilities to promote recreational use for all users. The area in question is also currently within the Loch Leven & Lomond Hills Special Landscape Area and therefore would be afforded protection against inappropriate forms of development thereby indirectly protecting recreational interests within the area.

No modification is proposed to the Plan.

#### *Local Landscape Areas*

SNH (0353/01/010): If the Reporter is minded to accept the suggested modifications by SNH to move the sub-policy on Local Landscape Areas from Policy 36C to Policy 37 the Council would be comfortable with making these changes as they would not have any implications for any other aspect of the Plan other than for Policies 36C and 37.

Alistair Godfrey (0410/01/010a); Councillor Michael Barnacle (0584/01/014b): Supplementary Guidance to the Landscape Policy will be reviewed as part of LDP2 and will be updated to reflect the requirements of SPP (CD004) and other relevant policy and guidance, including an assessment to consider whether a review of the LLAs is necessary. It is not considered necessary for the Reporter to consider the content of the SG as this is a matter for the Council to prepare relevant SG when the new Plan is adopted and will be issued to Scottish Ministers for consideration as a separate exercise.

No modification is proposed to the Plan.

Councillor Michael Barnacle (0584/01/014b); Kinross-shire Civic Trust (0526/01/010): Specifically responding to Councillor Michael Barnacle's request for an urgent review of, and the Kinross-shire Civic Trust's objection to, the Cleish Hills/Devon Gorge exclusion from landscape designation, this is not an issue for the Reporter to consider further as this is a matter for the Council, as noted above. For the sake of clarity, the decision to exclude Cleish Hills/Devon Gorge as a Special Landscape Area was debated and rejected by the Council in their consideration of the Statutory Supplementary Guidance on Special Landscape Areas (CD292). The Council's Enterprise and Infrastructure Committee on 20 January 2016 considered a report on priorities for the preparation and review of Supplementary Guidance and a motion was considered but rejected to review the designation of the Cleish Hill/Devon Gorge as a Special Landscape Area. As noted in

sections 5.12-5.17 of the Report to the Council's Enterprise and Infrastructure Committee in March 2015 (CD100), the inclusion of Cleish Hills/Devon Gorge area as part of the Loch Leven Basin Local Landscape Area was considered in detail through the LLA review process. It was ultimately excluded from the final LLA boundary due to a detailed range of technical factors – as noted in sections 5.12-5.17 of the Report - based on the scoring methodology and the relationship of the Cleish Hills/Devon Gorge area compared to the rest of the Loch Leven Basin area within the designated LLA.

No modification is proposed to the Plan.

### *Local Designations*

SNH (0353/01/010): The position of SNH in relation to locally designated sites is acknowledged and the Council is broadly supportive of the work to identify local sites where this adds value to the decision-making process and helps protect sites of a local nature. The Council does note, however, the practicalities and resources required to be able to successfully undertake this exercise in identifying, reviewing and designating local sites. The Council has secured additional temporary staff resources to assist with the identification of potential local nature conservation sites. This potential staff resource is likely to assist with the identification and initial GIS-mapping of sites, thus facilitating the formal designation at a later stage.

A small number of geodiversity sites limited to one geographical area within the Council boundary have been identified and assessed with further proposed candidate sites awaiting assessment. The Council currently has not designated any sites of local nature conservation (Local Biodiversity Sites - 'LBS'). The Council is currently engaging with the Tayside Biodiversity Partnership and SNH to consider a mechanism for site assessment and adoption but the Council does not currently have the resources to formally carry out assessment of LBS or further geodiversity sites and assessment is unlikely to occur before the next LDP. As noted above the Council has secured further temporary staff resource to assist with the early stages of the site identification work. It is hoped that the Council will be in a position to include LBS within LDP3, subject to the appropriate level of resources being available to progress this work.

Considering that the first sentence in Policy 39 is sufficient to protect any proposed LBS that are identified before the next review of the Plan, and the restricted number of identified geodiversity sites the Council is not supportive of the suggested modification.

No modification is proposed to the Plan. However, should the Reporter be minded to accept the modification the Council would suggest that the identification of local sites would be best dealt with through Supplementary Guidance to Policy 36 with the suggested policy wording as noted in SNH's response added as a new sub-policy.

## **Policy 37: Landscape**

### Orchards

Braes of Carse Conservation Group (0161/01/009): Trees not in a Conservation area or where covered by a Tree Protection Order (TPO) are not protected as a matter of course and a felling licence is also not required for fruit trees under s 9(2)(b) of the Forestry Act 1967 (as amended)(CD093). Section 159 of the Town and Country Planning (Scotland) Act 1997 (as amended) (CD031) however does oblige Planning Authorities to ensure

provision for the protection of trees is made in the granting of planning permission for any development. The Landscape policy addresses impacts of developments on the qualities of the landscape in Perth & Kinross rather than specific features. Listing each individual feature which might make up a landscape would result in a policy that is too detailed and provides little guidance. The landscape policy does however protect orchards in consideration of development proposals where orchards have been identified as part of the landscape character. Developments are required to address the impacts on landscape with reference to The Tayside Landscape Character Assessment (LUC, 1999) ("TCLA") (CD120) which recognises the importance of the remaining orchards in the landscape unit of the Carse of Gowrie paras 5.11.4, 5.11.6, 5.11.10, 5.11.14. The landscape policy therefore already seeks to protect the landscape value of the orchards in the area of concern to the respondents and it is not necessary or desirable to specifically refer to orchards.

No modification is proposed.

#### Hill Tracks

Alistair Godfrey (0410/01/010b): New hill tracks can be detrimental to the landscape but where careful attention is paid to siting, materials and restoration, they can be compatible with the distinctive characteristics and features of the landscape that the policy is aiming to protect. Hill tracks were introduced into this policy by the Council for the purpose of ensuring their impact was addressed where planning permission was required. The most recent and up to date guidance will be applied at application stage; a reference to that guidance is not considered necessary here.

No modification is proposed.

#### Landscape Design (37(e))

Scott Paterson (0528/01/002): The suggested reference to biodiversity enhancement is encompassed by the reference in paragraph (f) to '...protecting and enhancing the ecological...elements of the landscape' and reinforced by Policy 39.

No modification is proposed.

#### Landscape Assessments

SNH (0353/01/011): The last sentence of the first paragraph requires that development proposals 'will need to demonstrate...' . This demonstration would necessarily have to be carried out through a professional landscape study. It is not necessary to set out that the assessment needs to be informed by the baseline provided by the landscape capacity studies.

No modification is proposed. If the Reporter is minded to clarify this the additional wording should not be an additional criteria but qualify the demonstration required i.e. 'They will need to demonstrate, with reference to relevant landscape capacity studies,....'

#### Wild Land Areas

Scottish Government (0451/01/016): With regards criterion (d) wildness and Wild Land Areas are different. Wildness is a quality, defined by SNH as 'perceived naturalness of the

land cover; ruggedness of terrain; remoteness from public roads, ferries or railway stations; visible lack of buildings, roads, pylons and other modern artefacts (see <https://www.nature.scot/professional-advice/landscape-change/landscape-policy-and-guidance/landscape-policy-wild-land>). SNH Wildness in Scotland's Countryside Policy Statement (CD121, para 8) describes wild land as 'extensive areas where wildness (the quality) is best expressed'. Wild Land Areas are described in Assessing Impacts on Wild Land Areas - technical guidance (CD122, para 8) as 'areas where the quality and extent of wildness is considered to be of national importance'. Therefore this leaves wild land and other areas with wildness qualities which are not recognised as being of national importance. The Council agrees with the Scottish Government position that 'SPP (CD004, para 200) is clear that safeguarding is for areas on 2014 SNH map of wild land areas' but disagrees that para 200 does not allow for safeguarding beyond those areas and notes the Scottish Government has not objected to the safeguarding of areas of tranquillity. The Council considers that areas that exhibit wildness are worthy of safeguarding even if not of national importance and is consistent with the promotion of sustainable development. This includes areas identified as of highest sensitivity (criterion L1) in a Landscape Study for Wind Energy (David Tyldesley Associates, 2010) (CD088, para 4.3, table 4, figure 2) which have not been included in a Wild Land Area. These include highland areas west of Amulree, and north west of Glen Artney, and smaller areas within larger landscape character areas.

No modification is proposed.

SNH (0353/01/011) and Scottish Government (0451/01/016): The Council recognises that the current wording regarding Wild Land Areas is not consistent with SPP (CD004) para 215 and instead applies the tests for national designations in SPP para 212. This was intended to meet the requirement to safeguard wild land as required by paragraph 200, whilst setting out the circumstances in which development may be permitted which is undefined in paragraph 215. The wording suggested by SNH applies the qualification in SPP paragraph 215 whilst also recognising the safeguarding requirement of paragraph 200. It therefore sets out the circumstances in which development may be permitted, with which the Council agrees.

If the Reporter is minded the Council does not object to the wording as suggested:

'Development which would affect a Wild Land Area will only be permitted where the Council as Planning Authority is satisfied that: it can be demonstrated that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation'.

SNH (0353/01/011):SPP (CD004) para 200 requires Plans to 'identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas'. The wording of this paragraph requires only the character of areas of wild land to be identified, particularly given that it is noted that the areas are already mapped by SNH. The character of these areas has now been identified by SNH through Wild Land Areas descriptions published in 2017 (<https://www.nature.scot/wild-land-area-descriptions>). It is not considered necessary to duplicate the mapping or description of Wild Land Areas in LDP2 as the policy already refers to the SNH mapping.

No modification is proposed. However, if the Reporter considers the Wild Land Area paragraph is not clear, the Council would not object an addition, to the amendment discussed above, of a reference to the 2014 SNH map, so as to read:

'Development which would affect a Wild Land Area, *as identified on the 2014 SNH*



*map of Wild Land Areas*, will only be permitted where the Council as Planning Authority is satisfied that: it can be demonstrated that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation'

### Renewable Energy

Scottish Power Renewables (0625/01/006): Policy 37 does not rule out all landscape change but clearly addresses the need to protect the integrity of landscapes. This applies to all development and there does not need to be a specific recognition of renewable energy here. Policy 31 recognises that landscape is just one of many factors to be considered including the contribution to national renewable energy targets. There is nothing in this policy that imposes an automatic prohibition on development in statutorily designated sites.

No modification is proposed.

### **Policy 38: Forestry, Woodland and Trees**

#### General

Woodland Trust Scotland (0462/01/023): The benefits of native woodland creation are acknowledged by the Council. SPP (para 217) (CD004) states that 'where appropriate, planning authorities should seek opportunities to create new woodland and plant native trees in association with development.' In line with this approach the Council currently seeks the planting of native trees as part of planting and landscaping proposals for new developments. However, there are cases where non-native trees, such as fruit trees, may be appropriate as part of a mix of trees and which would benefit biodiversity and community interests, taking due cognisance of the requirements of the Wildlife and Natural Environment (Scotland) Act 2011 (CD039) and the Great Britain Invasive Non-Native Species Strategy (2015) (CD097) in relation to non-native species. The Council's Forest and Woodland Strategy (CD101) aims to include and increase native planting and this objective will inform proposals for any new planting scheme associated with new developments, however, the Council does not consider it necessary to have a requirement for all new trees to be planted to be of native species and therefore does not support this modification.

No modification is proposed to the Plan.

Councillor Michael Barnacle (0584/1/020): The adequacy of tree reports is considered through the planning application process and it is not considered reasonable for the Council to have an additional responsibility to commission and procure reports on behalf of applicants.

No modification is proposed to the Plan.

#### Policy 38A

SNH (0353/01/01/012): The assessment of proposals for tree planting as part of new development schemes would primarily be considered under Policies 1 (Placemaking) and 38 (Forestry, Woodland and Trees) of the Plan. Opportunities for the planting of new street trees would be considered as part of any relevant proposal and whilst neither policy



specifically includes this policy test, it is not considered this would prevent proposals from coming forward. Current Supplementary Guidance to Policy NE2 (Forestry, Woodland and Trees) (CD101) already includes provision for opportunities to plant new street trees (p.36) and this requirement would likely be carried forward in to SG for the next LDP. The Council therefore consider that this requirement is best addressed in more detail through the Supplementary Guidance.

No modification is proposed to the Plan. However, if the Reporter is minded to accept the modification the Council is comfortable with the suggestion made by SNH to include reference to 'plant new street trees where appropriate' as this would not have any implications for any other part of the Plan.

Alistair Godfrey (0410/01/011); Bruce Burns (0663/01/005): Whilst it is considered that no specific definition for woodlands is required to be included within the Policy for purposes of succinctness, it is noted that there is terminology included for woodlands and forests within Forestry Commission Scotland's 'Right Tree in the Right Place' Guidance (p.5) (CD094). In terms of demonstrating support for the range of documents listed, the Forest and Woodland Strategy SG could provide a section on the background and context to managing woodland and forests including how the guidance would adhere to the key requirements of these documents.

No modification is proposed to the Plan. However if the Reporter considered it would make the policy clearer the Council would be comfortable with adding a definition for woodlands within Supplementary Guidance to Policy 38 taking due cognisance of the terminology included in FCS Guidance.

#### Policy 38B

SNH (0353/01/012): The proposed terminology 'suitably qualified arboricultural consultant' in Policy 38B of the Proposed Plan has been used to specify the type of consultant expected to undertake the tree surveying exercise. It is acknowledged that certain types of tree surveys required may necessitate a different type of consultant e.g. ecological survey, and therefore the more broader 'suitably qualified professional' terminology suggested by SNH is likely to be more suitable.

If the Reporter considered it would make the requirements of the policy clearer by accepting the suggested modification, the Council would be comfortable with this as it would have no implications for any other aspect of the Plan.

The Council is comfortable with the suggestion made by SNH to delete paragraphs 3 and 4 of Policy 38B to avoid any inconsistencies with the requirements of the Scottish Government's Policy on Control of Woodland Removal (CD007). This is accepted as the national policy reference on this issue and is already included as a policy test under Policy 38B.

If the Reporter is in agreement with the suggested modification, the Council would be comfortable with this as it would have no implications for any other aspect of the Plan.

Woodland Trust Scotland (0642/01/024): It has been accepted under the response to SNH (0353/01/012) above that paragraphs 3 and 4 of Policy 38B should be deleted and that focus on controls of woodland removal should be directed to paragraph 2 only. This paragraph specifically refers to the Scottish Government's Policy on Woodland Removal

(CD007) which is the national policy on this issue and is considered to provide suitable policy coverage.

Therefore there is no modification proposed to the Plan in relation to Woodland Trust Scotland's representation on this. However, should the Reporter seek to retain paragraph 4 of Policy 38B, the Council would be comfortable to incorporate the list detailed in the Scottish Government's Policy on Woodland Removal (p.7) (CD007) specifically stating: 'There will be a strong presumption against removing the following types of woodland: ancient semi-natural woodland; woodland integral to the value of designated or special sites (Special Areas of Conservation {SACs}; Special Protection Areas {SPAs}; Sites of Special Scientific Interest {SSSIs}; Ramsar sites; National Nature Reserves {NNRs}; areas supporting priority habitats and species listed in the UK Biodiversity Action Plan; Scheduled Monuments; National Scenic Areas; and woodlands listed within the Inventory of Gardens and Designed Landscapes); woodlands critical to water catchment management or erosion control; or woodlands listed as 'Plantations on Ancient Woodland Sites' (PAWS). There will also be a strong presumption against woodland removal where it would lead to fragmentation or disconnection of important forest habitat networks.'

Alistair Godfrey (0410/01/011): It is considered that the Policy as currently drafted adequately considers the requirements of tree surveys. In particular, the scope and nature of surveys are required to be agreed in advance with the Council, where on a case by case basis the relevant issues, including survey timescales, will be considered by the Council in conjunction with applicants. In addition, the requirements of undertaking tree surveys as part of a wider EIA will be given due consideration as part of the screening/scoping process where issues will be identified early on for applicants to address. It is considered no additional policy requirements are required in this regard.

No modification is proposed to the Plan.

Alistair Godfrey (0410/01/011): The term 'new native woodland' is not recognised within the Plan or indeed within SPP (CD004) or the Scottish Government's Policy on Control of Woodland Removal (CD007). There is reference to examples of 'new native woodland' within a case study identified in the Right Tree in the Right Place Guidance (p. 42) (CD094) as well as in the Scottish Forestry Strategy (2006: p.48) (CD115), however this is not a term specifically identified within the Plan. Therefore it is considered there are no consequential modifications required to the Plan.

No modification is proposed to the Plan.

Alistair Godfrey (0410/01/011): As a requirement of the Scottish Forestry Strategy (2006) (CD115) it is accepted that Policy 38 should require action to 'maintain and enhance ancient woodland features in Plantations on Ancient Woodland Sites (PAWS)'.

If the Reporter is minded to accept the modification, the Council would be comfortable with an additional bullet point in the Policy 38 Note using the following text: 'maintain and enhance ancient woodland features in Plantations on Ancient Woodland Sites (PAWS) in line with the Scottish Forestry Strategy (2006).'

Councillor Michael Barnacle (0584/01/015): Notwithstanding planning decisions being taken on a case by case basis, it is considered that the existing policy framework covering tree protection contained within the Plan is adequate and takes due cognisance of existing national legislation, policy and guidance. Existing policies such as Policy 1 (Placemaking),

Policy 38 (Forestry, Woodland & Trees), Policy 39 (Biodiversity) and Policy 40 (Green Infrastructure) all provide policy coverage to protect trees and associated benefits within the wider environment. It is not considered necessary to specifically include text within the Policy on TPOs as this will form part of the decision-making process when tree removal is proposed. Each site and its environs will be considered at the planning application stage taking in to account both the CWRP (CD007) and any relevant TPO for the site.

No modification is proposed to the Plan.

#### Policy Map E – High Nature Conservation Woodland

SNH (0353/01/012): Policy Map E (High Nature Conservation Woodland) has been included in the Plan to aid interpretation of woodland of high nature conservation value (the Native Woodland Survey of Scotland native and nearly native woodland and planted ancient woodland). The Policy Map does not include some of the other woodlands listed in the Control of Woodland Removal Policy (CWRP) (CD007) in relation to woodland removal as these are more likely to be identified at the planning application stage through detailed assessment of the site and development proposal.

No modification is proposed to the Plan. However, it is accepted that it may be useful to include additional text explaining the context of the CWRP and the contents of the Map in relation to this. If the Reporter is minded to accept the modification the Council would be comfortable removing the last line of Policy 38B and instead inserting additional text within Policy Map E using the following text: 'To aid interpretation of this Policy the mapping below shows woodland of high nature conservation value (the Native Woodland Survey of Scotland native and nearly native woodland and planted ancient woodland). Please note that the map does not contain all of the types of woodland listed in the Control of Woodland Removal Policy where there will be a strong presumption against removal.'

#### Site Allocations

Woodland Trust Scotland (0462/01/018): SPP (para 217) (CD004) states that 'where appropriate, planning authorities should seek opportunities to create new woodland and plant native trees in association with development.' In line with this approach the Council currently seeks the planting of native trees as part of planting and landscaping proposals for new developments. However, there are cases where non-native trees, such as fruit trees, may be appropriate as part of a mix of trees and benefit biodiversity and community interests, taking due cognisance of the requirements of the Wildlife and Natural Environment (Scotland) Act 2011 (CD039) and the Great Britain Invasive Non-Native Species Strategy (2015) (CD097) in relation to non-native species. The Council's Forest and Woodland Strategy (CD101) aims to include and increase native planting and this objective will inform proposals for any new planting scheme associated with new developments, however, the Council does not consider it necessary to have a requirement for all new trees to be planted to be of native species and therefore does not support this change.

No modification is proposed to the Plan.

Woodland Trust Scotland (0462/01/019): It is considered that if site allocation boundary maps were to include all constraints, which includes a wide range of issues, on a single map the clarity of the issues would be lost and not assist in the decision making process.

Whilst it is accepted that it would be ideal to be able to map all constraints on a single map, this is simply not practical from a visual perspective. The application of policies and identification of specific constraints are reflected in the developer requirements, where it is considered further assessment/survey work is required.

No modification is proposed to the Plan.

#### Supplementary Guidance

Alistair Godfrey (0410/01/011); Bruce Burns (0663/01/005): It is not considered necessary for the Reporter to consider the content of the SG as this is a matter for the Council to prepare relevant SG when the new Plan is adopted and will be issued to Scottish Ministers for consideration separately. For the sake of clarity, the Forestry & Woodland Strategy Supplementary Guidance will be reviewed as part of LDP2 and will take due cognisance of relevant national legislation, policy and guidance. In addition local circumstances, where applicable, will be taken in to account to inform the preparation and implementation of the Supplementary Guidance and consultation will be held to ensure communities and relevant organisations have the opportunity to shape the content of the Guidance.

No modification is proposed to the Plan.

Woodland Trust Scotland (0462/01/018): In line with the Council's response to Woodland Trust Scotland (0462/01/018) in relation to site allocations, the Council does not consider it necessary to have a requirement for all new trees to be planted to be of native species and therefore does not support this change.

No modification is proposed to the Plan.

#### Orchards

Braes of the Carse Conservation Group (0161/01/010): As noted in the response to Braes of the Carse Conservation Group (0161/01/012) as part of the Issue 20 Schedule 4, should the Reporter be minded to accept the modification, the council would be comfortable - for the sake of clarity - with the addition of the following text '*including orchards*' after 'trees/woodlands' in Policy 38A criterion (b). This would have no implications for other aspects of the Plan other than for Policy 38A.

Braes of the Carse Conservation Group (0161/01/010): Policy 38B incorporates the provisions of SPP (CD004) and the CWPR (CD007) to define those woodlands which are required to be protected. Whilst it has been accepted that Policy 38A could be modified to include orchards as a specific type of woodland to be considered through the policy, in terms of woodland protection this has been directed by current national policy and guidance therefore it is not proposed to include orchards within this as a specified woodland type.

No modification is proposed to the Plan.

Braes of the Carse Conservation Group (0161/01/010): It is considered that the requirements for the preservation and restocking of trees in the Council area are suitably covered under the criteria of Policy 38A, with further coverage of these issues contained in the Supplementary Guidance, which will be reviewed in due course. It is not considered necessary to provide more emphasis on these issues as part of the Policy.

No modification is proposed to the Plan.

## **Policy 39 Biodiversity**

### Orchards

Braes of Carse Conservation Group (0161/01/011): The biodiversity policy addresses impacts of developments on biodiversity generally rather than specific habitat types. Identifying every potential feature would lead to a policy too detailed to be useful as features that require protection depend upon a more detailed site assessment. The policy states that the Council will take account of the Tayside Local Biodiversity Action Plan (LBAP)(<http://www.taysidebiodiversity.co.uk/action-plan/action-plan-new-lbap-2015/>). Traditional orchards are recognised for their biodiversity value and historic orchards are identified in the Woodland chapter of the LBAP (CD123, page 92) as a priority habitat.

No modification is proposed.

### EIA Developments

SNH (0353/01/013): It is noted that not all EIA developments are large. However removing the word “large” would encompass most developments regardless of the applicability of Schedule 1 and 2 of the The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (CD028) (EIA Regulations). The Council would not object to the Reporter amending this sentence. The Council’s preferred wording is:

In accordance with The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 development proposals that could have a significant impact on the environment may require an Environmental Impact Assessment.

### EEC Directive References

Alistair Godfrey (0410/01/012): The obligations in the Habitats Directive (CD092) are obligations on member states which have been implemented in Scotland through The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (CD026). The reference to Annexes I and II in the Directive and in particular Article 3, are for the purposes of establishing Special Areas of Conservation, and as such are covered by Policy 36.

Articles 12 and 13 of the Directive are again obligations on member states with regards to European Protected Species as defined by Annex IV. The test set out in policy reflects the test set in Regulation 44 in The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) (CD026)

No modification is proposed.

### Developer Requirements

Kristin Barrett (0423/01/005): The requested identification of important features to be protected in developer requirements it too detailed for the local development plan. The existing structures and natural features to be left intact or enhanced depends on detailed



site specific surveys and assessments carried out at application stage. This ensures that a more up to date and site specific record can be obtained. Detailing requirements at local plan stage runs the risk of records being out of date, and the level of detail requested promotes the risk of the list being taken as comprehensive, which, may result in the impacts on important features not being addressed.

No modification is proposed.

Scott Paterson (0528/01/003): Similarly specific site requirements will depend on initial assessment and surveys at a site level to ensure surveys and mitigation are assessed with the appropriate detail, are relevant to the actual proposal and closer to the time of application. In particular:

- Development management and developers will be guided by Planning for Nature guidance which will contain a survey and mitigation calendar.
- Site records form part of assessments where surveys are requested. Records are the property of the recorder but with the data provider's permission will be uploaded to NBNatlas (<https://nbnatlas.org>).
- Adherence to mitigation is a general concern of all development and is unnecessary to include a specific reference here.
- Opportunities for biodiversity and areas to benefit biodiversity is addressed in the first sentence of the policy with further guidance provided in guidance produced by the Tayside Biodiversity Partnership ([www.taysidebiodiversity.co.uk](http://www.taysidebiodiversity.co.uk)).

No modification is proposed.

RSPB (0546/01/022): The importance of providing for swifts in new development is recognised in draft guidance Planning for Nature and continues to be required of developments in Perth & Kinross. As set out in Policy 39 the Council recognises its duty to further the conservation of all biodiversity. However site specific requirements for biodiversity enhancement are assessed at planning application stage to ensure requirements are they are relevant to the proposal and the environment in which they are proposed.

No modification is proposed.

Brian Rickwood (0035/01/002): Requirements for biodiversity enhancement of housing (and other) proposals reflects the recognition of the duty in the first sentence of Policy 39. Urban developments on brownfield or agricultural land provide opportunities for biodiversity enhancement by increasing the quality and variety of biodiversity if not the total area of land and habitat available. Adherence to the mitigation hierarchy will form part of the requirements of Planning for Nature guidance referred to in Policy 39 which aims to ensure impacts on biodiversity is avoided, mitigated or compensated for; this is supported by policy 39 and policy 38 supporting avoidance and retention of valuable habitats where present on site allowing for enhancement to take place after any required mitigation.

No modification is proposed.

#### Policy Wording

RSPB (0546/01/010): The Council disagrees that there is an obligation to demonstrate that all ecological impacts can be satisfactorily mitigated. The policy states that the Council will seek to protect and enhance all wildlife and wildlife habitats. The policy sets



out the approach of the Council to achieve that goal including not supporting proposals which detrimentally affect the ability to meet local, national and international obligations; and sets out the requirements that may be imposed upon developers according to the needs of the site to meet that goal. The final sentence of paragraph 3 should be read in the context of the first paragraph.

No modification is proposed.

Similarly there is no obligation to enhance biodiversity on every development site. The introductory sentence of this Policy reflects the requirements of SPP paragraph 194 'the planning system should...seek benefits for biodiversity from new development where possible'. Likewise Nature Conservation (Scotland) Act 2004 s 1 (CD032) reads as relevant 'It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity...'. Again there is no obligation to require enhancement in every development.

No modification is proposed.

Scottish Power Renewables (0625/01/007): The difference between "clear evidence can be provided" and "clear evidence is submitted" is not material when read in context.

No modification is proposed.

It is unclear how replacing "can enhance the existing biodiversity.." with "would enhance the existing biodiversity..." provides any more certainty. Again in context, the intention is clear and it is unnecessary to amend.

No modification is proposed.

The phrase 'detrimental impact' in this policy is already qualified by the rest of the phrase i.e. 'detrimental impact on the ability to achieve the guidelines and actions identified in [local, national and international] documents. This may include allowing some detrimental impacts on site specific biodiversity for overriding public interest factors but not to override the public interest of meeting the Council's duties under section 1 of the Nature Conservation (Scotland) Act 2004 CD032. Similarly as discussed above from a different viewpoint the requirement in (b) that developers *may* be required to demonstrate all adverse effects on species and habitats have been avoided is in the context of the hierarchy, namely paragraph (c) regarding mitigation measures where not all adverse effects are avoidable. Adding the word "unacceptable" would not be compatible with the policy position stated in the first paragraph.

#### Supplementary Guidance

RSPB (0546/01/010): Planning for Nature is draft document which will be been consulted on in 2018. It summarises the requirements of existing legislation, policy and good practice guidance rather than further detail on existing policy. The document therefore falls into the category of guidance that "includes information and evidence which merely supports the plan" in line with the Chief Planner's letter of 2015 (CD005) as an example of guidance that should not be statutory guidance. Much of the document with regards protected sites, habitats and species has the protection of legislation and regulation and does not require the status of statutory supplementary guidance.

The status of the guidance “Planning for Nature” does not materially affect the Proposed Plan itself. An opportunity for comment will be available when that document is publically consulted on.

No modification is proposed.

#### **Policy 40: Green Infrastructure**

SNH (0353/01/006): The Strategic Green Network as shown on Policy Map 4 is derived from the Green Infrastructure Supplementary Guidance (CD102). It represents potential green infrastructure linkages at a landscape level to deliver green infrastructure multiple benefits and connect strategic opportunity areas. The guidance identified ‘hotspots’ with the highest degree of opportunity to deliver a range of benefits through the enhancement of green infrastructure. The guidance shows these hotspots in relation to urban growth areas where the most opportunity exists to deliver green infrastructure through development. Details on the methodology are explained in the Technical Appendix of the Green Infrastructure Supplementary Guidance (CD103).

As a comment on Proposed LDP1, SNH noted that no overall spatial direction has been given to the Green Infrastructure Policy and suggested developing a green network at a plan wide level. In line with this, the supplementary guidance was produced with the intention to identify strategic linkages rather than showing settlement level information. This approach as well as the methodology is considered to be robust and in line with national level guidance. Where there are opportunities for the delivery of green infrastructure through new development, site drawings and developer requirements highlight these in the Plan.

The upcoming review of the Supplementary Guidance will provide opportunity to review the methodology and further improve the guidance, potentially with greater emphasis on settlement level information. However it is not considered appropriate to pre-empt any potential changes in the Policy text.

No modification is proposed to the Plan.

Stuart Nichol (0041/01/001): The ‘Snow Road’ is a scenic route leading into Cairngorms National Park however it does not meet the criteria for a ‘strategic green network’ as identified by the Supplementary Guidance. There are no strategic development opportunities along this route and there are a limited number of ‘hotspots’ identified by the data analysis.

No modification is proposed to the Plan.

Scottish Government (0451/01/008): Policy 14 and associated Supplementary Guidance is considered to be more suitable for promoting community growing spaces as they deal with different types of open spaces in new developments and the protection of existing facilities. The issue raised in the representation is discussed in Issue 8 on Policy 14.

No modification is proposed to the Plan.

Woodland Trust Scotland (0462/01/026): The Policy applies to all proposals irrespective of their scale. Single houses or extension also provide opportunity to contribute to green infrastructure (e.g. through garden grounds, green roofs or SUDS) and they also have the

potential to lead to the fragmentation of existing networks which the Policy seeks to protect. Requirements to provide new green infrastructure / open spaces will be proportionate to the scale of the development.

In terms the requested modification to point (ii), the Council does not consider it necessary to have a requirement for all new trees to be planted to be of native species and therefore does not support this change. The issue is discussed in detail under the `Site Allocations` section of Issue 16.

No modification is proposed to the Plan.

SEPA (0742/01/009): The policy states that development should create new multifunctional green infrastructure. This is particularly beneficial where there is a possibility to mitigate negative environmental impacts or create further linkages to wider green and blue networks. It depends on the context of the site and the nature of the proposal whether only one or both are relevant and achievable. The suggested change in wording would limit the interpretation of the policy.

No modification is proposed to the Plan.

<b>Reporter's conclusions:</b>
<b>Reporter's recommendations:</b>