

Summary of comments received on the supplementary guidance

**Comments on Financial Guarantees for Minerals draft
supplementary guidance**

Comment	Received from	PKC Officer response	Change to be made to Guidance
Relevant section/paragraph of Guidance			
What financial guarantee arrangements should be made?			
<p>Draft text says: “... Applicants for minerals developments should set out the specific details of the financial guarantee proposed at application stage – including detailed proposals for decommissioning and site restoration in accordance with the EIA report.”</p> <p>We recommend: “..in accordance with the EIA report” is replaced with “in accordance with the approved plans” as these may differ from those in the EIA report.</p>	SNH	Agree, should insert reference to “...and any approved plans...”	YES, insert additional text
<p>Whilst appropriate proposals for restoration and aftercare should be submitted, the requirement to submit detailed costings is not necessary at the application stage. In determining a planning application for minerals it should be sufficient for the Council to be satisfied that the restoration and aftercare proposals are acceptable and to have confirmation that the applicant is willing to provide an appropriate restoration guarantee. The appropriate time to fully consider restoration costs is once the Council are minded to grant permission with any guarantee requiring to be in place prior to commencement of works.</p>	Dalglish Associates Ltd	<p>Agree that full and detailed restoration costs are not known at the application stage.</p> <p>The appropriate time to consider restoration costs could be agreed while the application is pending consideration, or built into a processing agreement. No change is therefore needed to the draft Supplementary Guidance.</p>	NO

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<p>The Scope of the Guarantee: We do not agree that a financial guarantee should be set to cover breach of planning conditions (other than the failure to complete restoration and aftercare). A restoration guarantee should be based on the necessary works to achieve the approved restoration, or appropriate restoration if works cease partially through a development. Whilst the guarantee should may contain a small provision against minor variations to the approved method of working; it should be assumed that works will be undertaken in accordance with the planning permission. The guarantee should not be utilised to guard against wider non-compliance as this creates a scenario where the applicant could be unreasonably required to make provision against works that should never be necessary. The Council should consider wider condition compliance by appropriate regular auditing.</p>	<p>Dalgleish Associates Ltd</p>	<p>The Guidance sets out that the financial guarantee may only be used for its intended purpose, and this therefore already excludes wider issues of non-compliance or breach of other planning conditions outside the scope of the financial guarantee (which is the clarification sought by the respondent).</p> <p>The 'Scope of the Guarantee' section already sets out that its intended purpose should be considered, along with a consideration of what will constitute a valid call being made on the financial guarantee.</p> <p>Provision already exists for dealing with any other wider issues such as non-compliance etc.</p> <p>No change is therefore needed to the draft Supplementary Guidance.</p>	<p>NO</p>
<p>The requirement for a restoration guarantee can be secured through planning condition and does not necessarily require to be through a Section 75 Agreement.</p>	<p>Dalgleish Associates Ltd</p>	<p>A planning condition cannot be used to require the payment of money, nor can a planning condition impose a requirement to enter into any other agreement.</p> <p>It is clear from the research that informed the Supplementary Guidance that whichever type of financial guarantee is employed, the financial risk must be on the landowner – the party that benefits from the development.</p>	<p>NO</p>

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		<p>This means that the financial guarantee should be secured and controlled by a Section 75 Agreement.</p> <p>The reason for using this type of agreement is that it is registered against the title ('it runs with the land') to ensure that risk does not pass to the Council. Instead the landowner and their heritable successors remain responsible for ensuring appropriate security for restoration costs is always in place.</p>	
Edits made by PKC to improve readability of the text			
Edit to heading: originally <i>'If restoration is agreed, why do we ask for financial guarantees?'</i> changed to <i>'If restoration is agreed, why ask for financial guarantees?'</i>			
Edit to heading: originally <i>'What financial guarantee arrangements should the Council put in place?'</i> changed to <i>'What financial guarantee arrangements should be made?'</i>			
Edit to text: originally <i>'Our process for securing appropriate financial guarantees will be:'</i> changed to <i>'Our process for securing appropriate financial guarantees is:'</i>			
Edit to heading: originally <i>'What monitoring arrangements should the Council put in place?'</i> changed to <i>'What monitoring arrangements should be made?'</i>			

Comments on Delivery of Development Sites draft guidance

Comment	Received from	PKC Officer response	Change to be made to Guidance
Relevant section/paragraph of Guidance			
General comments			
<p>The draft Delivery of Development sites template is welcomed as an approach towards supporting the aims of LDP policy 23. Given the inherent flexibility that such strategies require, the treatment of the Delivery of Development sites template as non-statutory supplementary guidance is further welcomed.</p>	Ristol Consulting	Support welcomed	n/a
<p>Given the level of information covered within the template, understanding the relationship between a Delivery Strategy, Delivery Plan and Processing Agreement would be helpful. This is largely to do with the level of information requested by the template and inevitable duplication with a Processing Agreement and subsequent planning application. This is considered relevant since the requirements of policy 23 are for the submission of a Delivery Strategy prior to lodging a planning application, which could either lead to duplication or supersession of information. As such it would be useful to explore if the aim of a Delivery Strategy is but achieved by forming this as part of a Processing Agreement or being embedded within a planning application as a live document.</p>	Ristol Consulting	<p>It is agreed that some reference in the introductory paragraphs to the relationship between these different documents would be helpful.</p> <p>It is acknowledged that there is the potential for some duplication between delivery strategies and processing agreements and / or detailed delivery plans which are entered into or required by some planning permissions. Some permissions, however, will not require a delivery plan and some sites will not have reached planning application stage by the time a delivery strategy is required so it is important that this information is still captured for these sites. Furthermore, policy 23 requires that delivery strategies are updated every 6 months to inform the LDP Action Programme (now called the Delivery Programme) and so will extend beyond the planning application process.</p>	Yes – text added to introductory paragraphs

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<p>The suggested approach to preparing a delivery strategy is noted and understood. However, it would be useful to clarify how the information would be used once it has been submitted. For example, would the template be published publicly? Who would hold the information on file? Would it be subject to FOI requests? The template asks for quite detailed, and sometimes confidential, information in parts. Some land owners and/or developers would be uncomfortable with confidential information potentially being made widely available to third parties. Is there likely to be a caveat on the template to protect land owners / developers' interests?</p>	Galbraith	<p>The information provided within delivery strategies will feed into the LDP Delivery Programme which will be published. The strategies themselves will be subject to the Council's data protection procedures and a privacy notice explaining how the data collected will be used will be included in the template.</p> <p>It would have been helpful if the respondent had detailed which specific sections of the template they have concerns about. It is assumed that these concerns primarily relate to the request for financial information under section 4.3 of the consultation draft, and the cost and funding of infrastructure. This section of the template has been amended to remove reference to financial information. All that is now required is who is going to deliver the infrastructure and how any constraints to delivery are going to be overcome and it is hoped that this, together with the inclusion of a privacy notice, resolves the respondent's concerns.</p>	Yes – removal of requirement for financial information relating to infrastructure requirements and inclusion of a privacy notice
Section 1.0 Site Information			
1.1(a) – should refer to principal site promoter/developer as opposed to principle.	Ristol Consulting	Agreed	Yes – minor wording change

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1.1(b) – this level of detail may have GDPR implications and it would be useful to understand how this information will be held.	Ristol Consulting	As above, information contained within delivery strategies will be subject to the Council’s data protection procedures.	Yes – inclusion of a privacy notice
1.2 – setting out the opportunities should be the responsibility of the promoters of the project. This can then be shaped through consultation with PKC and other interested parties.	Ristol Consulting	The point of this section is to set out factual information from the LDP, and it is proposed to rename this section accordingly. Description of ‘opportunities’ would more appropriately be included under ‘Vision and Key Objectives’ which the site promoter will complete.	Yes – ‘opportunities’ section moved
Section 2.0 Vision and Key Objectives			
This section is welcomed and given that it sets the framework for the delivery template, there would be merits in this becoming the first section following which "delivery" and then "opportunity" flows.	Ristol Consulting	It is agreed that some reordering of the sections would make the template flow better. It is proposed that section 1.0 becomes factual information from the LDP (which PKC will complete for allocated sites). Section 2.0 will include who is delivering the site and any additional information the landowner / developer wishes to include on the opportunities arising from the development.	Yes – sections reordered

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This section would seem the appropriate place to set out the wider ambition for the development and include provision for a site wide masterplan framework as the context for design development and programming. This would also provide a baseline for the progression of planning applications and subsequent legal agreements and land use conditions.	Ristol Consulting	Agreed	Yes – ‘opportunities’ included with vision and key objectives
Section 3.0 Site Assessment			
3.1(c) – it would be useful to include the approach towards delivering zero carbon energy and digital platforms as part of a consideration of site services given the influence this has had over design and delivery.	Ristol Consulting	Section 3.1 is concerned with the existing site pre-development rather than the proposal. Agreed that it would be worth including digital platforms but it is considered that the approach to delivering zero carbon energy would be better discussed under the delivery of LDP requirements (new section 2.3)	Yes – ‘digital platforms’ added under ‘Utilities’
Section should be more explicit on the current site conditions and opportunities for providing new transport infrastructure / connections. 3.2 – does not include transport. We would appreciate further clarity on this and if this section should include information on transport.	Transport Scotland	It is proposed to partly replace this section with a new section requiring the landowner / developer to set out how all the LDP site specific and policy requirements identified for the site will be met (new section 2.3). This will include consideration of any identified site specific and / or policy transport and active travel matters.	Yes – new section created requiring consideration of all site specific and policy matters including transport and active travel
3.2 – aligned with the Council's climate change adaptation and mobility strategies, consideration of active travel as a development facility would seem appropriate.	Ristol Consulting		

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<p>Information gathered on natural heritage and site deliverability through LDP preparation will be a useful resource and the inclusion of links to the LDP SEA and individual site assessments for allocations may be helpful. The environmental information is particularly relevant for the site assessment “site matters” section (specifically 3.1b, d, e, f and g, 3.2c/d). This will also help raise awareness of the information already held and ensure it is better used.</p>	NatureScot	Agreed	Yes – a link to the LDP SEA will be included in the template along with a link to the site-specific SEA where appropriate
<p>To help achieve the aim of the Delivery Strategy, namely setting out the land use framework, commercial parameters and programme, it would be helpful if a section on process, covering consultation (PAN) and EIA scoping was included.</p>	Ristol Consulting	Agreed. This could usefully merge into an expanded Project Plan Key Dates section.	Yes – section on Project Plan Key Dates expanded

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Section 4.0 Delivery and Implementation			
<p>At the point at which the Delivery Strategy is required by policy 23 (i.e. prior to the submission of a planning application), the value setting out annual start and completion rates is questioned. Variables will be resolved in parallel with the submission of service technical approvals/RCC's and Building Warrant, and as such a graduated approach to details, linked to consenting and nearing a site start, would have merits. At the application in principle stage, identifying the anticipated site start, annual completions and split between tenures is achievable and aligned to the aims of a Delivery Strategy, and it is suggested that it is for the subsequent Delivery Plan stage to refine these into an annual forecast homes to inform the housing land audit. The same approach is considered appropriate for employment land, noting the forecast land use categories at an early stage.</p>	Ristol Consulting	<p>A delivery strategy is required for each allocated site either prior to lodging a planning application or within one year of LDP adoption, and thereafter every 6 months. The template therefore seeks to cover all stages in the development process not just the pre-application stage. It is, however agreed that it would be helpful to emphasise in the template that it is acknowledged that not all information may be available in the early stages. As highlighted in the introduction, it is the Council's intention to continually develop and improve the template and so there would be an opportunity to incorporate a more formal graduated approach if user feedback suggests this would be helpful.</p>	<p>Yes – introduction and section 5.0 reworded to acknowledge that different levels of information will be available at different stages in the process</p>
<p>4.3 – at the stage at which the Delivery Strategy is required by policy, it is likely most of the items listed will be at an initial point of development. The benefit of identifying costs and funding is therefore considered to be limited, particularly since land values and rates of sale are determining considerations. As such, it is considered that there would be greater benefit in focusing on identifying infrastructure to open up the site, broad constraints, responsibilities and the approach to progressing.</p>	Ristol Consulting	<p>Agree that it would be more constructive to concentrate on identifying infrastructure requirements, constraints and means of overcoming these rather than the detailed costs involved.</p>	<p>Yes – Infrastructure requirements and constraints table (Table4) amended to remove requirement for costing information</p>

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4.3 – it would be helpful to include off site network reinforcement electrical and heat networks, digital platforms and public transport as these are elements aligned with strategic policy and site opening.	Ristol Consulting	Agreed	Yes – additional infrastructure items added (Table 4)
4.3 – clarification sought on the components of the 'design criteria'.	Ristol Consulting	Accept that the term 'design criteria' is too vague and is only likely to be relevant where there is a specific design constraint in which case this will be identified under the site-specific developer requirements and will be considered under section 2.3	Yes – design criteria removed from table
<p>4.4 – determining regulatory elements for inclusion are set out below, and considered of value for inclusion within this section:</p> <ul style="list-style-type: none"> (i) Processing Agreement (ii) EA screen/scope (iii) Section 75 agreement and planning permission (iv) Matters specified in condition (v) Technical approvals (vi) Roads Construction Consent (vii) Building warrant (viii) Land purchase/disposal 	Ristol Consulting	Agreed it would be helpful to include the additional elements in the project plan key dates table.	Yes – additional elements included in Table 5

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<p>4.5 – the delivery of strategic sites requires a significant investment in enabling infrastructure as a defined package, without development, which drives a project programme. Identifying this as a phase within the schedule would help inform delivery and identify risks. To what extent housing and employment land completions are beneficial as opposed to the delivery of serviced land, in terms of hectares and unit capacity would also be worth exploring.</p>	Ristol Consulting	Agreed	Yes –Table 6 expanded to include the provision of serviced land as well as completions
Suggested additional section			
<p>Additional Risk Management – as a Delivery Strategy is intended to build a collective understanding of the components of a project to bring forward the vision/opportunity, including a programme towards a site start and a forecast completion, introducing a section on "risks" would seem to be appropriate. Areas this could cover include</p> <ul style="list-style-type: none"> (i) risk areas (ii) responsibilities (project team/ Council/agencies), (iii) mitigation and (iv) review 	Ristol Consulting	Agreed	Yes – new section added on risk management

**Comments on River Tay Special Area of Conservation
draft guidance**

Comment	Received from	PKC Officer response	Change to be made to Guidance
Relevant section/paragraph of Guidance			
In Section 5 we amend the wording from “could be significant” to “could have significant impact”.	SEPA	Agreed. Text requires clarifying	Change made as requested
<p>In Section 5 with regards the text under the heading Otters, alter wording from:</p> <p>“high water quality” to “with good environmental conditions” “will reduce” to “could decline” “prone to” to “negatively impacted by”</p>	SEPA	Agreed. Text requires clarifying	Change made as requested
<p>In Section 5 under Freshwater pearl mussels there is a typo within the sentence with regards juvenile pearl mussels where the word “herefore” should presumably read therefore. Furthermore we recommend that at the end of that sentence that the words “and other sources of diffuse pollution” is included.</p>	SEPA	Agreed. Text requires clarifying and typo should be corrected.	Change made as requested
<p>Replace the words “cause large dips in oxygen, which put” with “puts”</p>	SEPA	Agreed. Text requires clarifying	Change made as requested

Comment	Received from	PKC Officer response	Change to be made to Guidance
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In Section 9 wording should be expanded to highlight that for some developments a Construction Site Licence will be required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). Further details with regards the types of developments this applies to is provided from our website.	SEPA	Agreed. Clarification should be added with hyperlink.	Change made as requested
Replace NatureScot name and logo with NatureScot	NatureScot	Noted	Change made as requested
Insert a specific hyperlinks to SiteLink for the designated sites for the River Tay guidance	NatureScot	Agreed	Change made as requested
Ensure links to natura guidance page are working	NatureScot	Noted. Technical issue	Links functional
Welcome evidence on how well documents are used by applicants and suggestions as to how NatureScot can help raise awareness. Once adopted links will be updated on NatureScot website.	NatureScot	Noted	None
Typo on page 7 under “freshwater pearl mussels” – amend “herefore” to “therefore”	NatureScot	Noted	Change made as requested

**Comments on Lunan Valley Area Dunkeld – Blairgowrie
Lochs Special Area of Conservation draft guidance**

Comment	Received from	PKC Officer response	Change to be made to Guidance
Relevant section/paragraph of Guidance			
Notes comments from pre-publication consultation have been incorporated	SEPA	Noted	None
Clarify text in flow chart on page 4 to clarify that phosphorus mitigation must be put in place and SEPA applied to for a licence to discharge under relevant legislation.	SEPA	Agreed. Text requires clarifying	Typographical changes made and full name of legislation referred to.
Replace SNH name and logo with NatureScot	NatureScot	Noted	Change made as requested
Ensure links to natura guidance page are working	NatureScot	Noted. Technical issue	Links functional
Welcome evidence on how well documents are used by applicants and suggestions as to how NatureScot can help raise awareness. Once adopted links will be updated on NatureScot website.	NatureScot	Noted	None