

# **Inverness City Centre Development Brief**

## **Habitats Regulations Appraisal**

**Draft Record**

**January 2013**



## Foreword

This document has been prepared under the requirements of the EU Habitats Directive and has applied the requirements set out by Scottish Government Policy in the Conservation (Natural Habitats, &c.) Regulations 1994 as amended.

It is the Highland Council's responsibility to consider whether the policies and proposals within the Inverness City Centre Development Brief are likely to have any significant effect on Special Protection Areas (including potential SPAs), Special Areas of Conservation (including possible and candidate SACs) and Ramsar sites, having regard to the qualifying interests and conservation objectives of those sites.

Where a likely significant effect has been identified, either individually or in combination with other plans or projects, appropriate assessment has been undertaken and mitigation measures provided to reduce the likely significant effect and avoid adversely affecting the integrity of the site. This has involved incorporating mitigation and making changes to the Inverness City Centre Development Brief where necessary.

During the preparation of this document and the consideration of relevant representations on the Inverness City Centre Development Brief, The Highland Council has had early engagement and discussions with and input from Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA) which have helped identify and address any potential effects. In addition, data provided by SNH has been referred to in order to identify the need for and inform the definition of mitigation measures. Mitigation measures and relevant changes have been developed in conjunction with SNH or SEPA where appropriate.

The Inverness City Centre Development Brief was approved for adoption by the City of Inverness and Area Committee on the 8<sup>th</sup> October 2012.

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## 1. Introduction and Context

- 1.1. In October 2005 the European Court of Justice<sup>1</sup> ruled that all land use plans in the United Kingdom likely to have a significant effect on European sites (Natura sites), either Special Protection Areas (including proposed SPAs) or Special Areas of Conservation (including possible and candidate SACs), can only be approved after an appropriate assessment of the policies and proposals has been undertaken under the provision of Article 6(3) of the Habitats Directive 1992<sup>2</sup>. The Directive states that ‘any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to an appropriate assessment of its implications for the site in view of the site’s conservation objectives’. The directive goes on to say that the plan shall only be agreed if there is no adverse effect on the integrity of any European site after mitigation is considered.
- 1.2. Scottish Ministers have extended the requirement for appropriate assessment to Ramsar sites, listed under the International Convention on the Conservation of Wetlands of International Importance, and proposed SPAs and candidate SACs, before they are fully classified. Hereafter in this appraisal, the term ‘Natura site’ should be taken as not only referring to SPAs and SACs but also to proposed SPAs, candidate SACs and Ramsar sites.
- 1.3 The purpose of this Habitats Regulations Appraisal (HRA) record is to consider whether the elements of the Inverness City Centre Development Brief are likely to have a significant effect on any Natura site, either individually or in combination with other plans or projects. For those elements that would have a likely significant effect, an appropriate assessment would need to be carried out to ascertain whether the planning framework would not adversely affect the integrity of these sites. Where it is not possible to ascertain that no adverse effects will occur, the plan cannot be adopted except in the most exceptional of circumstances as defined in law.
- 1.4 The HRA record includes mitigation identified as necessary to include in the plan. The assessment concludes that with appropriate safeguarding and mitigation added to the development framework, the Inverness City Centre Development Brief will not have a likely significant effect on any Natura site and therefore will not adversely affect the integrity of any Natura site. The record ends by identifying that all elements of the development brief as finalised, are not likely to have a significant effect on a Natura Site.
- 1.5 The HRA Record will be placed on the Council’s website alongside the Inverness City Centre Development Brief.
- 1.6 It must be advised that this HRA record has been compiled using the best available information, and any subsequent planning applications will require further assessment to ensure that the integrity of Natura sites will not be adversely affected. This is a requirement of Policy 57 of the Highland-wide Local Development Plan which must be read alongside any relevant area Local Development Plan, any retained in force elements of any adopted Local Plan and all the relevant supplementary guidance.

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<sup>1</sup>Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, Case C. 6/04 in the second chamber of the European Court of Justice, judgment 20th October 2005

<sup>2</sup>Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora.

## 2. Aims and Objectives of the Dounreay Planning Framework

2.1 The [Highland wide Local Development Plan](#) (HwLDP) contains the parent policy to which the Inverness City Centre Development Brief is giving additional guidance. This parent policy has been subject to Habitats Regulations Appraisal through the [Habitats Regulations Appraisal of the Highland-wide Local Development Plan](#). In this HRA the policy was screened out as not having a likely significant effect as it was considered “Sufficiently distant from any Natura site, therefore no connectivity has been identified.” The parent policy is set out below:

### **Policy 3 City Centre Development**

The Council will support development proposals for the city centre which maintain and strengthen its vitality and viability. Supplementary guidance will be prepared by the Council to highlight specific opportunities for redevelopment and enhancement.

The main principles of the guidance are:

- to identify key redevelopment sites and underutilised buildings;
- to consider the opportunities to develop a clear civic hub and enhance the heritage of the city;
- to identify improvements to public transport linkages;
- to provide guidance for retail frontages;
- to identify further opportunities to improve streetscape appearance; and
- to integrate with the wider green network.

2.2 The purpose of the Inverness City Centre Development Brief is to deliver the aspirations set out in the Inverness City Vision by identifying and promoting opportunities and actions for the redevelopment and enhancement of the city core.

2.3 The area covered by the guidance extends to 6.28ha and forms the central core of the city of Inverness. It contains a mix of uses including retail, business, residential and open space.

2.3 This Habitats Regulations Appraisal (HRA) considers all the elements set out in the development brief. Where a planning application for development gives rise to likely significant effects on a Natura site beyond the scope of that considered in this HRA, an appropriate assessment will be required to be undertaken as set out in Policy 57 of the Highland-wide Local Development Plan. This could include development proposals on sites allocated in the LDP (giving rise to potential effects that were not foreseen in this HRA) and development proposals on sites not allocated in the LDP (giving rise to potential effects beyond those considered for the policy framework in this appropriate assessment).

2.4 The Inverness City Centre Development Brief can be viewed online at:

<http://www.highland.gov.uk/developmentplans>

### 3 Background Information about European Sites

3.1 The area covered by the Inverness City Centre Development Brief corresponds with the City Centre Development allocation in the Highland-wide Local Development Plan and contains no Natura sites, however there may be connectivity with a small number of Natura sites. Each of these Natura connected sites that may be affected have been screened to determine the likelihood of being directly or indirectly affected by the development framework. In the case of the Inverness City Centre Development Brief, the following sites are in close proximity to the development framework area a map showing these can be found Map 1 on Page 8:

**Table 1: All Natura Sites in proximity of the Inverness City Centre Development Brief**

<b><u>Special Areas of Conservation (SAC)</u></b>	
River Moriston	Loch Ruthven
Moray Firth	
<b><u>Ramsar Sites</u></b>	
Inner Moray Firth	
Loch Ruthven	
<b><u>Special Protection Areas (SPA)</u></b>	
Inner Moray Firth	Cromarty Firth
Loch Ashie	

3.2 In agreement with SNH the Natura Sites listed below have been screened out of the Habitats Regulations Appraisal as there is no link or pathway between the qualifying interests and the development brief area, or any effect would be a positive effect, or would not otherwise undermine the conservation objectives of the site:

**Table 2: Natura Sites screened out as there is no link or pathway between the qualifying interests and the Inverness City Centre Development Brief**

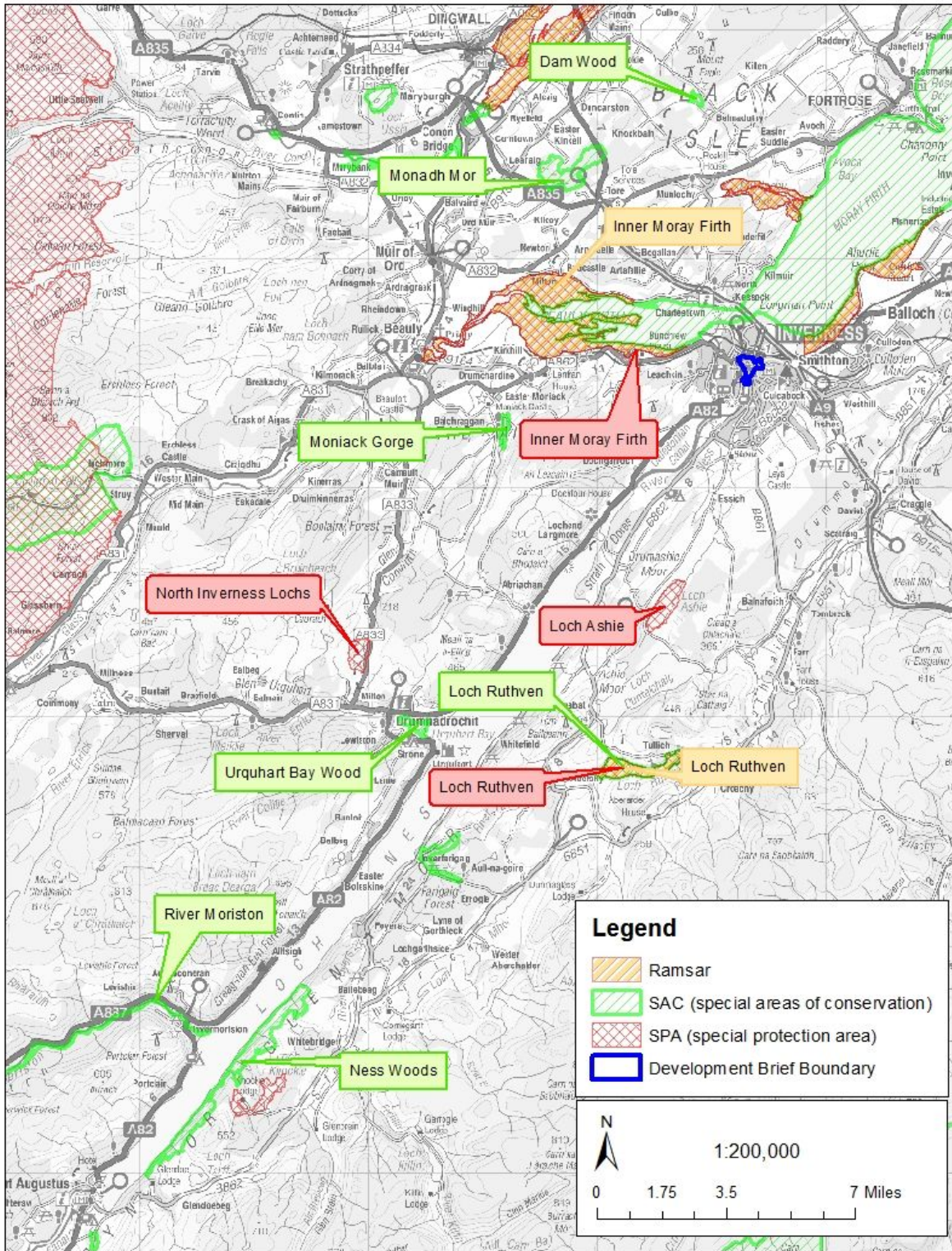
<b><u>Special Areas of Conservation (SAC)</u></b>	
Moray Firth	Loch Ruthven
<b><u>Ramsar Sites</u></b>	
Inner Moray Firth	
Loch Ruthven	
<b><u>Special Protection Areas (SPA)</u></b>	
Inner Moray Firth	Cromarty Firth

Loch Ashie	
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3.3 For full details of the Natura sites located near to the development framework area, please see SNH's 'Sitelink' web application and interactive map:

<http://gateway.snh.gov.uk/sitelink/index.jsp>

<http://www.snh.org.uk/snh/>



**Map 1: All Natura Sites in proximity of the Inverness City Centre Development Brief**



## 4 Methodology for Assessment

- 4.1 After consulting the Habitats Regulations Appraisal of Plans – Guidance for Plan-making Bodies in Scotland Version 2 (Aug 2012) provided by Scottish Natural Heritage (SNH), the following methodology was established.
- 4.2 Highland Council worked closely with SNH to carry out this appraisal, gaining the background information regarding qualifying interests and conservation objectives of Natura sites required to conduct an effective appropriate assessment. SNH have also been consulted regarding the wording of elements of the guidance and the mitigation measures for any potential adverse effects on site integrity to ensure that the mitigation measures provided are tailored to the conservation objectives and qualifying interests.
- 4.3 All Natura sites potentially affected by the Inverness City Centre Development Brief have been identified and mapped. The mapping is included within the Highland-wide Local Development Plan Proposals Map. The elements of the development brief have been screened both individually and if appropriate cumulatively to determine the possible effects that may arise due to their implementation. Where elements of the planning framework have been identified as having no effect or are unlikely to have a significant effect, these have been detailed and reasons for this have been given. If it was not possible to rule-out significant effect, straightforward mitigation was identified and added to that element of the development brief. Where this occurred, that element was then rescreened (see Table 3). Any remaining elements of the development brief likely to have a significant effect have been identified as requiring an appropriate assessment.
- 4.4 Likely significant effect is defined as any effect that may reasonably be predicted as a consequence of a plan or project that may undermine the conservation objectives of the features for which the site was designated.
- 4.5 Paragraph 136 of the Scottish Planning Policy notes that Ramsar sites are also Natura sites and are therefore protected under the relevant legislation. Ramsar interests have thus been considered alongside their equivalent SPA for the purposes of this assessment and also documented together within this report. As a result, the Ramsar interests should be adequately protected by consideration of the effects on their ‘partner’ SPA site in line with the advice given in paragraph 1.12 of the “Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland Version 2” (2012).

The following table summarises the elements of the plan screened in this Habitats Regulations Appraisal and the outcome (see key below for colour coding):

**Table 3. Summary of the elements of the Inverness City Centre Development Brief screened out**

Name of Supplementary Guidance	Element Screened	Outcome of Screening
Inverness City Centre Development Brief	Theme 1: Built and Natural Environment	See Table 5
	Theme 2: Movement and Transport	See Table 4
	Theme 3: Tourism	See Table 4
	Theme 4: Economy	See Table 4
	Theme 5: Living in the City Centre	See Table 4
	Character Area 1: Old Town	See Table 4
	Character Area 2: East of Academy Street	See Table 4
	Character Area 3: River	See Table 5

	Character Area 4: Retail Core	See Table 4
	Character Area 5: Castle	See Table 4

**Key:**

<b>Colour</b>	<b>Reason for Screening Out</b>
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

## 5 Screening of elements of the supplementary guidance for likely significant effects – (a) no mitigation required

5.1 Discussions with SNH took place to screen out the elements of the Inverness City Centre Development Brief that would not be likely to have a significant effect alone on Natura sites noted in Section 3 (above). As a result, the elements (detailed in Table 3) of the supplementary guidance screened out are listed below, along with a brief explanation of the reasons for this.

**Table 4. Elements of the Inverness City Centre Development Brief screened out individually as having no effect on Natura sites, or any effect is too general to assess**

Section Title	Description of Section	Reason(s) for 'screening out'
Theme 2: Movement and Transport	This section sets out the challenges and opportunities for improving the ability to move freely to, from and within the city centre.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Theme 3: Tourism	This section sets out the challenges and opportunities for encouraging more people to visit Inverness city centre.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Theme 4: Economy	This section sets out the challenges and opportunities for supporting existing local businesses and attracting new businesses to grow within the city centre.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Theme 5: Living in the City Centre	This section sets out the challenges and opportunities for creating a strong and diverse city centre population.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Character Area 1: Old Town	This section identifies specific proposals within the Old Town area of the city centre	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European

Section Title	Description of Section	Reason(s) for 'screening out'
	for implementing the opportunities outlined in the Themes Section.	site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Character Area 2: East of Academy Street	This section identifies specific proposals within the area East of Academy Street for implementing the opportunities outlined in the Themes Section.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Character Area 4: Retail Core	This section identifies specific proposals within the Retail Core for implementing the opportunities outlined in the Themes Section.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.
Character Area 5: Castle	This section identifies specific proposals within the Castle area of the city centre for implementing the opportunities outlined in the Themes Section.	This section of the guidance makes provision for change but could have no conceivable adverse effect on a European site as any effect would be a positive effect and would not otherwise undermine the conservation objectives for the site.

**Key:**

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

## 6 Screening of elements of the supplementary guidance for likely significant effects – (b) straightforward mitigation required

6.1 After further rounds of discussion with SNH, revised wording for elements of the Inverness City Centre Development Brief were agreed to allow these aspects to be mitigated and then screened out. The results of these discussions, including the proposed wording changes to the Inverness City Centre Development Brief are summarised in Table 5.

**Table 5. Elements of the Inverness City Centre Development Brief to which straightforward mitigation measures were applied and were then screened out individually as having no effect on Natura sites, or any effect is too general to assess**

Title of Section	Purpose of Section	Proposed Mitigation	Reasoning
Theme 1: Built and Natural Environment	This section sets out the challenges and opportunities for enhancing the rich and diverse cultural and natural heritage within the city centre. A key part of this is to improve access to the River Ness and redevelopment of sites surrounding it.	In the Character Area section entitled "River" p17, it clearly sets out that any development relating to or in close proximity to the river must give consideration to the River Moriston Special Conservation Area (SAC).	The main section of the supplementary guidance makes provision for change but which could have no significant effect on a European site. The revised text makes it clear that, while there are opportunities to enhance the access to and areas surrounding the river within the city centre, that this should take due consideration of the Natura sites which have connectivity to the area covered by the development brief.
Character Area 3: River	This section identifies specific proposals within the River area of the city centre for implementing the opportunities outlined in the Themes Section.	In the Character Area section entitled "River" p17, it clearly sets out that any development relating to or in close proximity to the river must give consideration to the River Moriston Special Conservation Area (SAC).	The main section of the supplementary guidance makes provision for change but which could have no significant effect on a European site. The revised text makes it clear that, while there are opportunities to enhance the access to and areas surrounding the river within the city centre, that this should take due consideration of the Natura sites which have connectivity to the area covered by the development brief.

### Key:

Colour	Reason for Screening Out
	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation

## **7. In combination assessment**

- 7.1 Any element of a plan that is screened out alone as having minor residual effects should also be screened for the likelihood of significant effects in combination arising from other elements of the same plan, or from other plans or projects. In this case all elements of the Inverness City Centre Development Brief have been screened out alone - with or without mitigation - as having no effect or whose effect is too general to assess. Therefore in this case there is no need to carry out an in-combination assessment as part of the screening stage, either within the plan or with other plans or projects.

## 8. Conclusion

- 8.1 All Natura sites potentially affected by the Inverness City Centre Development Brief have been identified and mapped (via the Local Development Plan), and all elements of the supplementary guidance have been screened individually to determine the likelihood of significant effects on these Natura sites that may arise due to their implementation.
- 8.2 Elements of the Inverness City Centre Development Brief which have been identified as having no effect, or where any effect is too general to assess, have been listed and detailed in Section 5, Table 4, including reasons for the decision to screen them out.
- 8.3 Elements of the Inverness City Centre Development Brief remaining screened in after the initial review as having the potential to have likely significant effect where it has been possible to identify straightforward mitigation measures have been listed and detailed in Section 6, Table 5. This table then includes the mitigation contained within the Inverness City Centre Development Brief and reasons then for the decision to screen them out.
- 8.4 There were no remaining elements of the guidance likely to have a significant effect either alone or in combination which were identified as requiring an appropriate assessment. There was no requirement to screen cumulatively within the plan or with other plans or projects as the Inverness City Centre Development Brief has been screened as having no minor residual effects.
- 8.5 As a result the Highland Council concludes that, with the mitigation set out in this Habitats Regulations Appraisal Record, which will be incorporated into the adopted development brief, the Inverness City Centre Development Brief will have no likely significant effects on Natura sites either individually or in combination with other plans and projects and therefore will not adversely affect the integrity of Natura sites again either individually or in combination with other plans and projects. The following table summarises the elements of the plan assessed through this Habitats Regulations Appraisal and the outcome (see key below for colour coding):

**Table 6: Summary of outcomes of the Habitats Regulations Appraisal**

Name of Supplementary Guidance	Element Assessed through HRA	Outcome of HRA (see key below)
Inverness City Centre Development Brief	About this version of the guidance	
	Scope of this guidance	
	Background	
	Policy Framework, Planning Guidance and Planning Application Strategy	
	Dounreay Site Restoration Programme	
	Dounreay Site Decommissioning Works	
	Environmental Protection During Decommissioning and Restoration Works	
	Socio-Economic Benefits of Decommissioning	
	Developer Requirements	
	The Way Forward	

**Key:**

Colour	Reason for Screening Out
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	No effects, or effects are too general, either with or without mitigation
	Minor residual effects, either with or without mitigation