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02 August 2010  
Our ref: SEA-00522

Dear Mr Hindson

**Environmental Assessment (Scotland) Act 2005:  
00522 Screening – The Highland Council – Physical Constraints on Development –  
Supplementary Guidance**

I refer to your screening consultation submitted on 12 July 2010 via the Scottish Government SEA Gateway in respect of the above plan.

In accordance with Section 9(3) of the Environmental Assessment (Scotland) Act 2005, we have considered your screening report using the criteria set out in Schedule 2 of the Act for determining the likely significance of effects on the environment.

Our view in respect of each of these criteria is set out in Annex 1 attached. In this case, you inform us that the supplementary guidance is providing information in support of a policy that will be included in the Highland wide Local Development Plan. It will therefore be possible as part of the SEA of the 'parent' plan to assess this policy on 'Physical Constraints'. However at present the intended policy on physical constraints is split between the Proposed Plan and the Supplementary Guidance, with the latter containing the proposed hierarchical approach to constraints. Given that this is the key aspect of the policy that would require consideration of likely significance of effects, we advise that the policy as a whole should be included in the Proposed Plan. It can then be fully assessed as part of the SEA of the Highland wide LDP. In assessing the policy as a whole, consideration should be given to the nature of the physical constraints to be covered by the policy, including their location within the hierarchy.

On this basis, we would then agree that the Supplementary Guidance in itself is not likely to have significant environmental effects.

Please note that this consultation response provides a view solely on the potential for the plan or programme to have significant environmental effects. We cannot comment on whether or not the plan or programme meets other criteria determining the need for SEA as set out in the Act.

If you wish to discuss this screening determination, please do not hesitate to contact Andrew Brown on 01463 725155 ([andrew.brown@snh.gov.uk](mailto:andrew.brown@snh.gov.uk)) or via SNH's SEA Gateway at [sea.gateway@snh.gov.uk](mailto:sea.gateway@snh.gov.uk).

Yours sincerely

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**ANNEX 1**

**CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT**

<b>Schedule 2 Criteria</b>	<b>Section 8(1) determination - Are significant environmental effects likely? <i>(Responsible Authority's assessment)</i></b>	<b>SNH's Assessment under Section 9(3)  Yes/No/ Unknown</b>	<b>SNH's Comments and Additional Information</b>
<b>1. The characteristics of plans and programmes, having regard , in particular to:</b>			
(a) the degree to which the plan or programme sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;	No	No	This is on the basis that the policy hierarchy is moved from this plan to the 'parent' Highland wide Local Development Plan and assessed as part of the SEA of that plan, having regard to the proposed physical constraints included under each hierarchy.
(b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	No	No	The supplementary guidance influences the 'parent' plan to the extent that it contains the detail which the parent plan is seeking to achieve. Therefore this is on the basis that the assessment of the relevant policy in the HwLDP has regard to the distribution of the physical constraints within the policy hierarchy.
(c) The relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development;	Yes	Yes	The supplementary guidance will list physical constraints to development. The integration of this environmental consideration into planning policy will promote sustainable development.

Schedule 2 Criteria	Section 8(1) determination - Are significant environmental effects likely? <i>(Responsible Authority's assessment)</i>	SNH's Assessment under Section 9(3) Yes/No/ Unknown	SNH's Comments and Additional Information
(d) Environmental problems relevant to the plan or programme;	No	No	We agree with the responsible authority's assessment on the assumption that there is less likely to be tension between policies for development and policies to identify areas of physical constraint.
(e) the relevance of the plan or programme for the implementation of Community legislation on the environment (for example plans and programmes linked to waste management or water protection);	No	No	On balance this would appear to be the case, although we note in respect of watercourses and water features that various EC Directives are listed.
<b>2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to -</b>			
(a) the probability, duration, frequency and reversibility of the effects;	No	No	We agree with the responsible authority's assessment in terms of the supplementary guidance itself.
(b) The cumulative nature of the effects;	Yes	Yes	We agree with the responsible authority's assessment, given that the greater number and extent of physical constraints included in the guidance, the greater the cumulative effect on locations for development.
(c) the transboundary nature of the effects ( <i>in UK international cases</i> );	No	No	We agree with the responsible authority's assessment.

Schedule 2 Criteria	Section 8(1) determination - Are significant environmental effects likely? <i>(Responsible Authority's assessment)</i>	SNH's Assessment under Section 9(3) Yes/No/Unknown	SNH's Comments and Additional Information
(d) the risks to human health or the environment (for example due to accidents);	No	Yes	There would appear to be a risk to human health or the environment depending on the tier within the policy hierarchy that the various physical constraints are listed under. Thus tiers 2 and 3 offer stronger protection than tier 1, so careful assessment is needed of those constraints intended to be listed under tier 1. At present these include several where there is a potential risk to human health, e.g. consultation distances of notified hazards, gas compounds, explosive storage areas. Assuming the policy hierarchy and distribution of constraints within the hierarchy is assessed as part of the SEA of the Proposed Plan, this element should be considered here.
(e) the magnitude and spatial extent of the effects (geographical areas and size of the population likely to be affected);	No	Yes	The supplementary guidance will apply to the whole of the Highland Council area which extends to over 26,000 sq. kms. In addition some of the physical constraints listed are very extensive e.g. water catchment areas and within 15m of a watercourse. However we accept that many of the physical constraints listed are more limited in their geographical extent.

Schedule 2 Criteria	Section 8(1) determination - Are significant environmental effects likely? <i>(Responsible Authority's assessment)</i>	SNH's Assessment under Section 9(3) Yes/No/Unknown	SNH's Comments and Additional Information
(f) the value and vulnerability of the area likely to be affected due to:			
i. special natural characteristics or cultural heritage;	No	No	We agree with the responsible authority's assessment in that such constraints are addressed by other policy and guidance.
ii. exceeded environmental quality standards or limit values; or	No	No	We agree with the responsible authority's assessment in that the physical constraints are unlikely to have been exceeded to date.
iii. intensive land-use;	No	No	We agree with the responsible authority's assessment in that areas of physical constraint are very unlikely to be areas of intensive land use, although we note that settlement boundaries and housing groups are proposed to be listed under tier 2, which seems incongruous.
(g) the effects on areas or landscapes that have a recognised national, Community or international protection status.	No	No	We agree with the responsible authority's assessment in that this is addressed by other policies and assessments of the plan.