

Chloe Duddy

From: Emma Walker <emma.walker@turley.co.uk>
Sent: 27 January 2020 17:09
To: Local Development Plan
Subject: Derry City & Strabane Draft Plan Strategy - Dalradian Representations
Attachments: Dalradian DCSDC dPS Representation.pdf; DCSDC LDP Form Dalradian.pdf

Dear Sir/Madam

On behalf of our client, Dalradian Gold Ltd, please find attached representations to the Draft Plan Strategy and Sustainability Appraisal. We enclose:

- Completed form; and
- Representation report prepared by Turley

We would be grateful if you could acknowledge receipt of the representation by return of email.

Kind regards

Emma

Emma Walker
Associate Director

Turley

Hamilton House
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Belfast BT2 8LE
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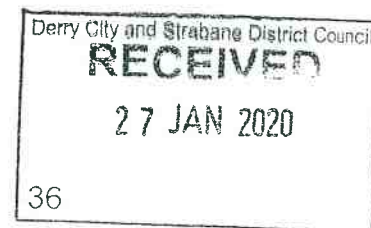
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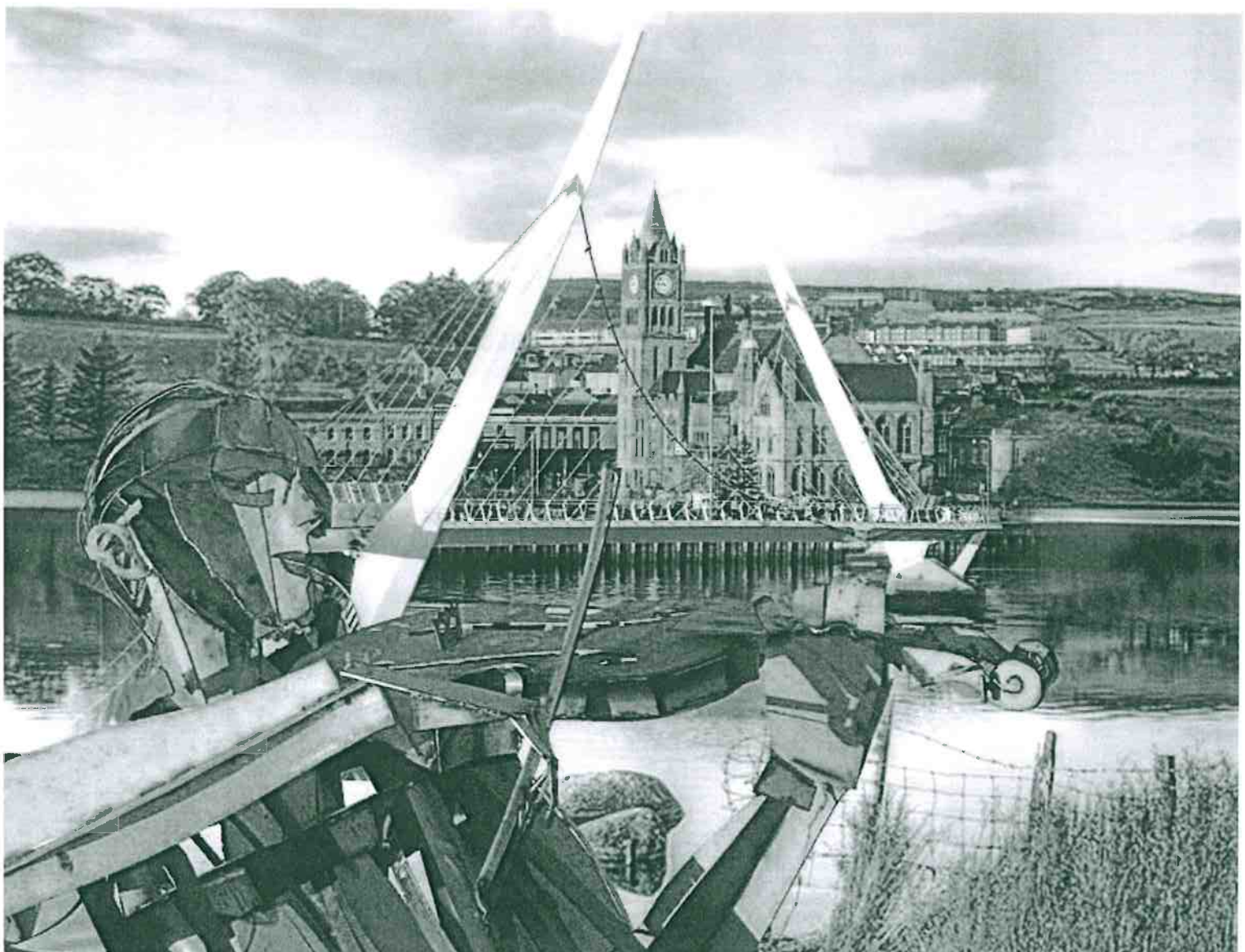
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Local Development Plan

(LDP) 2032

**Representations Form for the LDP Draft Plan Strategy
& Associated Appraisal / Assessments**



December 2019

<http://www.derrystrabane.com/Subsites/LDP/Local-Development-Plan>

Introduction

Derry City and Strabane District Council is planning for the future. It is the start of a challenging and exciting journey. It will be a long-term and collaborative process, driven by the Council which is committed to grasping the opportunities and addressing the challenges that face us, some unique to our situation and others generated by global forces beyond our control.

United by a shared vision, the Council's Local Development Plan (LDP) and our Community Plan - the Strategic Growth Plan, will drive this process as we seek together to strategically grow and improve social, economic and environmental wellbeing for all. The publication of the LDP draft Plan Strategy is the next step on this journey.

What is the Local Development Plan (LDP)?

The new LDP will guide land-use development and set out Planning policies and proposals for the use, development and protection of our settlements and countryside across our District to 2032. Crucially, it will help to deliver the outcomes in the Strategic Growth Plan. Once the LDP is adopted, its Planning policies, zonings and development proposals will be used to determine planning applications across the District. The LDP will comprise of two development plan documents: this LDP Plan Strategy and, in due course, the LDP Local Policies Plan.

What is the LDP Plan Strategy (PS)?

This LDP draft Plan Strategy sets out the Council's strategic Planning objectives, designations and policies for the District in line with regional strategies and policies, but tailored to the local needs of this City and District.

The preparation of the PS has been informed by the Council's LDP Preferred Options Paper (POP – May 2017) which provided the basis for consulting with the public and stakeholders on a series of options for dealing with key issues in the Plan area. It set out the Council's initial proposals and policy direction, therefore aiming to stimulate public comment and help interested parties to become involved in a more meaningful way at the earliest stage of Plan preparation. The published draft LDP PS fully reflects a consideration of all the representations made during the POP consultation period and all engagement with stakeholders, consultees and elected Members of the Council.

How We Are Consulting

The best way to submit a representation is by completing our online representations form:
<https://haveyoursay.derrystrabane.com/mkt/ldpconsultation>

Alternatively, complete this draft Plan Strategy Representations Form and either return by email to **LDP@DerryStrabane.com** or download a copy and post to:

**Local Development Plan Team,
Council Offices,
98 Strand Road,
Derry,
BT48 7NN**

Hard copies of the form will be available at the above address and our other main office at 47 Derry Road, Strabane, Tyrone, BT82 8DY. Please note that if you are making a representation in any other format, it must include the requested information set out in this form and address the Tests of Soundness

The draft Plan Strategy is published for formal public consultation for a period of eight weeks beginning on **Monday 2nd December 2019** and closing on **Monday 27th January 2020**. Please note that in order for comments to be considered valid, you must include your contact details. We will use these details to confirm receipt of comments and to seek clarification or request further information. Anonymous comments or comments which do not directly relate to the draft Plan Strategy will not be considered as part of the consultation process.

Section A: Data Protection

Local Development Plan Privacy Notice

Derry City and Strabane District Council is a registered data controller (ZA119397) with the Information Commissioner's Office and we process your information in accordance with the General Data Protection Regulation and Data Protection Act 2018 (GDPR).

Derry City and Strabane District Council only collects and processes personal information about you in order to fulfil our statutory obligations, to provide you and service users with services and to improve those services. Your personal information will be used to populate the LDP Representations Database.

If you wish to find out more about how the Council processes personal data and protects your privacy, our Corporate Privacy Notice is available at:

<https://www.derrystrabane.com/Footer/Privacy-Policy>

It contains the standards you can expect when we ask for, or hold, your personal information and an explanation of our Information Management Security Policy. All representations received will be published on our website and made available at our Local Planning Office, 98 Strand Road, Derry BT48 7NN, for public inspection and will be forwarded to the Department for Infrastructure (DfI) and hence to the Independent Examiner / PAC.

Why are we processing your personal information?

- To enable the preparation of the Council's Local Development Plan;
- To consult your opinion on the Local Development Plan through the public consultation process;
- To ensure compliance with applicable legislation;
- To update you and/or notify you about changes; and
- To answer your questions.

If you wish to find out more information on how your personal information is being processed, you can contact the Council's Data Protection Officer:

Data Protection Officer
47 Derry Road
Strabane
BT82 8DY
Telephone **028 71 253 253**
Email **data.protection@derrystrabane.com**

Section B: Your Details

Q1. Are you responding as an individual, as an organisation or as an agent acting on behalf of individual, group or organisation? (Required)

Please only tick one

- Individual (Please fill in Question 2, then proceed to Section C.)
- Organisation (Please fill in the remaining questions in the section, then proceed to Section D.)
- Agent (Please fill in the remaining questions in the section, then proceed to Section E.)

Q2. What is your name?

Title

First Name (Required)

Last Name (Required)

Email

Q3. Did you respond to the previous LDP Preferred Options Paper?

- Yes
- No
- Unsure

Section C: Individuals

Address (Required)

Town (Required)

Post code (Required)

On completion, please proceed to Section F

Section D: Organisation

If you have selected that you are responding as an organisation, there are a number of details that we are legally required to obtain from you. If you are responding on behalf of a group or organisation, please complete this section, then proceed to Section F.

Organisation / Group Name (Required)

Your Job Title / Position (Required)

Organisation / Group Address (if different from above)

Address (Required)

Town (Required)

Postcode (Required)

On completion, please proceed to Section F

Section E: Agents

If you have selected that you are responding on behalf of another individual, organisation or group there are a number of details that we are legally required to obtain from you. Please provide details of the individual, organisation or group that you are representing.

Client Contact Details

Title / First Name (Required)	Mr Brian
Last Name (Required)	Kelly
Organisation / Group Address (if different from above)	Dalradian Gold Ltd
Address (Required)	3 Killybrack Road
	Killybrack Business Park
Town (Required)	Omagh
Postcode (Required)	BT79 7DG
Email address (Required)	bkelly@dalradian.com

On completion, please proceed to Section F

Agent Contact Details

Title / First Name (Required)	Ms Emma
Last Name (Required)	Walker
Organisation / Group Address (if different from above)	Turley
Address (Required)	Hamilton House
	3 Joy Street
Town (Required)	Belfast
Postcode (Required)	BT2 8LE
Email address (Required)	emma.walker@turley.co.uk

On completion, please proceed to Section F

Q4. Would you like us to contact you, your client or both in relation to this response or future consultations on the LDP? Please only select one

Agent Client Both

Section R Soundness

The LDP draft Plan Strategy will be examined at Independent Examination (IE) in regard to its 'soundness'. Accordingly, your responses should be based on soundness and directed at specific strategic policies or proposals that you consider to be unsound, along with your reasons. The tests of soundness are set out below in Section J.

Those wishing to make representations seeking to change the draft Plan Strategy should clearly state why they consider the document to be unsound having regard to the soundness tests in Section J. It is very important that when you are submitting your representation that your response reflects the most appropriate soundness test(s) which you believe the draft Plan Strategy fails to meet. There will be no further opportunity to submit information once the consultation period has closed unless the Independent Examiner requests it.

Those who make a representation seeking to change the LDP draft Plan Strategy should also state below whether they wish to be heard orally at the Independent Examination (Please see www.pacni.gov.uk for further details on the IE procedures.)

Section G Type of Procedure

Q5. Please indicate if you would like your representation to be dealt with by: (Required)

Please select one item only

- Written (Choose this procedure to have your representation considered in written form only)
- Oral Hearing (Choose this procedure to present your representation orally at the public hearing)

Unless you specifically request a hearing, the Independent Examiner will proceed on the basis that you are content to have your representation considered in written form only.

Please note that the Independent Examiner will be expected to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Section H: Is the draft Plan Strategy Sound?

Your comments should be set out in full. This will assist the Independent Examiner to understand the issues you raise. You will only be able to submit further additional information if the Independent Examiner invites you to do so.

Sound

If you consider the Plan Strategy to be Sound and wish to support the LDP Plan Strategy, please set out your comments below.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section I: Unsound

In this section, we will be asking you to specify which part(s) of the draft Plan Strategy you consider to be unsound.

Note: If you wish to inform us that more than one part of the draft Plan Strategy is unsound each part should be listed separately, and Sections J and K filled out for each separate part of the draft Plan Strategy. (i.e. if you believe that multiple parts of the draft Plan Strategy are unsound, please fill out multiple copies of Sections J & K.)

Q6. If you consider that the LDP draft Plan Strategy is unsound and does not meet one or more of the tests of soundness below, you must indicate which test(s) you consider it does not meet, having regard to Development Plan Practice Note 6 available at:

https://www.planningni.gov.uk/index/news/dfi_planning_news/news_releases_2015_onwards/development_plan_practice_note_06_soundness_version_2_may_2017.pdf

Please note that if you do not identify a test(s), your comments may not be considered by the Independent Examiner. Continued on next page.

Section J: Tests of Soundness (Required)

State which Chapter / Policy / Paragraph / Map that this Section refers to:

Spatial Strategy, Draft Designation SCA1, Draft Designation AHL11, MIN1, MIN2, MIN3, MIN4, MIN5, NE5, NE6, NE7, UT3

This should relate to only one section, paragraph or policy of the LDP draft Plan Strategy. If you wish to inform us that you consider more than one part of the LDP draft Plan Strategy is unsound, you can submit further representations by completing and submitting additional copies of this section.

Procedural tests

- P1. Has the plan been prepared in accordance with the Council's timetable and the Statement of Community Involvement?
- P2. Has the Council prepared its Preferred Options Paper and taken into account any representations made?
- P3. Has the plan been subject to Sustainability Appraisal including Strategic Environmental Assessment?
-
- P4. Did the Council comply with the regulations on the form and content of its plan and on the procedure for preparing the plan?

Consistency tests

- C1. Did the Council take account of the Regional Development Strategy?
- C2. Did the Council take account of its Community Plan?
- C3. Did the Council take account of policy and guidance issued by the Department

Coherence and effectiveness tests

- CE1. The plan sets out a coherent strategy from which its policies and allocations logically flow and where cross boundary issues are relevant, is it in conflict with the plans of neighbouring Councils.
- CE2. The strategy, policies and allocations are realistic and appropriate having considered the relevant alternatives and are founded on a robust evidence base.
- CE3. There are clear mechanisms for implementation and monitoring.
- CE4. The plan is reasonably flexible to enable it to deal with changing circumstances.

Section K: Which part(s) of the draft Plan Strategy are you commenting on?

This should relate to only one section, paragraph or policy of the LDP draft Plan Strategy. If you wish to inform us that you consider more than one part of the LDP draft Plan Strategy is unsound, you can submit further representations by completing and submitting additional copies of this section.

Relevant Chapter number(s)

See enclosed Representation Report

(and/ or) **Relevant Policy number(s)**

See enclosed Representation Report

(and/or) **Relevant Paragraph number(s)**

See enclosed Representation Report

(and/or) **District Proposals Map**

See enclosed Representation Report

Please give full details of why you consider this part of the LDP draft Plan Strategy to be unsound, having regard to the tests(s) you have identified above. Please be as clear and concise as possible.

See enclosed Representation Report

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

If you consider the LDP draft Plan Strategy to be unsound, please provide details of what changes(s) you consider necessary to make the LDP draft Plan Strategy sound.

See enclosed Representation Report

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section L: Sustainability Appraisal

If you wish to submit an 'expression of opinion' in relation to the Sustainability Appraisal (SA) of the LDP draft Plan Strategy (incorporating the Strategic Environmental Assessment (SEA)) please state them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the SA.

See Chapter 3 of enclosed Representation Report

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section M: Draft Habitats Regulation Assessment (HRA or AA)

If you have any comments or opinions in relation to the Draft Habitats Regulation Assessment (HRA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the HRA.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section N: Draft Equality Impact Assessment (EQIA)

If you have any comments or opinions in relation to the Draft Equality Impact Assessment (EQIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the EQIA.

N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Section O: Draft Rural Needs Impact Assessment (RNIA)

If you have any comments or opinions in relation to the Draft Rural Needs Impact Assessment (RNIA) report of the LDP draft Plan Strategy, please submit them below or by email to LDP@DerryStrabane.com. If sending by email, please clearly state that your comments are in relation to the RNIA.

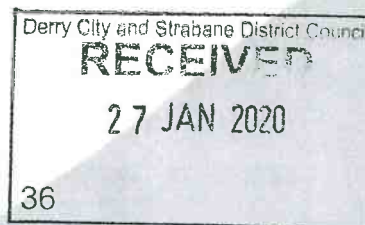
N/A

Attach additional sheet(s) if necessary, but please be as clear and concise as possible.

Representations to Derry City & Strabane District Council Draft Plan Strategy

On behalf of Dalradian Gold Ltd

January 2020



Contents

Executive Summary	i
1. Introduction	1
2. Legislative Compliance	2
3. Sustainability Appraisal/Strategic Environmental Assessment	3
4. Spatial Strategy	12
5. Chapter 15 – Minerals Development	15
6. Chapter 21 – Natural Environment	23
7. Chapter 19 – Utilities Development	28
Appendix 1: Dalradian Gold Ltd Representation to DCSDC Preferred Options Paper (November 2017)	29

Client
Dalradian Gold Ltd
Our reference
DALB3001-09

January 2020

Executive Summary

1. This representation is submitted on behalf of Dalradian Gold Ltd in response to the Derry City & Strabane District Council draft Plan Strategy (dPS).
2. The dPS is unsound as the legal compliance tests have not been met.
3. Furthermore, the Sustainability Assessment (SA) provided in support of the dPS is fundamentally flawed.
4. Taken together, these flaws render the dPS in its entirety unsound as soundness test P3 cannot be met.
5. In the absence of further work in respect of the identified flaws, the development plan document (DPD) must not be allowed to progress.
6. The following table summarises the draft policies which are unsound, for the reasons specified.

Schedule of Key Draft Policy Comments

Policy	Comment	Cross ref.
<i>Spatial Strategy</i>	Insufficient evidence is provided within the dPS and supporting evidence base to justify the designation of an SCA and AHLIs. The draft strategy would fail against soundness test CE2.	<i>Paragraph 4.1 to 4.3</i>
<i>Draft Designation SCA 1</i>	The Council's own evidence demonstrates that the area of the proposed SCA is not under significant pressure and therefore is unjustified. The draft designation fails against soundness test CE2.	<i>Paragraph 4.4</i>
<i>Draft Designation AHLI 1</i>	The Council's own evidence demonstrates that the area of the proposed AHLI within the AONB is not under significant pressure and therefore is unjustified. The draft designation fails against soundness test CE2.	<i>Paragraph 4.5 to 4.6</i>
<i>Draft Policy MIN 1</i>	The supporting text for the draft Policy fails to recognise the established principle that minerals can only be extracted where they are found and it is therefore in conflict with regional policy as contained in the SPPS . The draft Policy also seeks to treat proposed designated sites as if already designated which is overly restrictive and seeks to pre-determine the outcome of the designation process.. The draft policy fails against soundness test C3 and CE3.	<i>Paragraph 5.3 to 5.7</i>
<i>Draft Policy MIN 2</i>	The Council has failed to provide sufficient evidence to support the need for ACMDs in the district and without full detail of the extent of ACMDs proposed it is unclear how the Council can meet the requirements imposed by the	<i>Paragraph 5.8 to 5.24</i>

	SPPS. The draft policy fails to give considerations to exceptions to the policy and required by the SPPS. The draft policy fails against soundness test CE2 and C3.	
<i>Draft Policy MIN 3</i>	The Council has failed to adequately address representations made in response to the POP in relation to MRAs and fails to adequately identify MRAs within the dPS. Furthermore the approach taken by the Council could result in a conflict between ACMDs and MRAs. The draft policy fails against soundness test C3 and CE1.	<i>Paragraph 5.25 to 5.28</i>
<i>Draft Policy MIN 4</i>	The policy is in direct conflict with the SPPS as it seeks to introduce a presumption against the extraction of valuable minerals. The draft policy fails against soundness test C3.	<i>Paragraph 5.29 to 5.32</i>
<i>Draft Policy MIN 5</i>	This draft policy is overly onerous and does not reflect the provisions of regional policy contained in the SPPS. The draft policy fails against soundness test C3 and CE2.	<i>Paragraph 5.33 to 5.36</i>
<i>Draft Policy NE 5</i>	The draft policy seeks to introduce additional restrictions on development that can occur within the AONB which is inconsistent with regional policy contained in the SPPS. The draft policy fails against soundness test C3.	<i>Paragraph 6.1 to 6.9</i>
<i>Draft Policy NE6</i>	Insufficient evidence is provided to justify the introduction of a SCA which seeks to further restrict development within the AONB. The draft policy fails against soundness test CE2.	<i>Paragraph 6.10 to 6.14</i>
<i>Draft Policy NE 7</i>	Insufficient evidence is provided to support the re-designation of Countryside Policy Areas and Areas of High Landscape Value as AHLIs. Furthermore, the Council's evidence clearly demonstrates that there is no need for an AHLI within the AONB. The draft policy fails against soundness test CE2.	<i>Paragraph 6.15 to 6.22</i>
<i>Draft Policy UT 3</i>	The implementation of this draft Policy has not been properly considered and the provision of electricity infrastructure is often outside the control of the operator. The draft policy fails against soundness tests CE2 and CE3.	<i>Paragraph 7.1 to 7.3</i>

1. Introduction

- 1.1 This representation is submitted on behalf of Dalradian Gold Ltd (Dalradian) in response to the Derry City & Strabane District Council (Council) Draft Plan Strategy (dPS).
- 1.2 It draws upon representations submitted in response to the Council's Preferred Options Paper (POP). As these previous representations are relied upon in support of objections now made at this stage of the process a copy is provided at Appendix 1.
- 1.3 Dalradian currently has prospecting licences within the Council area and therefore has an interest in future development plan proposals for the District.
- 1.4 In line with the Council's procedures, each representation is set out on a separate page within each of the Chapter headings with the policy clearly identified.
- 1.5 The structure of the submission is as follows:
 - **Chapter 2:** Provides an assessment of how the draft Plan Strategy addresses the legislative compliance tests;
 - **Section 3:** Details our representations to the Strategic Environmental Assessment (SEA) and Sustainability Appraisal (SA);
 - **Section 4:** Details our representations to the Spatial Strategy
 - **Section 5:** Details our representations to Minerals Development
 - **Section 6:** Details our representations to Natural Environment; and
 - **Section 7:** Details our representations to Utilities Development.

2. Legislative Compliance

2.1 In preparing their dPS, the Council is required to adhere to the provisions of the Planning Act (Northern Ireland) 2011 ('Act') and the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('Regulations').

2.2 This section identifies issues in the compliance of the dPS with the Act and the Regulations.

Planning Act (Northern Ireland) 2011

2.3 Part 2 of the Act stipulates that the Plan Strategy should be prepared in accordance with the Council's timetable, as approved by the Department for Infrastructure ('DfI') and in accordance with the Council's Statement of Community Involvement.

2.4 The Council's Local Development Plan (LDP) Timetable, as approved and published on their website is dated July 2019. We note that the Council did publish the dPS within the timeframes indicated (Q3 & Q4 2019/2020). We note that this timeframe is also to include for the review of representations received and the consultation period for site specific counter-representations. In line with guidance issued by DfI, we recommend that Council carefully monitors this time period to ensure that that all phases of the LDP are undertaken within the approved timelines agreed by DfI.

2.5 In preparing a Plan Strategy, legislation sets out that the Council must take account of:

"the regional development strategy;

The council's current community plan;

Any policy or advice contained in guidance issued by the Department;

Such other matters as the Department may prescribe or, in a particular case, direct, and may have regard to such other information and considerations as appear to the council to be relevant."

2.6 This representation identifies specific instances where policy issued by DfI has not been adequately assessed.

2.7 The Act also requires that the Council:

"(a) carry out an appraisal of the sustainability of the plan strategy; and

(b) prepare a report of the findings of the appraisal."

2.8 We have identified significant flaws with the Council's Sustainability Assessment and identify them in this representation in Section 3.

3. Sustainability Appraisal/Strategic Environmental Assessment

- 3.1 A review of the Sustainability Appraisal (SA) documents that have been produced in support of the Council's dPS has been undertaken on behalf of Dalradian.
- 3.2 The documents that have been reviewed are:
- Derry City & Strabane District Council Local Development Plan 2032 SA Scoping Report, Draft Plan Strategy, December 2019;
 - Derry City & Strabane District Council Local Development Plan 2032 Sustainability Appraisal (SA), Draft Plan Strategy, December 2019; and
 - Derry City & Strabane Council Local Development Plan 2032 Evidence Paper EVB 13 Minerals.
- 3.3 Dalradian have made these representations based on the potential for future activities within the Council District.
- 3.4 Dalradian fully support the principles of sustainable development and are committed to their current and future exploration and extraction activities having a positive economic, social and environmental benefit on the local area. As an example of this commitment, the planning application for extraction at the Curraghinalt mine has committed to developing the world's first carbon neutral goldmine thereby demonstrating exemplary climate change leadership.
- 3.5 Given the above commitment to sustainable minerals extraction and the function of the SEA/ SA process in relation to the emerging Local Development Plan, Dalradian wish to engage positively and proactively in the SA and local plan process to fully capture the potential benefits of a nationally significant mineral resource whilst ensuring sustainable development in accordance with national planning policy and guidance.
- 3.6 It is recognised by national policy that sustainable minerals extraction can play a key role in sustainable economic growth. Paragraph 6.149 of the Strategic Planning Policy Statement (SPPS) states that:
- "The Sustainable resources and ensure a high level of protection and improvement of the quality of our environment, 'sustainable development' does not prevent us from using and capitalising on such resources. An enduring successful economy will effectively use natural resources and contribute towards the protection of the environment."*
- 3.7 Paragraph 3.1 of the SA/SEA Development Plan Practice Note (DP Practice Note) states that:

“The purpose of the SA is to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of plans and programmes such as local development plans.”

3.8 The following provides an independent review of the Local Plan SA documents and the evidence base and a summary of our recommendations in relation to the minerals options in the dPS. Based upon this review we wish to highlight a number of concerns. These are as follows:

- The content of the SA Scoping Report and its baseline information in relation to economy and employment and gold;
- The assessment of MIN4: Valuable Minerals within the SA; and
- The lack of evidence supporting both MIN2: Areas of Constrained Mineral Development and MIN3: Mineral Reserve Area.

3.9 Based on the concerns listed above, the remainder of this report is structured as follows:

- SA Scoping Report Critique;
- Assessment of Policy within the SA

SA Scoping Report Critique

3.10 The production of a Scoping Report is a critical first step in the SA process as its content and outputs defines the entire nature of the SA process, the evolution of the Local Plan and its policies and therefore the implementation of sustainable development. The process for preparation of an SA Scoping Report is detailed in Section 7 of the DP Practice Note¹.

Content of the Scoping Report

3.11 The content of the Scoping Report and specifically the baseline information does not portray an accurate socio-economic and environmental profile of the plan area which, in turn unduly influences the scoping report. Specific examples of the deficiencies in the scoping report are presented below.

Economy and Employment

3.12 Dalradian consider there to be a significant deficiency in the evidence base as there is no reference to the potential for securing local economic benefit through the exploration and (subject to findings and necessary consents) extraction of nationally significant gold reserves within the district. The potential for gold reserves and other metals is acknowledged within the local evidence base² and more generally, the role of

¹ Development Plan Practice Note. Sustainability Appraisal Incorporating Strategic Environmental Assessment. April 2015, pg 11, paragraph 7.3bii

² Derry City and Strabane District Council Evidence Base EVB 19, Paper 5: Minerals Development and the LDP, paragraph 3.6

minerals for the economy is noted as often supporting rural areas where other employment opportunities can be scarce.

- 3.13 Section 5 of the Scoping Report suggests that the employment levels within mining in the district is low , in comparison with others in NI, however it still has a significant value to the economy and development of the District'. Minerals development should therefore be referenced within the SA scoping report as a baseline issue that could have significant benefits to the local economy, jobs and prosperity.

Physical Resources

- 3.14 Dalradian welcomes the Council's acknowledgement, in section 5.7.2 of the SA Scoping Report, of the discovery of significant gold mineralisation elsewhere in the metamorphic rocks of the Sperrins, which thus indicates the potential for similar mineralisation within DCSDC. The Council's Paper on Minerals³ highlights the prospective areas of gold mineralisation across the northwest of County Derry, the Sperrin Mountain Area and across Northern Ireland.
- 3.15 It is however, of concern to Dalradian that the Council has no quantifiable data in relation to the mineral reserves in the District. Only limited mapping information provided by the Geological Survey of Northern Ireland (GSNI) is included within the Minerals paper. There is no evidence that the necessary consultation with GSNI to secure the necessary information at a district level has been undertaken so as to inform the preparation of the SA Scoping Report (and subsequent SA) and ensure the necessary understanding by the Council of the extent of quality of resource.
- 3.16 It is our view that the lack of evidence to identify the extent of minerals in the District fundamentally undermines the preparation of policy and any associated assessments, including the Sustainability Appraisal.

Assessment of Policy within the SA

- 3.17 The Council's Sustainability Appraisal (SA) purports to incorporate the requirements of the Strategic Environmental Assessment (SEA) Directive and the SEA Regulations.
- 3.18 The SA contains a number of draft policies that are relevant to minerals extraction and which have been reviewed for soundness and compliance with the SEA Regulations. These policies are:
- (i) Draft Policy MIN4 – Valuable Minerals
 - (ii) Draft Policy MIN2 – Areas of Constraint on Minerals Development (ACMDs)
 - (iii) Draft Policy MIN3 – Mineral Reserve Areas (MRAs)

The Sustainability Appraisal of MIN4: Valuable Minerals

- 3.19 Page 61 of the SA states that:

³ Derry City & Strabane Council Local Development Plan (LDP) Evidence Base (EVB 13) Minerals Development, December 2019

“There are currently no proven valuable mineral resources areas in the District to which this policy would apply, but the option would allow the opportunity for a valuable mineral to be extracted in the event that a feasibly extractible deposit is identified in the future. As a consequence it is difficult to identify and assess any potential effects in the appraisal as the type of mineral, its location and the method of extraction is unknown”

3.20 The fact that the SA concludes that there are no ‘proven valuable mineral resource areas in the District’ when the SA Scoping Report and evidence base⁴ confirm the presence of gold deposits demonstrates the failure of the SA to accurately portray the baseline characteristics of the area which is a statutory requirement of the SEA Regulations.

3.21 Within Section 3.3.21 of the SA Report is the scoring and assessment of Policy MIN4: Valuable Minerals against the SA Objectives. A copy of the appraisal is included below.

3.22 Table 1: SA of Policy MIN4: Valuable Minerals (DCSDC Local Development Plan Sustainability Appraisal Report)

	1.... improve health and well-being.	2.... strengthen society.	3.... provide good quality, sustainable housing.	4.... enable access to high quality education.	5.... enable sustainable economic growth.	6.... manage material assets sustainably.	7.... protect physical resources and use sustainably.	8.... encourage active and sustainable travel.	9.... improve air quality.	10.... reduce causes of and adapt to climate change.	11.... protect, manage and use water resources sustainably.	12.... protect natural resources and enhance biodiversity.	13.... maintain and enhance landscape character.	14.... protect, conserve and enhance the historic environment.
Option 1	0	0	0	0	?	?	+	0	0	?	?	?	?	?

3.23 The scoring for the appraisal is denoted as the following (Table 2.2 extracted from the Sustainability Appraisal Report):

⁴ Derry City and Strabane District Council Evidence Base EVB 19, Paper 5: Minerals Development and the LDP, paragraph 3.6

Rating	Description
++ Significant Positive	Policy/ proposal would greatly help to achieve the objective
+ Minor Positive	Policy/ proposal would slightly help to achieve the objective
0 Neutral / no effect	Policy/ proposal would have no overall effect
- Minor Negative	Policy/ proposal would slightly conflict with the objective
-- Significant Negative	Policy/ proposal would greatly conflict with the objective
? Uncertain	The effect cannot be predicted because: <ul style="list-style-type: none"> ▪ the approach has an uncertain relationship to the objective; or ▪ the relationship is dependent on the way in which the approach is implemented; or ▪ insufficient information may be available to enable an appraisal to be made.
ST Short Term	Up to five years
MT Medium Term	Five to 15 years
LT Long term	Over 15 years

3.24 The above appraisal demonstrates the performance of MIN4: Valuable Minerals against the SA Objectives. The scoring indicates that against SA Objective 4: Economic Growth, MIN4 is established as having an uncertain effect on the SA Objective, inferring that valuable minerals would have an unpredictable effect on economic growth within the DCSDC. This directly contrasts with both the SA Scoping Report and the Evidence Base and fails to recognise the substantial local economic benefit that will occur through the exploration and (subject to findings and necessary consents) extraction of gold reserves, for example, within the District. The SA Scoping Report states that the industry directly employs 4,200 people and has an annual turnover of £650 million (3% of NI GDP).⁵ In addition, the industry is well known for providing jobs in rural areas where employment opportunities can be scarce.

3.25 Furthermore the policy fails to recognise the significant sustainability benefits that can occur as a result of sustainable economic growth and minerals extraction. For example minerals extraction would result in significant additional revenues for DCSDC which could be used for the following:

- Investment in local education and health services to result in positives to SA Objectives 1 (Health & Wellbeing) and 4 (Access to Education)
- Investment in social housing and energy efficiency projects which would result in positive for SA Objectives 2 (Society) and 10 (Climate Change)

Lack of Evidence Identified for Policy MIN2: Areas of Constraint on Minerals Development and Policy MIN3: Mineral Reserve Areas (MRAs)

3.26 Within the dPS, Policy MIN2 states that there will be a presumption against granting planning permission within an ACMD. The draft Policy however, does not identify the specific areas and locations to which this relates. Instead, it is stated that:

⁵ Derry City & Strabane Council Local Development Plan (LDP) 2032, SA Scoping Report, December 2019

“Detailed boundaries of ACMDs will be defined in the LDP Local Policies Plan, which will also contain site specific or local specific policy on how applications within ACMDs will be treated.”

3.27 Similarly, Policy MIN3 states that areas defined around mineral resources should be conserved due to their particular local or regional economic value. The Policy states that *“Surface development which would prejudice future exploitation of these mineral resources will not be permitted”* The Draft Plan Strategy states that the location of MRAs have not yet been decided and, in a similar fashion to the ACMDs in Policy MIN2, will be defined in the Local Policies Plan.

3.28 For clarity, the DCSDC website indicates that the LDP Local Policies Plan will not be prepared until after the adoption of the dPS.⁶ The text states the following:

“The new Timetable clearly sets out when the Council expects to reach key stages of the process, from the initial stages of the Preferred Options Paper (May 2017) through to the preparation and adoption of the LDP Plan Strategy and the subsequent LDP Local Policies Plan.”

3.29 Dalradian consider it a failure of the SEA and Local Plan process not to identify these areas within the dPS. Without this information, the Council is unable to make an informed conclusion when assessing the policy within the SA. Although the Council purports to undertake an assessment of Policy MIN2 within the SA Report, it is difficult to understand how that assessment can address the impact of the Policy in relation to the Sustainability Appraisal Objectives if a key component of the Policy has not yet been shared. The below table indicates the purported assessment by the Council for Policy MIN2: ACMD which scores several positive and significant positive effects as a result of the policy on the SA Objectives.

3.30 Table 3: of Policy MIN2: Areas of Constraint on Minerals Development (DCSDC Local Development Plan Sustainability Appraisal Report)

	1... improve health and well-being.	2... strengthen society.	3... provide good quality, sustainable housing.	4... enable access to high quality education.	5... enable sustainable economic growth.	6... manage material assets sustainably.	7... protect physical resources and use sustainably.	8... encourage active and sustainable travel.	9... improve air quality.	10... reduce causes of and adapt to climate change.	11... protect, manage and use water resources sustainably.	12... protect natural resources and enhance biodiversity.	13... maintain and enhance landscape character.	14... protect, conserve and enhance the historic environment.
Option 1	+	0	0	0	+	0	++	0	0	+	+	++	++	+

⁶ DCSDC Local Development Plan Revised Timetable Released (30 July 2019), Derry City Strabane District Council Website (Available at <https://www.derrystrabane.com/Council/News/Local-Development-Plan-Revised-Timetable-released>)

- 3.31 Without the ACMD being identified the assessment of sustainability impacts and benefits cannot be identified which is demonstrated through the following examples:
- If the ACMD prevent a valuable mineral (such as gold) from being extracted then this is contrary to the SPSS which facilitates the sustainable extraction of valuable minerals. In this event the SA scoring for objective 7 is too high and should resort in a neutral impact;
 - It is possible that some or all of the ACMD may not result in the protection of sensitive landscape and ecological areas and therefore may not result in a major positive benefit to SA objectives 12 and 13.
- 3.32 Furthermore, failure to present the ACMD prevents the consideration of any reasonable alternatives to the areas proposed. The following steps are essential to ensure a sound and legally compliant SA process :
- Identification of all potential ACMD with an assessment of SA impacts;
 - The consideration of one or more reasonable alternatives to the suggested ACMD which could include:
 - The identification of no ACMD
 - A greater or lower number of ACMD to increase or decrease mineral extraction accordingly.
- 3.33 Dalradian believe that without the steps listed above, Policy MIN 2 is unsound and fails to meet the requirements of the SEA Regulations.
- 3.34 The SA conducted of Policy MIN3 also highlights a particular lack of information in its preparation. The table below indicates the appraisal undertaken. Notably, the outcome of all objectives within the assessment is an unknown or neutral effect. This fundamentally stems from the lack of information around the locations of the MRAs and therefore the sustainability impacts and benefits arising from them.
- 3.35 Table 4: SA of Policy MIN3: Mineral Reserve Areas (DCSDC Local Development Plan Sustainability Appraisal Report)

	1.... improve health and well-being.	2.... strengthen society.	3.... provide good quality, sustainable housing.	4.... enable access to high quality education.	5.... enable sustainable economic growth.	6.... manage material assets sustainably.	7.... protect physical resources and use sustainably.	8.... encourage active and sustainable travel.	9.... improve air quality.	10.... reduce causes of and adapt to climate change.	11.... protect, manage and use water resources sustainably.	12.... protect natural resources and enhance biodiversity.	13.... maintain and enhance landscape character.	14.... protect, conserve and enhance the historic environment.
Option 1	0	0	0	0	?	0	?	0	0	?	0	?	?	?

- 3.36 This evaluation is shared by the Council; the summary of the objectives states that *“Effects cannot be predicted as they are dependent on whether any MRAs come forward and where they are located”* which has in turn led to assumed unknown or neutral effects on every SA Objective. This is a clear acknowledgment by DCSDC of the prejudicial impact of its approach of not declaring the location of MRAs, on its ability to assess a policy and requires urgently to be addressed.
- 3.37 Useful guidance in ensuring a sound and lawful approach is provided by Planning Practice Guidance, England⁷ which states;
- “Mineral planning authorities are encouraged to plan for minerals extraction using Ordnance Survey-based proposals maps and relevant evidence provided by the minerals industry and other appropriate bodies.....This approach will allow mineral planning authorities to highlight where mineral extraction is expected to take place, as well as managing potentially conflicting objectives for use of land.”*
- 3.38 The failure to identify and understand the requirements of the minerals sector before setting reserve areas represents a fundamentally flawed approach with the result that the Council has developed a draft policy that is ineffective and unsound.
- 3.39 For the Council to progress further with its dPS without a firm evidential base severely prejudices the entire process and its ability to formulate a sound and lawful local development plan. All elements of the potential areas relating to Policies MIN2 and MIN3 have to be considered in taking the matter forward and the failure by the Council to collate the relevant data prevents this.
- 3.40 It is also a requirement of the SA process that all reasonable alternatives are assessed to the same level of detail in order to identify the sustainability impacts and benefits to the stakeholder⁸. Policies MIN 2 and MIN 3 are incomplete without the assessment of the ACMD and MRA and so no meaningful detail of the impacts of these policies can be determined.

Summary

- 3.41 Following a comprehensive review of the SA and associated documents, Dalradian have a number of significant concerns with the SA which can be summarised as:
- A failure of the SA to accurately and objectively assess the sustainability implications of Policy MIN 2 (Areas of Constraint on Minerals Development) and MIN 3 (Mineral Reserve Areas). These policies lack the necessary evidence to demonstrate the location of these spatial designations and as such cannot be suitably assessed.

⁷ Planning Practice Guidance Paragraph 007 Reference ID 27-007-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/planning-for-minerals-extraction/>

⁸ Planning Practice Guidance Paragraph 018 Reference ID 11-018-20140306
<https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

- A failure of the SA to record the substantial mineral deposits within the plans geographical area, despite there being reference to these deposits within the Council's evidence base.⁹
- A failure to develop and assess reasonable alternatives to Policies MIN2, MIN3 and MIN4. This is in breach of 12(2b) of the Environmental Assessment of Plans and Programmes Regulations (2004), which states that:

"The report shall identify, describe and evaluate the likely significant effects on the environment of... Reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme."

3.42 Dalradian believe that in order to rectify these deficiencies that further work is needed prior to submission of the plan for examination in the form of:

- A revised evidence base which accurately identifies the extent of mineral (gold deposits) within the plan area with a recognition of these deposits within the SA.
- Identification of the areas for designation for ACMD and MRA.
- Identification of reasonable alternatives for policies MIN2, MIN3 and MIN4 followed by a subjective assessment.

⁹ Derry City & Strabane Council Local Development Plan (LDP) Evidence Base (EVB 13) Minerals Development, December 2019

4. Spatial Strategy

4.1 The draft Spatial Strategy identifies the following objective:

“Key environmental designations such as Special Countryside Areas (SCAs) and Areas of High Landscape Importance (AHLIs) to protect important landscapes and proposed Green Belts around Derry and Strabane to contain urban sprawl and development pressure. The LDP will also define Development Pressure Areas, which are focussed areas of development pressure in the countryside. A number of Wind Energy Capacity Areas (WECAs) are also designated to reflect certain local areas that are considered to be at or reaching capacity with wind turbines/wind farms.”

4.2 In relation to the proposals to introduce a SCA, we would highlight that the area of SCA that is proposed is already afforded protection as an AONB and as demonstrated within the Council’s evidence at EVB 6c, this area of the AONB has not been under substantial development pressure. As such we do not consider the introduction of a SCA within the AONB necessary or appropriate and therefore the current proposal would conflict with soundness test CE2. This would also apply to the introduction of an AHLI within the extent of the AONB. Again there is no justification for the further protection of this area given that EVB 6c does not show that the area is under development pressure.

4.3 The Council has also failed to consider the landscape value of former Countryside Protection Areas and Areas of High Landscape Value which will be re-designated as AHLIs. We consider that the absence of this assessment is a weakness in the Council’s evidence and again the plan would fail against soundness test CE2.

Draft Designation SCA 1 – Special Countryside Area (SCA)

- 4.4 We are opposed to the designation of the SCA as shown on Proposals Map 2. As set out in our response to the Spatial Strategy, the Council's own evidence within EVB 6c demonstrates that the area of the proposed SCA is not under significant pressure. As the proposed SCA is included within the extent of the Sperrins AONB, it is already afforded appropriate protection and the dual designation could result in ambiguity. The SCA designation is therefore not justified and fails against soundness test CE2.

Draft Designation AHLI 1- Area of High Landscape Importance (AHLI)

- 4.5 We are also opposed to the designation of AHLIs within the dPS. These areas largely comprise Countryside Protection Areas and Areas of High Landscape Value which will be carried over from the extant development plans for the district. The Council has failed to provide a robust assessment of these existing designations to justify their re-designation within the emerging plan and would therefore fail soundness test CE2.
- 4.6 Furthermore EVB 6c clearly shows that the AHLI proposed within the Sperrins is not under development pressure and as such is not necessary or appropriate in that location. For this reason the policy would again fail soundness test CE2.

5. Chapter 15 – Minerals Development

LDP Strategy for Minerals Development

5.1 The Council's strategy for minerals development:

"aims to have a balanced approach, which seeks to promote minerals development in sustainable locations, by potentially identifying Mineral Reserve Area (MRAs). The Council will also focus on protecting particularly sensitive landscapes through Areas of Constraint on Minerals Development (ACMD) in the High Sperrins, Glenelly valley, Faughan valley and Foyle river corridor. In all other areas, the Council aims to ensure that sufficient local supplies of construction aggregates can be made available for use within the local and where appropriate, regional market and beyond, to meet likely future development needs over the LDP period. In addition to this, the Council will have policies directed specifically towards valuable minerals."

5.2 We have provided comments on each of the draft planning policies derived from the proposed LDP strategy for minerals , however we would make the following comments on the draft strategy wording:

- Given the known presence of valuable mineral resources within the district, the council should be committed to identifying MRAs within the dPS and ensuring that future areas of known resources are protected;
- The Council has failed to provide a robust justification for the introduction of ACMDs and their broad location;
- The lack of detail provided within the dPS and supporting evidence around the boundaries for the ACMDs and MRAs means that it cannot be robustly demonstrated that the Council can ensure a sufficient supply of aggregates; and
- The Council's draft policy relating to valuable minerals is fundamentally contrary to the regional policy set out in the SPPS.

Draft Policy MIN 1 – Minerals Development

- 5.3 Draft Policy MIN 1 is a general policy that, if adopted, will be applicable to all proposals for mineral extraction. The draft policy identifies that proposals should accord with the provision of draft Policy GDPOL 1 and should not have an unacceptable adverse impact on:
- *“The natural environment, including earth science features;*
 - *Historic environment*
 - *Landscape and visual amenity*
 - *Water environment*
 - *Public safety, human health and amenity of people living or working nearby; and*
 - *Road safety and convenience of road users.”*
- 5.4 It is welcomed that draft Policy MIN 1 seeks to maintain the key policy considerations set out in the Planning Strategy for Rural Northern Ireland (PSRNI) and the SPPS.
- 5.5 We also note that paragraphs 13.10, 13.11 and 13.12 reference that proposals within or in proximity to proposed designated sites will be afforded full policy protection. We would stress that the weight to be afforded to proposed designations, be they relating to landscape, heritage or the natural environment, should be reflective of the designation process. For example, where a proposed designation is required to be consulted upon and this has not yet been undertaken then it should be afforded limited weight. Equally, where consultation has been carried out and the proposed designation is subject to objections then again only limited weight can be applied.
- 5.6 The reference to proposed designations should therefore be removed.
- 5.7 We are opposed to the cross reference to draft Policy MIN 5 contained within draft Policy MIN 1 as we consider that draft policy to be unsound. Our detailed comments are provided in response to draft Policy MIN 5.

Draft Policy MIN 2 –Areas of Constraint on Minerals Development (ACMDs)

- 5.8 The Council is proposing to identify ACMDs within the district and as set out in paragraph 13.24 of the dPS they are intending to identify the detailed boundaries for ACMDs within the Local Policies Plan (LPP). We are opposed to the identification of a strategic designation such as an ACMD being delayed until the LPP.
- 5.9 Notwithstanding the above, we note that the Council's evidence base presented in EVB 13: Minerals, sets out that existing ACMDs contained within the Derry Area Plan (DAP) and Strabane Area Plan (SAP) will be carried forward in the emerging LDP. We can find no evidence to support the retention of these existing ACMDs and therefore the policy conflicts with soundness test CE2. A detailed assessment of the existing ACMDs is required to:
- Establish if the landscape character has changed;
 - Understand if there are any know mineral resources within the ACMD which could make a valuable contribution to the local economy or are needed to support the growth ambitions of the LDP.
- 5.10 Given that the emerging LDP represents an opportunity to review existing designations we would have expected to see more detail at this stage, particularly given that the evidence gathering is the very first stage in the preparation of a LDP. As such the Council's evidence is insufficient.
- 5.11 Paragraph 13.25 of the dPS also confirms that the proposed Special Countryside Areas (SCAs) and Areas of High Landscape Importance (AHLIs) will be considered as ACMDs. We object to this proposal on the basis that the introduction of SCAs and AHLIs fail soundness test CE2. Detailed responses to the proposed SCAs and AHLIs are set in Sections 6 of this representation.
- 5.12 Despite stating at paragraph 13.24 of the dPS that ACMDs will be identified at the LPP stage, it is clear that the Council has already established the extent of ACMDs as they are proposing to carry forward extant designations and apply the ACMD policy to SCAs and AHLIs. Given that the extent of ACMD's are now known they should be identified within the dPS as they are significant strategic designations.
- 5.13 We have concerns that large areas of the countryside could be designated as ACMDs. So far we know that SCAs and AHLIs are proposed as ACMDs and we note that the areas identified as AHLIs within the dPS are already designated as ACMDs within the extant development plans. The Council has failed to assess the status of the existing ACMDs and the merits for carrying the designation forward in the emerging plan. Furthermore the Council has failed to demonstrate why the area proposed as an SCA should be considered as an ACMD for the purposes of minerals development. The identification of large landscape designation as ACMDs is contrary to the provisions of the SPPS (Paragraph 6.155).
- 5.14 It is not clear from the information presented in the dPS and supporting documentation whether it is the Council's intention to include additional areas of constraint to be identified at the LPP stage. We would raise concerns that the

introduction of further ACMDs has not been properly assessed at this stage. No consideration has been given to the impact of ACMDs on the Council's ability to meet the need for mineral resources as set out in the SPPS, paragraphs 6.154 and 6.155. As such the draft Policy fails against soundness test C3 and CE2.

5.15 The draft Policy states that:

"Within Areas of Constraint on Minerals Development, there will be a presumption against the granting of planning permission for the extraction and/or processing of minerals, including extensions to existing operations. These areas are protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural and historic environment)."

5.16 The first part of the draft policy, is contrary to the SPPS. The draft policy fails to consider any exceptions to the presumption against development. SPPS paragraph 6.164 states:

"Whilst a general presumption against the granting of planning permission for the extraction and/or processing of minerals will apply in areas protected from minerals development in the LDP, planning authorities may consider whether particular proposals should be justified as exceptions to the LDP provisions. For example, an exception to the minerals development could be justified within an area of constraint where the proposed operations are limited to short term extraction and the environmental/amenity impacts are not significant."

5.17 Given that the Council recognises the presence of mineral resources across the district and within potential areas of constraint it is important that this is reflected in policy to ensure that policy is not unduly restrictive. We note that the justification and amplification text to draft Policy MIN 2 sets out that exceptions to the policy will be considered where the proposals are short-term and the environmental and amenity implications are not significant, however this is not clear within the policy wording and should be addressed.

5.18 Contrary to the SPPS, the draft policy wording does not allow for exceptions and would therefore fail against soundness test C3.

5.19 We note the inclusion of a draft policy (MIN 4) addressing valuable minerals within the dPS and our comments are provided below; however we consider that draft Policy MIN 2 should also reference valuable mineral extraction as an exception. Not to do so would mean that the draft policy would conflict with soundness test C3. The SPPS states:

*"From time to time minerals may be discovered which are particularly valuable to the economy. Their exploitation may create environmental effects which are particular to the methods of extraction or treatment of that mineral. **There will not be a presumption against their exploitation in any area**, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning."*

5.20 It is clear from paragraph 6.157 of the SPPS that valuable mineral extraction should be exempt from the policy presumption against mineral development that is proposed within ACMDs.

5.21 We recommend that the first part of draft Policy MIN 2 is revised as follows:

“Within Areas of Constraint on Minerals Development, there will be a presumption against the granting of planning permission for the extraction and/or processing of minerals, including extensions to existing operations. These areas are protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural and historic environment). In such cases, on-site processing of the excavated material is unlikely to be permitted. This presumption will not apply to short-term operations, where the environmental / amenity impacts, are not significant or to the extraction of valuable minerals.”

5.22 This proposed wording is consistent with existing policy on ACMDs contained within the PSRNI and reflects the policy provisions of the SPPS.

5.23 The second part of draft Policy MIN 2 states:

“However, where a designated area covers expansive tracts of land, the Council will carefully consider the scope for some minerals development that avoids key sites and that would not unduly compromise the integrity of the areas as a whole or threaten to undermine that rationale for the designation.”

5.24 The inclusion of this wording within the draft Policy highlights our concern that expansive tracts of land could be designated as ACMDs. This wording is taken from the SPPS, however it relates to the identification of ACMDs and not the application of policy. This reinforces our view that ACMDs should be clearly identified at the dPS stage as they are a fundamental strategic designation.

Draft Policy MIN 3 – Mineral Reserve Areas (MRAs)

- 5.25 In accordance with the SPPS the Council has identified a policy relating to MRAs. Draft Policy MIN 3 states:

“Mineral Reserves Areas (MRAs) may be defined around minerals resources, which should be conserved due to their particular local or regional economic value. Surface development which would prejudice future exploitation of these mineral resources will not be permitted. In addition to the above, the requirements of MIN 1 will also apply.”

- 5.26 We welcome the intention of the Council, however it is our view that strategic designations such as MRAs should be identified at the dPS stage. As set out in our response to the Council’s POP¹⁰ in 2017 (Appendix 1) we were concerned that the Council had insufficient evidence in relation to the extent of mineral resources within the district. It is therefore more concerning to note that this is still the case as the Council do not intend to undertake a detailed assessment of the known mineral reserves until the adoption of the dPS to inform the LPP.

- 5.27 Whilst the full extent is not geologically verified at this stage, the Council should ensure steps are taken to allow protection of areas where future resources may be identified. We would propose that the draft Policy wording is revised to state:

“Mineral Reserves Areas (MRAs) may be defined around minerals resources, which should be conserved due to their particular local or regional economic value.

“Surface development which would prejudice future exploitation of mineral resources within MRAs or in areas where a proven mineral reserve of particular value to the economy has been identified will not be permitted. In addition to the above, the requirements of MIN 1 will also apply.”

- 5.28 It is our view that this approach properly reflects the existing policy provision in the PSRNI and the SPPS and ensures a more cohesive policy approach. This would also enable the protection of resources as they become known, without resulting in a review of the LDP.

¹⁰ Derry City & Strabane District Council – Preferred Option Paper, Representation on behalf of Dalradian Gold August 2017, Paragraph 3.15 3.28.

Draft Policy MIN 4 - Valuable Minerals

5.29 We welcome the introduction of a policy that deals with valuable minerals, and as set out in our response to draft Policy MIN 3 we consider that areas of know valuable mineral resource should be identified as MRAs. Furthermore, our response to draft Policy MIN 2 recommends that valuable minerals extraction is exempt from the provisions of the draft Policy.

5.30 Whilst the recognition that a valuable minerals policy is needed is welcomed, we are opposed to the draft policy wording as it is in direct conflict with the SPPS. The SPPS, paragraph 6.157 states:

“From time to time minerals may be discovered which are particularly valuable to the economy. Their exploitation may create environmental effects which are particular to the methods of extraction of treatment of that mineral. There will not be a presumption against their exploitation in any area, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.”

5.31 It is clear from the SPPS, that there will be no presumption against the extraction of valuable minerals in any location, however as drafted, Policy MIN 4 states:

“Applications to exploit minerals, limited in occurrence and with some uncommon or valuable property, will be considered on their merits. There will not be a presumption against their exploitation in any area apart from within designated Special Countryside Areas.”

5.32 Draft Policy MIN 4 clearly introduces a presumption against valuable mineral development within SCAs which is in direct conflict with the SPPS and would fail soundness test C3. This is a fundamental flaw to the draft Policy and is contrary to regional planning policy. The draft policy should therefore be reworded as follows:

“Applications to exploit minerals, limited in occurrence and with some uncommon or valuable property, will be considered on their merits. There will not be a presumption against their exploitation in any area.”

Draft Policy MIN 5 – Restoration

- 5.33 The Council is proposing to introduce a policy on the restoration and aftercare of mineral sites. Draft Policy MIN 5 states:

“Planning permission for all new minerals development will be conditional upon the satisfactory restoration of proposals. All applications for minerals development must be accompanied by satisfactory proposals for:

The progressive and final restoration of sites and proposed future land use;

Timescales for completion of restoration, including details of individual phases where a progressive scheme is proposed;

Aftercare arrangement once restoration is complete; and

Site management and security arrangements during and after the process of restoration.”

- 5.34 It is our view that this draft policy is overly onerous when considered against existing policy contained within the PSRNI and the SPPS. Paragraph 6.167 of the SPPS states:

“In line with the objective to secure the sustainable restoration, including the appropriate re-use of mineral sites, planning applications should be required to provide adequate details demonstrating the satisfactory restoration of sites subsequent to the completion of operations. Such provisions must be underpinned by appropriate conditions attached to any to any grant of planning permission.”

- 5.35 As such the draft policy would fail against soundness test C3. It is recommended that the draft policy is reworded as follows:

“Planning permission for all new minerals development will be conditional upon the satisfactory restoration of proposals. All applications for minerals development must be accompanied by satisfactory proposals for the sustainable restoration of the site.”

- 5.36 It is considered that above wording aligns with the SPPS and also provides flexibility for the Council to ensure that they are satisfied with the level of information provided in relation to restoration proposals prior to the approval of development.

6. Chapter 21 – Natural Environment

Draft Policy NE 5: Development within or affecting the Setting of the Sperrin AONB

- 6.1 The Council is proposing to introduce a policy which specifically relates to development within or affecting the AONB. Whilst there is existing policy within PPS2 and the SPPS pertaining to development within the AONB they do not reference development within the setting of the AONB. The Sperrins AONB is an established designation. As set out in the Council's dPS, the AONB was designated in 1968 and was subsequently revised in 2008 following a review of the boundary. Paragraph 4.5 of EVB 6b clearly states:

"The Sperrin AONB was subsequently re-designated in 2008 under the 1985 Nature Conservation and Amenity Lands Order (NCALO) with a revised boundary, now covering some 118,206 hectares. The boundary review:

Excluded areas that no longer met the AONB criteria – having been degraded by development or land use change;

Included additional areas – particularly outstanding valley landscapes – that do meet the AONB criteria; and

Considered change to be required if existing boundaries were ill-defined on the ground."

- 6.2 The AONB boundary therefore takes account of all areas considered to merit the AONB designation. There is no reference to the introduction of a further area of setting. There is no boundary shown to indicate the setting of the AONB. For example an ASAI is an area which includes the setting of various historic assets. Whilst an AONB is an environmental feature, there is no plan showing the extent of its setting.
- 6.3 As such we would recommend that the policy title is redrafted to 'Development within the Sperrin AONB'. This approach would be consistent with Policy NH 6 of PPS2 and Paragraph 6.187 of the SPPS and would ensure that the draft policy would not fail soundness test C3.
- 6.4 The first part of draft Policy NE 5 states:

"The council will not permit development that will adversely impact or erode the intrinsic appeal of the Sperrin AONB, including its landscape character and setting, when considered individually or cumulatively alongside existing or approved development."

- 6.5 It is our view this this wording does not relate to the specific reasons for the designation of the AONB. The 'intrinsic appeal' of the Sperrins is open to wide interpretation as it will appeal to different groups for different reasons. Rather the policy test should be whether the development proposal would adversely impact on the features which contributed to the designation of the AONB. This approach would

better align with the existing policy provision of the SPPS and PPS2 which reference the 'special character' and features of the AONB.

6.6 Part two of the draft Policy states:

"All proposals must demonstrate how they have considered siting, massing, shape, design, finishes and landscaping in order to positively enhance our important AONB landscape."

6.7 The requirement to 'positively enhance' the landscape is too onerous for all forms of development and fails to take account of the fact that some forms of development can only occur in the countryside and the AONB. This requirement also conflicts with the provisions of existing policy within the SPPS, which will be retained following the adoption of the dPS. The SPPS requires that:

"Development proposals in AONBs must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife, and be in accordance with relevant plan policies."

6.8 The SPPS does not endorse a requirement for all forms of development to enhance character, but rather to conserve it. This is the approach set out in Policy NH6 of PPS 2. This conflict with the SPPS means that the draft policy would fail against soundness test C3.

6.9 It is our view that where it can be demonstrated on balance that a development does not adversely impact on the AONB that it should be acceptable. This would ensure consistency with the approach set out in prevailing regional planning policy.

Draft Policy NE 6: Development within Special Countryside Areas

- 6.10 The Council is proposing to designate SCAs, within which development will be further restricted. We note that the proposed SCAs are located within areas which already benefit from the policy protection afforded by the AONB. The Council is seeking to designate those areas of the AONB which they deem to be of a higher character than an AONB and afford them a greater level of protection.
- 6.11 As set out in our response to the Spatial Strategy and draft designation WECA, we consider that the Council's assessment of the landscape, set out in EVB 6b is flawed. As such and reliance upon it to inform the extent of the SCA will fail against soundness test CE2.
- 6.12 Paragraph 21.38 of the dPS set out that:
- "The 2005 Sperrin AONB boundary review highlighted the extreme sensitivity of the open mountain landscape."*
- 6.13 We wish to highlight that although the 2005 review is referenced within the Council's evidence base and the dPS, it is not presented as evidence to support the dPS and therefore it cannot be demonstrated that the conclusions of the review have informed the plan preparation. In the absence of all evidence the dPS would fail against soundness test CE2.
- 6.14 The extent of the proposed SCA is shown at Appendix 1 of EVB 6b. Map 2 of the same report shows the rural development pressure analysis for the district. When comparing the two maps it is clear that there is little development pressure located within the extent of the area proposed as a SCA. The Council's evidence demonstrates that the existing policy protection afforded by an AONB and other existing landscape designations is effectively managing development. . As such it is not appropriate or necessary to introduce further policy constraints on development. To do so would give rise to potential ambiguity and result in a conflict with soundness test CE2.

Draft Policy NE 7: Development within Areas of High Landscape Importance

- 6.15 As part of the Spatial Strategy for the LDP, the Council is proposing to introduce Areas of High Landscape Importance (AHLIs). We note from the supporting text in the dPS that this will incorporate Country Protection Areas and Areas of High Scenic Value that are currently identified in the existing development plans for the District.
- 6.16 The Council's extant development plans are the Derry Area Plan, adopted in 2000 and the Strabane Area Plan, adopted 1991. Both these plans pre-date the publication of PPS 21, which cancelled all CPA designations and identified the following areas to be identified as SCAs:
- The Islands CPA as identified in Fermanagh Area Plan 207;
 - The Undeveloped Coast CPA as identified in Larne Area Plan 2010;
 - The Slieve Croob CPA Zone A as identified in Banbridge District Rural Area Subject Plan 1986-1998;
 - The Ring of Gullion CPA Zone A as identified in Newry and Mourne Rural Area Subject Plan 1986-1999; and
 - The Mourne Area of Outstanding Natural Beauty CPA Zone A as identified in Newry and Mourne Rural Area Subject Plan 1986-199.
- 6.17 No other former CPAs were considered appropriate for identification as a SCA within the DAP or SAP and therefore their designation was cancelled.
- 6.18 Prior to identification of any CPAs as part of this process, s, the Council should have carried out an assessment to identify areas worthy of designation. No such assessment is provided in support of draft Policy NE7 and the draft policy therefore would fail against soundness test CE2.
- 6.19 Areas formally identified as CPAs within the extant plan should be treated in the same way as they have no current designation or protection.
- 6.20 Whilst the supporting text to draft Policy NE7 indicates that detailed boundaries for the AHLIs will be determined in the LPP, we note that broad areas are identified at Appendix 1 of EVB 6b. As per our comments in response to the proposed SCA within extent of the AONB we would refer to the Council to consider the need for an AHLI within the Sperrins AONB. Given that the Council's own data¹¹ shows that the area proposed as an AHLI is not under pressure from development, we consider this is not appropriate and is not supported by evidence. As such the designation would fail soundness test CE2.
- 6.21 The first part of draft Policy NE7 states:
- "Proposals for development which would adversely affect or adversely change either the quality or character of the landscape, including its intrinsic nature conservation interest, within the Areas of High Landscape Important will not normally be permitted."*

¹¹ EVB 6b –Appendix 1 & EVB 6b Map 1

- 6.22 Given that justification and amplification text associated with draft Policy NE 7 clearly sets out that the intention for the designation is to protect landscapes and views, we do not believe that it is appropriate to include the wording 'intrinsic conservation interest' within the policy wording. The protection of nature conservation is already a requirement for development within the AONB and there are other policies proposed within the dPS which provided adequate protection to protected habitats and species.

7. Chapter 19 – Utilities Development

Draft Policy UT 3: Telecommunications & Connectivity, including Broadband

- 7.1 The opening text to draft Policy UT 3 states:

“Proposals for telecommunications masts, pylons and other high structures will be considered having regard to the potential for impact on landscape and visual amenity and should avoid areas of landscape sensitivity such as AONBs, Special Countryside Areas and Areas of High Landscape importance.”

- 7.2 Furthermore, in relation to the development of infrastructure within the AONB, SCAs and AHLIs the draft policies require that:

“Proposals are accompanied by a Statement detailing how they have considered and mitigated for any potential landscape/visual amenity impact. Such Statements will need to provide a commensurate level of detail for proposals in areas of high landscape sensitivity such as the Sperrin AONB, Special Countryside Areas, Areas of High Landscape Importance or on the Natural and / or Historic Environment.”

- 7.3 The draft policy also requires that the applicant demonstrates that consideration has been given to the sharing of existing masts or infrastructure. We note that this is not reflective of the prevailing policy contained within the SPPS and therefore conflicts with soundness test C3. Furthermore, an applicant will be reliant upon the utilities provider to determine what network capacity is available and to determine the route for network connections. It is therefore considered that this policy requirement could not be met in any event and therefore fails soundness tests CE3 and CE2.
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**Appendix 1: Dalradian Gold Ltd Representation
to DCSDC Preferred Options Paper
(November 2017)**

Derry City & Strabane District Council – Preferred Options Paper

Representation on behalf of Dalradian Gold
Ltd

August 2017

Turley

Contents

Executive Summary	i
1. Introduction	1
2. Vision and Objectives	3
3. Economy	6
4. Review of Planning Policies	16
5. Representations to the Derry City and Strabane Preferred Options Local Plan Interim Sustainability Appraisal.	22
Appendix 1: Magherafelt Area Plan – PAC Report Extract, January 2011	31

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Client
Turley

Our reference
DALB3001

22 August 2017

Executive Summary

1. These representations have been prepared by Turley, on behalf of Dalradian Gold Limited.
2. The representations address the specific questions raised by Derry City and Strabane District Council ('DCSDC') in their Local Development Plan Preferred Options Paper.
3. Overall, Dalradian agree with the vision set out by the Council for the district however we do have a number of concerns with the POP prepared by DCSDC and these are set out below:
 - DCSDC's failure to present comments that have been received from statutory bodies in response to the SA Scoping Report and how these have been considered (Section 5);
 - DCSDC's failure to consult with adjacent council areas on baseline information or highlight issues of wider importance or transboundary issues (Section 5);
 - Inconsistency between the baseline information within the Scoping Report and the Council's own evidence base documents (Section 5);
 - Failure of the Interim SA to correctly appraise the reasonable alternatives for minerals extraction in the absence of any methodology and evidence base to identify the sustainable locations and therefore assess their sustainability impacts;
 - DCSDC's approach to minerals policy, in particular the following (Section 3):
 - Premature consultation on its Preferred Option in the absence of a clear detail on the options considered for Areas of Constraint on Mineral Development and Mineral Safeguard Areas;
 - Premature consultation on its Preferred Option in absence of evidence on the extent and availability of future resources;
 - Failure to distinguish between different parts of the minerals sector when developing policy, despite advice from the Department for Economy¹ to do so;
 - Failure to undertake a detailed policy review of MIN Policies set out in the Planning Strategy for Rural Northern Ireland (Section 4).
4. The identified gaps in information severely prejudice the entire LDP process and the Council's ability to formulate a sound and lawful local development plan. It is therefore essential that this matter is urgently reconsidered and the following steps taken:-

¹ Department for Economy, Information on Minerals, Geothermal Energy, Groundwater and Geohazards to Inform Local Council Planning Option Papers

- Appropriate information should be obtained from GSNI and other relevant parties/stakeholders as part of the statutory consultation process.
- Proper consideration of the options in respect of minerals development should then be carried out.
- Assessment of the appropriate information and options should be subject to further consideration and assessment as part of the SA process.
- A preferred option should be identified;
- A further consultation exercise should then take place.

1. Introduction

- 1.1 These representations have been prepared by Turley, on behalf of Dalradian Gold Limited ('Dalradian').
- 1.2 On 31 May 2017 Derry City and Strabane District Council ('the Council') published their Local Development Plan ('LDP') Preferred Options Paper ('POP') for consultation. These representations also respond to the contents of the following documents which were published alongside the POP:
- Sustainability Appraisal Scoping Report, May 2017;
 - Sustainability Appraisal (incorporating Strategic Environmental Statement SEA) Interim Report, May 2017; and
 - Equality Impact Assessment (EQIA) Progress Report (May 2017).
- 1.3 The following Evidence Base Papers and Policy Review Papers, prepared by the Council have also been considered in preparing these representations:

Evidence Base Papers

- EVB1 - Vision and Objectives
- EVB2 - LDP Context & Requirements (May 2017)
- EVB3 - Population & Growth Strategy (May 2017)
- EVB4 - Settlements Hierarchy & Strategic Settlement Evaluation (May 2017)
- EVB5 - Housing (May 2017)
- EVB6 - Economic Development (May 2017)
- EVB7 - City & Town Centres (May 2017)
- EVB8 - Retailing (May 2017)
- EVB9 - Development Pressure Analysis (February 2017)
- EVB9 - Countryside & Landscape (May 2017)
- EVB9 - Natural Environment (May 2017)
- EVB10 - Historic Environment (May 2017)
- EVB10 - Urban Design (May 2017)
- EVB11 - Transport & Movement (May 2017)
- EVB12 - Open Space & Recreation (May 2017)
- EVB13 - Tourism (May 2017)
- EVB14 - Renewable Energy (May 2017)
- EVB15 - Public Utilities (May 2017)
- EVB16 - Community Infrastructure (May 2017)
- EVB17 - Coastal Development (May 2017)
- EVB18 - Waste Management (May 2017)
- EVB19 - Minerals (May 2017)

Policy Review Papers

- PR2 – Natural Heritage
- PR3 – Roads
- PR4 – Economic Development
- PR6 – Built Heritage (& Addendums) (May 2017)

- PR7 – Quality Housing (May 2017)
- PR8 – Recreation & Open Space (May 2017)
- PR10 – Telecomms (May 2017)
- PR11 – Waste (May 2017)
- PR12 – Housing in Settlements (May 2017)
- PR13 – Transportation (May 2017)
- PR15 – Flooding (May 2017)
- PR16 – Tourism
- PR17 – Advertisements (May 2017)
- PR18 – Renewable Energy (May 2017)
- PR21 – Countryside
- PR22 – Affordable Housing (draft) (May 2017)
- PR23 – Enabling Development (May 2017)

Structure of this Report

- 1.4 This report is structured to reflect the structure of the Preferred Options Paper and uses the Council's Questionnaire as a guide for the responses. In particular it responds to the questions set out in the following chapters of the POP:

District Profile, Policy Context

- 1) Do you have any comments on the opening Section 1-3 of the Preferred Options Paper (POP) that should be taken into account when preparing the Plan Strategy?

Vision and Objectives

- 2) Do you agree with the proposed Vision for the LDP as set out in Section 4.1 of POP?
- 3) Do you agreed with the proposed Objectives for the LDP as set out in Section 4.4 of POP?

Economy

- 4) Minerals – Do you agree with the Preferred Option?

Planning Policy Statements

- 5) Section 10 Policy Review (PPSs) Do you have any comment to make on this Section?

- 1.5 Representations in response to the Sustainability Appraisal Scoping Report, May 2017 and Sustainability Appraisal (incorporating Strategic Environmental Statement SEA) Interim Report, May 2017 are considered at Section 5.

2. Vision and Objectives

Do you agree with the proposed Vision for the LDP as set out in Section 4.1 of POP?

- 2.1 The Council's vision for the LDP is set out at paragraph 4.1 and Dalradian fully supports the vision for the District, which is for a:

"Thriving, prosperous and sustainable City and District with equality of opportunity for all."

Do you agree with the proposed Objectives for the LDP as set out in Section 4.4 of POP?

- 2.2 Section 4.4 of the POP sets out the economic, social and environmental objectives for the LDP. Dalradian supports the broad objectives set out in the POP, in summary Dalradian supports the Council's objectives of:

- Creating jobs and promoting prosperity;
- Accommodating people and creating places; and
- Enhancing the environment and improving infrastructure.

- 2.3 It is considered that the Minerals industry can contribute towards the delivery of such objectives, in particular the sector can make the following contributions:

Creating jobs and promoting prosperity

- 2.4 The minerals sector provides and supports a wide range of employment opportunities across a spectrum of skills, including:

- Environmental monitoring and management
- Health and safety officers
- Finance and human resources
- Administrators
- Managers, electricians, builders and plumbers
- Construction Workers
- Engineers, surveyors and geologist
- Miners and Drillers; and
- Drivers and machine operators.

- 2.5 In their supporting papers², the Council acknowledges that 111³ people within the District are employed within the minerals and quarrying sector, however the POP references that the sector employs only 70⁴ people although it acknowledges that this figure does not include those who are employed in related activities. It is well recognised

² EVB19 Minerals (Updated May 2017)

³ 2011 Census

⁴ NISRA

that the mineral and quarrying sector supports many other industries such as distribution, concrete works and machinery manufacturers. The Quarry Products Association for Northern Ireland (QPANI), suggests that more than 200 people are directly or indirectly employed by quarrying in the District. The POP therefore fails to recognise the full extent of the current baseline with regard to minerals and quarrying.

2.6 The same paper also sets out that there are 22 quarry sites operating within the district and that these quarries generate c. 295,796 tonnes of product as a value of £828, 096. This conflicts with data from QPANI which indicates that quarries in the District produce £1.6m of raw materials, with a value of £25m to the District after processing.

2.7 The Council goes on to acknowledge at paragraph 5.1 of the Paper, that:

“Current information set out in this paper, clearly shows that mineral extraction and production makes a significant contribution to the Northern Irish economy and also an important contribution to the local economy. While mineral extraction and production is relatively small in the District, in comparison with others in NI, it still has a significant value to the economy and development of the District.”

2.8 Despite the recognition of the significant value to the economy, the economic objectives set out in Section 4.4 of the POP fail to make any reference to the need to ensure that the mineral and quarrying sector is maintained within the District. This sector is not identified as an area for ‘step-change’ in the POP despite the acknowledged (though underestimated) value to the economy.

2.9 The Council’s Minerals Paper recognises minerals as an important natural resource⁵ and it is therefore surprising that it fails to propose an objective in proper recognition of this value. This is inconsistent with the approach taken by the Council in identifying an objective relating to renewable energy⁶, which is also recognised by the Council as an important natural resource and no rationale for this surprising inconsistency in approach is provided.

Accommodating people and creating places:

2.10 Poor economic circumstances are one of the primary influencers of health and wellbeing inequalities. Communities with high levels of socio-economic deprivation are more likely to suffer from morbidity, injury, mental anxiety, depression and higher rates of premature deaths compared to less deprived communities^{7,8,9}.

2.11 Improving economic prosperity within a community through education and employment opportunities can significantly improve long term health. Therefore, projects with the potential to offer long-term, stable employment prospects at the local level with

⁵ EVB19 Minerals (Updated May 2017) – Paragraph 5.6

⁶ POP – Economic Objective (a) (v), page 37

⁷ Beland F, Birch S, Stoddart G. (2002). Unemployment and health: contextual-level influences on the production of health in populations. *Soc Sci Med* 2002;55:2033-52.

⁸ Stafford M, Martikainen P, Lahelma E, Marmot M. (2004). Neighbourhoods and self rated health: A comparison of public sector employees in London and Helsinki. *J Epidemiol Community Health* 2004;58:772-8.

⁹ Van Lenthe FJ, Borrell LN, Costa G, Diez-Roux AV, Kauppinen TM, Marinacci C, Martikainen P, Regidor E, Stafford M, Valkonen T. (2005). Neighbourhood unemployment and all cause mortality: a comparison of six countries. *J Epidemiol Community Health* 2005;59:231-237.

opportunities for promotion and advancement through training and experience are therefore regarded as contributing to improved health and wellbeing.

- 2.12 EVB19 on Minerals recognises that minerals are an important natural resource and that the minerals industry makes a contribution towards quality of life through the provision of minerals for construction and the provision of employment, particularly in rural areas.

Enhancing the environment and improving infrastructure

- 2.13 Dalradian supports the environmental objectives set out the POP in so far as economic considerations should be balanced against the social and economic considerations of any proposal.
- 2.14 Statistics for 2014-15 issued by NIEA¹⁰ show that the mineral and quarrying industry has one of the highest compliance rates for water discharges from their sites and is not identified as a source of complaint in the Noise Compliance Statistics. Furthermore, the industry is a highly regulated sector, with regulatory requirements covering all environmental aspects, including ecological habitats, water management, waste management, air quality and noise.
- 2.15 Dalradian acknowledges that they have a role to play in conserving the environment when bringing forward proposals for mineral extraction.

¹⁰ Quarry Products Association NI

3. Economy

- 3.1 Dalradian welcomes the Council's ambitions to grow and in particular is supportive of the vision set out at Section 7.4 of POP, namely:

"There is a window of opportunity over the next few years when our population is projected to grow and to realise the full benefits of a regional status; the region needs to maximise its strengths for communication, transport, tourism, economic productivity, knowledge, education and innovation."

- 3.2 Dalradian does have grave concerns about the level of engagement and the evidence base that supports the POP, particularly in relation to minerals. The evidence base papers referred to in the POP conclude by setting out that the papers and member's views have informed the options set out in the POP yet there is no explanation of the feedback that has informed the options.

- 3.3 The papers also go on to acknowledge that further feedback is required from the relevant authorities to inform the future proposals. Such an approach to evidence gathering fundamentally undermines the soundness of the plan: how can a council proceed to identify its preferred options without evidence upon which to base its position.

- 3.4 In terms of the evidence that is presented on Minerals, the Council acknowledges the lack of data on the future mineral reserves in the area and that the current position in relation to minerals is unclear as historic data is used. Engagement with the minerals sector is critical to secure information to;

- Inform the current status of mineral development within the district;
- Establish the future need for aggregate within the district;
- Establish the position on the availability of aggregates within the district; or
- Establish the extent of other mineral reserves in the district.

- 3.5 Such evidence is clearly absent.

- 3.6 The Council's approach to evidence gathering is our particular concern is light of the Department for Economy's publication, entitled 'Information on Minerals, Geothermal Energy, Groundwater and Geohazards to Inform Local Council Planning Options Papers'. This paper provides information on considerations that should be addressed by each council in the preparation of the POP, namely:

- It is important to make the best use of the mineral resources and to secure their long-term availability through the mechanism of mineral safeguarding;
- Mineral planning policies and options cannot be considered exclusively from the local council perspective. In some cases there is the potential to be a net exporter of minerals to Great Britain, Republic of Ireland and beyond;

- Time limits on mining development is arbitrary and unnecessary;
 - As mineral resources are finite and are not distributed evenly, knowledge about their whereabouts is essential for making effective and sustainable planning decisions that consider the needs of future generations.
- 3.7 The document also confirms that the approach of Planning Policy Wales is good practice. Chapter 14 of Planning Policy Wales (PPW) sets out that in order to monitor and review development plans, authorities should assess mineral resources in their area and their reserves for which planning permission exists. They should also assess the significance of the resources within their area.
- 3.8 Welsh Local Development Plan Manual (Edition 2), August 2015 provides further useful guidance on what should be included within the first stage of the plan making process. It makes clear that:
- Evidence gathering stage should be completed before options are considered. This evidence gathering stage includes baseline assessments and additional studies as required;
 - Robust evidence must be ready and available at a time when it can inform the work of preparing the LDP as options are developed and assessed and decisions are made;
 - Key stakeholders and partners should be asked to consider the adequacy of the existing information and any gaps that should be addressed and then filled quickly;
 - The evidence base of the LDP should include baseline information on a wider range of factors including the analysis of the future needs and demands of the area and the issues driving change; and
 - Just collecting information is not enough, more important is the way it is brought together, synthesised, analysed and then used to inform the plan.
 - The following relevant consultation bodies are identified for LDPs in Wales:
 - British Geological Survey; and
 - Quarry Products Association Wales.

Minerals – Do you agree with the Preferred Option?

- 3.9 The Councils preferred option is a:

“Balanced approach, which seeks to promote mineral development in sustainable locations with a focus on the protection of sensitive landscapes and reinstatement of workings.”

3.10 The Council sets out that Option 3 (preferred option) ¹¹:

“Is for a more balanced approach which seeks to uphold strong environmental principles that protect and enhance the environment so as to minimise the adverse impact of mineral workings on the environment and particularly in sensitive landscapes. It furthermore sets out to ensure that damage to the environment is remedied. Whilst protecting the environment, the LDP will be very supportive of minerals businesses and their contribution to building our District’s infrastructure, homes and wider economy.”

3.11 Dalradian supports the intention to apply a balanced policy approach, however we disagree that mineral development should only be promoted in sustainable locations. The Council does not define ‘sustainable locations’ and by their very nature, minerals can only be exploited where they are found. This is recognised in the Strategic Planning Policy Statement¹² where it states that:

“minerals can only be extracted from sites where they occur, and there may be limited opportunities for consideration of alternative sites.”

3.12 A more balanced and justifiable approach would be to promote and facilitate a sustainable approach to the minerals development as endorsed by SPPS:

“The regional objectives for minerals development are to:

- Facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;*
- Minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment; and*
- Secure the sustainable and safe restoration, including the appropriate re-use of mineral sites, at the earliest opportunity.”*

3.13 The Council’s preferred option also identifies that a focus will be placed on the protection of sensitive landscapes. Again we would emphasise that mineral extraction can only take place where it is found.

3.14 The Council’s POP sets out that:

“The LDP will protect identified Mineral Reserve Areas, as well as identifying Areas of Constraint on Minerals Development; in doing so this will indicate those other areas of the District which are suitable for minerals development, subject to normal environmental and planning assessments. The LDP can also consider whether specific ‘precious minerals’ or hydrocarbons’ policies are required.”

Mineral Reserve Areas (MRAs)

3.15 Dalradian supports the Council’s proposal to include MRAs within the LDP. This is important in recognising the significant economic contribution that the mineral extraction

¹¹ POP Paragraph 7.71

¹² SPPS, September 2015 Paragraph 6.150

industry does and will make to the local and regional economy. It is also important to recognise, as the Council does in their papers, that the minerals sector also supports other industries.

- 3.16 Dalradian welcomes the Council's acknowledgement, at paragraph 6.76 of the POP, of a gold resource in the district. The Council's Paper on Minerals¹³ also references the presence of gold within the district, setting out the historic presence of mineral prospecting licences within the area held by Omagh Minerals and Dalradian Gold.
- 3.17 It is therefore of grave concern to Dalradian that the Council has no quantifiable data in relation to the mineral reserves in the District. Only limited mapping information provided by the British Geological Survey is included within the Minerals paper. There is no evidence that the necessary consultation with GSNi to secure the necessary information at a district level has been undertaken so as to inform the preparation of the POP and ensure the necessary understanding by the Council of the extent of quality of resource.
- 3.18 It is our view that lack of detailed evidence to demonstrate an understanding of the extent of minerals in the district fundamentally undermines the preparation of the policy and the identification by the Council of its preferred option.
- 3.19 Furthermore, whilst the Council has identified an intention to introduce MRAs neither the POP nor the evidence papers provide an indication of their likely location. This needs to be considered in advance of the preparation of the POP as it is required to inform the preferred policy approach. Secondly, in determining the extent of the proposed MRAs the Council should carry out consultation with those operating in the minerals extraction industry. Again a lack of engagement with the key stakeholders undermines the preparation of the options presented as they have failed to take account of relevant factors, including industry need, available resource, extraction rates, infrastructure requirements.
- 3.20 Useful guidance in ensuring a sound and lawful approach is also provided by Planning Practice Guidance, England¹⁴ which states:
- "Mineral planning authorities are encouraged to plan for minerals extraction using Ordnance Survey-based proposals maps and relevant evidence provided by the minerals industry and other appropriate bodies.....This approach will allow mineral planning authorities to highlight where mineral extraction is expected to take place, as well as managing potentially conflicting objectives for use of land."*
- 3.21 The failure to identify and understand the requirements of the sector before setting reserve areas represents a fundamentally flawed approach with a real risk of the Council looking as if it has predetermined the approach in the absence of evidence. Changes to the options presented in the POP may otherwise be required following the consultation and introduce new option/s at the next stage of the plan making process would not be in accordance with the consultation requirements.

¹³ EVB19 Minerals (Updated May 2017)

¹⁴ Planning Practice Guidance Paragraph 007 Reference ID 27-007-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/planning-for-minerals-extraction/>

- 3.22 For the Council to progress further with its planned strategy without a firm evidential base severely prejudices the entire process and its ability to formulate a sound and lawful local development plan. All elements of the preferred options have to be considered in taking the matter forward and the failure by the Council to collate the relevant data prevents this.
- 3.23 It is therefore essential that this matter is urgently reconsidered and the following steps taken:-
- Appropriate information should be obtained from GSNi and other relevant parties/stakeholders as part of the statutory consultation process.
 - Proper consideration of the options in respect of minerals development should then be carried out.
 - Assessment of the appropriate information and options should be subject to further consideration and assessment as part of the SA process.
 - A preferred option should be identified;
 - A further consultation exercise should then take place.
- 3.24 In formulating policy for the safeguarding of minerals it is important for the Council to recognise that the extraction of minerals is dependent upon the availability of sufficient land to provide for the processing and storage of materials and their distribution. This is the approach that is endorsed in England through the Planning Practice Guidance¹⁵, which also provides helpful guidance for Northern Ireland planning authorities.
- “Planning authorities should safeguard existing, planned and potential storage, handling and transport sites to:*
- ensure that sites for these purposes are available should they be needed; and*
- prevent sensitive or inappropriate development that would conflict with the use of sites identified for these purposes.” Paragraph: 006*
- 3.25 This approach ensures that the operations to extract and distribute minerals can take place without impact on amenity as sufficient land is reserved in advance to provide the necessary buffer areas for development and ensure that no sensitive development is located near to mineral exploitation areas or processing areas. The Council’s mineral policy needs to recognise this important factor.
- 3.26 Dalradian also supports the approach taken by the Welsh Government in relation to mineral safeguarding. Here Planning Policy Wales (PPW) (Chapter 14) states that:

¹⁵ Planning Practice Guidance - Planning Practice Guidance - Paragraph: 006 Reference ID: 27-006-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/minerals-safeguarding/>

“Areas to be safeguarded should be identified on proposals maps and policies should protect potential mineral resources from other types of permanent development which would either sterilise them or hinder extraction, or which may hinder extraction in the future as technology changes.” (Para 14.7.5)

3.27 The same Policy document goes on to provide policies on identifying areas of future mineral workings. It sets out that development plans should make clear where mineral extraction should or is most likely to take place and these area should be clearly shown on proposal plans. PPW suggests the following areas should be identified:

- Specific sites – were resources of commercial significance exist and where any planning applications which come forward would be acceptable;
- Preferred sites – areas of known resource with some commercial potential and where planning permission might reasonably be anticipated;
- Areas of search – where it is likely that some sites will be appropriate for mineral extraction. These define areas believed to contain resource of commercial significance but where the full extent is not known.

3.28 The Local Development Plan Manual (Edition 2), August 2015 also endorses that the LDP can safeguard minerals far beyond the plan period due to the need for long-term protection to prevent sterilisation by other forms of development.

Areas of Constraint on Minerals Development

3.29 Paragraph 6.155 of the SPPS is clear that in preparing their LDP, councils should:

“Identify areas¹⁶, which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural, built and archaeological heritage).”

3.30 Whilst we recognise that designations such as ACMD’s should be included in the LDP, this is in the context that the SPPS also goes on to say that:

“However, where a designated area such as an Area of Outstanding Natural Beauty (AONB) covers expansive tracts of land, the LDP should carefully consider the scope for some minerals development that avoids key sites and that would not unduly compromise the integrity of the area as a whole or threaten to undermine the rationale for the designation.” (Paragraph 6.155)

3.31 Whilst the POP does not identify locations for ACMDs it does state that sensitive landscapes will be protected. The Council, in EVB9 Countryside and Landscape (May 2017) identifies the Sperrins AONB as such a landscape. In this regard is it essential that the Council should undertake an assessment of the Sperrins AONB to inform what specific areas should be classified as ACMD’s.

3.32 As indicated above, it is critical that the exercise required by paragraph 6.155 of the SPPS is carried out in determining the extent of the AMCDs.

¹⁶ Normally referred to in Development Plans as ‘Areas of Constraint on Minerals Development’

- 3.33 To comply with the SPPS, the extent of any ACMD should protect the areas of intrinsic value but should also recognise that the value of expansive areas may not be consistent.
- 3.34 The Council should apply the approach adopted in the Magherafelt Area Plan 2015 post feedback from the Planning Appeals Commission (PAC). In this case the Department of the Environment, which was responsible for the preparation of the Plan at the time, were proposing that all areas which were subject to an environmental designation would be identified as an ACMD, irrespective of site circumstances. The area covered by the Magherafelt Area Plan contained widespread mineral deposits which contribute significantly towards the local economy. In this case the Commissioner¹⁷ concluded that:
- “21.11 Such an approach does not suggest that adequate consideration has been given to balancing economic and environmental considerations.*
- 21.22 A similar exercise to that suggested for the environmental designations needs to be carried out in respect of the AONB, clearly setting out those areas most vulnerable to minerals development and limiting areas of constraint to those parts of the AONB where the protection afforded by MIN 2 and DES 4 is considered insufficient”*
- 3.35 As a result of the Commissioner’s report it was recommended that the proposed designation of ACMDs was reviewed by the Department to determine if they were indeed required and, if required, the extent of the ACMDs. In the Magherafelt Area Plan Adoption Statement, dated December 2011, the Department accepts the Commissioner’s recommendation and the ACMD designation is deleted and the plan amended accordingly.
- 3.36 SPPS endorses and adopts the position taken in the Magherafelt Area Plan 2015 and is clear that consideration should be given to the protection of key sites within designated sites when considering the extent of an ACMD. A detailed assessment of the key characteristics and sites within the AONB should therefore be carried out to justify the extent of the proposed ACMD. In addition there needs to be an assessment of the economic value of the mineral resources within the District against the environmental considerations.
- 3.37 In order to inform the options set out in the POP, the Council has prepared an evidence base paper on Landscape¹⁸. This paper includes a review of the 14 landscape character areas defined within NICLA 2000 which fall within the District. The Council’s conclusions on the sensitivity of the landscape to development are based upon the conclusions of NICLA and no further rigour of this data has been carried out.
- 3.38 Whilst proposing a restriction on mineral extraction within the proposed ACMD, other forms of development, such as agricultural and residential development will still be permitted within the AONB. It is worth noting that the accumulation of these forms of development will also have an impact on the intrinsic value of the AONB, however they

¹⁷ Magherafelt Area Plan Planning Appeals Commission Report (January 2011), Paragraph 21.10 – Appendix 1 of this report

¹⁸ EVB9 Countryside & Landscape (Updated May 2017)

will not be subjected to the same level of mitigation that is typically proposed for or required off mineral extraction activities.

- 3.39 We would highlight that the Council's own evidence shows existing extraction and quarrying within the AONB. Care should therefore be taken to proposing a blanket ACMD across the AONB on the basis that it would prejudice the continued operation of these businesses and would not be a viable option. As already stated, the economic contribution of such businesses is significant for the District.
- 3.40 Furthermore, it is Dalradian's view that when defining the ACMDs in the district; careful consideration should be given firstly to the need to designate ACMD in addition to other environmental designations, then to landscape capacity and the merits of the known minerals resource.
- 3.41 In the supporting paper¹⁹, the Council acknowledges that:

"Northern Ireland is arguably the most prospective area of the British Isles for precious metal deposits. Alluvial gold has been recovered since Celtic times when it was used to produce ornate artefacts. Modern day exploration commenced in the late 1970's. The Dalradian basement rocks of the Sperrin Mountains have been the main focus of exploration but recent work has identified additional prospective areas."

- 3.42 With this in mind the same report goes on to acknowledge that further feedback is required to ensure the LDP is fully informed. Dalradian's view is that this information should have been available at the time of preparing the options for the POP. Without such information it is difficult to understand how the options have been derived and what evidence there is to justify them. This evidence is an essential element of the test of soundness to be applied at the adoption of the Plan Strategy and Local Policies Plan. If further information is provided this could result in a requirement to reconsult on the new information as it could have an impact on the preferred option.

Precious Minerals

- 3.43 Dalradian is concerned by the Council's failure to include a specific policy relating to the extraction of precious minerals despite its own paper²⁰ recognising that:

"Northern Ireland is arguably the most prospective area of the British Isles for precious metal deposits. Alluvial gold has been recovered since Celtic times when it was used to produce ornate artefacts. Modern day exploration commenced in the late 1970's. The Dalradian basement rocks of the Sperrin Mountains have been the main focus of exploration but recent work has identified additional prospective areas."

- 3.44 Whilst reference to the presence of gold and other precious minerals is made within the POP and Paper EVB19, there is no consideration of what policy approach would be taken towards the extraction of precious minerals.
- 3.45 SPSS is clear that:

¹⁹ EVB19 Minerals (Update May 2017)

²⁰ EVB19 Minerals (paragraph 4.18 & 4.19)

“There will not be a presumption against their exploitation in any area, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.” (paragraph 6.157)

- 3.46 Policy MIN 4 of the PSRNI currently provides for the extraction of valuable minerals, stating that:

“applications to exploit minerals, limited in occurrence and with some uncommon or valuable property, will be considered on their own merits.”

- 3.47 Policy MIN 5 of the PSRNI also states:

“Surface development which would prejudice future exploitation of valuable mineral reserves will not be permitted.

Where there are mineral reserves, e.g. lignite (brown coal), which are considered to be of particular value to the economy and those reserves have been proven to acceptable standards, surface development which would prejudice their exploitation will not be permitted. Policy Areas in respect of such minerals will, where appropriate, be defined in development plans. “

- 3.48 This approach should be carried forward to ensure that the future extraction of valuable resources is not prohibited.

- 3.49 A failure to include specific policies on valuable minerals would result in a conflict with the SPPS which recognises the importance of planning for such resources.

- 3.50 DfE²¹ sets out that:

“In planning policy hard rock aggregates, sand and gravel, metalliferous minerals and petroleum are usually covered under the general heading of minerals although the methods, location and scale of development may be very different for the different groups of minerals.”

- 3.51 With this in mind, it is Dalradian’s view that the Council should identify policy considerations for various forms of mineral development and in particular the extraction of valuable minerals²² (precious metals, base metals, EU critical metals and other elements) should be distinct from aggregates. This view is strengthened by the comments received from DfE in response to the Fermanagh and Omagh District Council’s POP. According to FODC’s Summary of Consultee Responses²³, DfE consider that:

“preferred options would benefit from modification to take account of the differences in the exploration and development in 3 main categories – low value aggregates, high value metalliferous minerals, and energy minerals.”

²¹ Department for Economy, Information on Minerals, Geothermal Energy, Groundwater and Geohazards to Inform Local Council Planning Option Papers.

²² Elements – Au, Ag, Cu, Ni, Pb, Zn, Sb, Be, Co, Ga, Mg, La, Th, U, W, Al, As, Ba, Bi, Ca, Cd, Cr, Fe, K, Mn, Mo, Na, P, S, Sc, Sr, Ti, Tl

²³ Local Development Plan Preferred Options Paper Public Consultation Report February 2017 Appendix 2

- 3.52 National planning policy in England sets out a clear expectation that a disaggregated approach is expected. Section 13 of the NPPF²⁴ specifically sets out that:

Minerals planning authorities should plan for a steady and adequate supply of aggregates....(Paragraph 145); and

Minerals planning authorities should plan for a steady and adequate supply of industrial minerals.... (Paragraph 146)

- 3.53 This approach is also endorsed in Planning Practice Guidance in England, which sets clear guidance on planning for different types of minerals²⁵. A similar approach is required in Northern Ireland in order to ensure that adequate provision is made for the range of mineral resources available and to ensure that sufficient resources are being exploited to meet local, regional and national need.

- 3.54 The SPPS states that:

“From time to time minerals may be discovered which are particularly valuable to the economy. Their exploitation may create environmental effects which are particular to the methods of extraction or treatment of that mineral. There will not be a presumption against their exploitation in any area, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.” (paragraph 6.157)

- 3.55 The SPPS is clear that the extraction of valuable minerals in an AMCD should be treated as an exception as the SPPS clearly states that:

“there will not be a presumption against their exploitation in any area”

- 3.56 Dalradian considers that on site processing of materials should also be permitted, if it can be demonstrated that there will be no unreasonable adverse environmental impacts. It is also important for the Council to recognise that minerals can only be extracted at their source.

²⁴ National Planning Policy Framework, 2012

²⁵ <http://planningguidance.communities.gov.uk/blog/guidance/minerals/>

4. Review of Planning Policies

Section 10 Policy Review (PPSs) Do you have any comment to make on this Section?

- 4.1 We welcome the Council's consideration of existing policies and in particular the consideration of existing mineral policies set out in the Planning Strategy for Rural Northern Ireland (PSRNI).
- 4.2 We would however highlight that the Council does not appear to have undertaken a detailed review of the existing mineral policies set out in the PSRNI. Unlike other policy areas, there is no Policy Review Paper relating to minerals and no detailed assessment within the POP. It is therefore difficult to understand how due consideration has been given to the existing policies.
- 4.3 Dalradian has nevertheless considered the relevant policies from the PSRNI and their views are presented below.

Policy MIN 1 – Environmental Protection

- 4.4 Policy MIN 1 of the PRSNI relates to environmental protection and in particular:
- “To assess the need for the mineral resource against the need to protect and conserve the environment.”*
- 4.5 This policy sets out that:
- The minerals industry should seek to ensure the physical preservation of important nature conservation sites, historic buildings and ancient monuments along with their settings;
 - Mineral development will not be permitted in designated areas where it will prejudice the essential character of such areas;
 - The Department and/or Council will balance the case for a mineral working against the need to protect and conserve the environment, taking account of all relevant environmental, economic and other considerations; and
 - Extensions to existing mineral workings which minimise environmental disturbance in the countryside will normally be preferred to new workings on green field sites;
 - Where applicable, measures to prevent pollution of rivers, watercourses and groundwater should be included in applications for mineral extraction and processing plant, including settlement ponds.
- 4.6 The policy considerations set out under Policy MIN 1 would be subject to detailed technical assessment as part of a planning application or Environmental Impact Assessment.

Policy MIN2 – Visual Implications

- 4.7 Policy MIN2 relates to the visual implications of mineral development and in particular the need to have regard to visual implications. Policy MIN2 sets out that:
- To minimise visual impact, workings, where possible, should be located to take advantage of existing landforms and features, including the preservation of skylines and location of plant and stockpiles; and
 - It would be unrealistic to dispense with essential sources of minerals and workings proposed within designated areas such as AONBs and AHSVs will therefore be subject to rigorous examination in relation to landscape implications.
- 4.8 The consideration required by Policy MIN2 would be subject to detailed technical assessment as part of a planning application or Environmental Impact Assessment. This requirement also reinforces the position that blanket areas of constraint should not be applied to AONBs or other designated areas. The approach endorsed in Policy MIN2 is also set out in the SPPS and should therefore be carried forward to prevent a conflict with existing regional policies.

Policy MIN3 – Areas of Constraint

- 4.9 Policy MIN3 relates to the identification of Areas of Constraint on Mineral Development. The policy indicates that such areas may form all or part of an AONB or indeed any undesignated area. Dalradian would reiterate that the policy again endorses the view that a blanket constraint across an AONB is not required.
- 4.10 Policy MIN3 also sets out that there will be a presumption against extraction or processing of minerals in such areas unless there are exceptional circumstances; namely:
- The operations are short-term; and
 - The environmental implications are not significant; and
 - On-site processing is unlikely to be permitted.

The operations are short-term

- 4.11 Without prejudice to Dalradian's position that the mining of precious minerals should not be restricted in any way within and ACMD the Council should recognise that the quantum of workable mineral dictates the timescales for extraction. Furthermore the Council should recognise the differential impact that a policy restricting the duration of operations would have on different parts of the minerals sector. In terms of Dalradian's specific interest, the extraction of valuable minerals could require hundreds of millions of pounds of investment and certainty on a project's duration is absolutely fundamental to the assessment of its feasibility and the ability to attract investment and the confidence to make the decision to deliver the project subject to all necessary consents.

4.12 This view is recognised by DfE²⁶, who state:

“A time limit would have a negative effect on mineral exploration and, thus, would significantly reduce the inward investment and employment opportunities that the development of mineral resources could bring to Northern Ireland.”

4.13 Dalradian supports the approach adopted in PPW²⁷ which acknowledges that mineral working is different from all other forms of development and that mineral extraction cannot be regarded as permanent land use even though operations may occur over a long period of time.

4.14 In any event, when considering an application for mineral development the accompanying environmental information will assess the entire lifetime of the project, from site preparatory works through to site restoration. The development management process and conditions associated with the grant of permission can therefore ensure that continuous monitoring and assessment of the development can be carried out as necessary.

4.15 We would draw attention to a recently consented development within the North York Moors National Park²⁸, where the extraction of minerals was valid for a period of 103 years. In granting planning permission for the winning and working of polyhalite by underground methods the local planning authority²⁹ attached a planning condition stating:

“The permission hereby granted authorises the winning and working of the Polyhalite form of potash material and trace minerals intermingled with the polyhalite only, the construction of the mine and ancillary development at Doves Nest Farm and the construction of the Mineral Transport System and Intermediate Shafts. The winning and working of mineral shall cease after the expiry of a period of 103 years from the date of this permission.” Condition No. 2

4.16 In considering the proposals, the local planning authority³⁰ in that case determined that a review of the permission would take place every 15 years and if necessary additional restrictions could be put in place via amended or new planning conditions. This would however not jeopardise the ongoing operation of the consented scheme if there was no change in circumstances. The time condition proposed was based on the applicant's assessment that the project lifetime would be c.100 years and this was considered within the environmental information that supported the application

4.17 The introduction of an arbitrary time limit with no evidential base is misconceived and an inappropriate constraint on sustainable minerals development.

The environmental implications are not significant

²⁶ Department for Economy, Information on Minerals, Geothermal Energy, Groundwater and Geohazards to Inform Local Council Planning Option Papers.

²⁷ Planning Policy Wales (Edition 9), Chapter 14

²⁸ Planning Application Reference NYM/2014/0676/MEIA – North York Moors National Park Authority, Applicant: York Potash.

²⁹ North York Moors National Park Authority

³⁰ North York Moors National Park Authority

- 4.18 In respect of the environmental implications of minerals development, proposals for mineral extraction and the associated infrastructure would need to be supported by the relevant environmental information and where necessary mitigation measures can be conditioned as part of the grant of planning permission.

On-site processing is unlikely to be permitted

- 4.19 Proposals for on-site processing should be approved where it is demonstrated that there will be no unreasonable adverse environmental effects. In determining the location of processing plants on site, careful consideration is given to ensure that buildings and infrastructure are sited where impact is limited or can be appropriately mitigated.

Furthermore, in some cases it is more appropriate to use on-site processing to minimise impacts relating to traffic movement, noise and air quality.

Policy MIN4 – Valuable Minerals

- 4.20 Policy MIN 4 of the PSRNI currently provides for the extraction of valuable minerals, stating that:

“applications to exploit minerals, limited in occurrence and with some uncommon or valuable property, will be considered on their own merits.”

-
- 4.21 This approach is endorsed in the SPPS, which is clear that:

“There will not be a presumption against their exploitation in any area, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.” (paragraph 6.157)

- 4.22 National planning policy in England sets out a clear expectation that a disaggregated approach is expected. Section 13 of the NPPF³¹ specifically sets out that:

Minerals planning authorities should plan for a steady and adequate supply of aggregates....(Paragraph 145); and

Minerals planning authorities should plan for a steady and adequate supply of industrial minerals.... (Paragraph 146)

- 4.23 This approach is also endorsed in Planning Practice Guidance in England, which sets clear guidance on planning for different types of minerals³². A similar approach is required in Northern Ireland in order to ensure that adequate provision is made for the range of mineral resources available and to ensure that sufficient resources are being exploited to meet local, regional and national need.

- 4.24 The SPPS states that:

“From time to time minerals may be discovered which are particularly valuable to the economy. Their exploitation may create environmental effects which are particular to the methods of extraction or treatment of that mineral. There will not be a presumption

³¹ National Planning Policy Framework, 2012

³² <http://planningguidance.communities.gov.uk/blog/guidance/minerals/>

against their exploitation in any area, however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning.” (paragraph 6.157)

- 4.25 The SPPS is clear that the extraction of valuable minerals in AMCD should be treated as an exception. The designation of an AMCD places a presumption against minerals development in such locations, however SPPS clearly states that:

“there will not be a presumption against their exploitation in any area”

- 4.26 The extraction of valuable minerals should therefore be treated as an exception and the policy approach set out in Policy MIN4 should be carried forward as to do otherwise would result in a conflict with the SPPS.

Policy MIN5 – Mineral Reserves

- 4.27 Policy MIN 5 of the PSRNI states:

“Surface development which would prejudice future exploitation of valuable mineral reserves will not be permitted.

Where there are mineral reserves, e.g. lignite (brown coal), which are considered to be of particular value to the economy and those reserves have been proven to acceptable standards, surface development which would prejudice their exploitation will not be permitted. Policy Areas in respect of such minerals will, where appropriate, be defined in development plans.”

- 4.28 This approach should be carried forward to ensure that the future extraction of valuable resources is not prohibited. The approach set out in Policy MIN5 is carried through in Paragraph 6.155 of the SPPS and should therefore be carried forward in the LDP. Not to do so would result in a conflict with the SPPS and would create policy void. This approach would also give due regard to the importance to plan for our natural resources.

Policy MIN6 – Safety and Amenity

- 4.29 Policy MIN6 requires regard to be had to the safety and amenity of the occupants for developments in close proximity to workings. This approach is also endorsed within the SPPS and therefore should be carried forward in the LDP.

- 4.30 The considerations relating to the safety and amenity within Policy MIN6 and at paragraph 6.166 of the SPPS will form part of the material considerations relating to the determination of a planning application for mineral extraction. These will be considered by way of technical assessments or an Environmental Impact Assessment. Where measures are proposed to prevent or reduce amenity or safety impacts these can be controlled by way suitably worded planning conditions.

Policy MIN7 – Traffic

- 4.31 Policy MIN7 relates specifically to the traffic implications resulting from mineral development. Considerations include:

- Road safety;

- Road capacity;
- Access to and from the development; and
- Transportation routes.

4.32 A similar policy approach is set out in paragraph 6.160 of the SPPS and therefore this approach should be carried forward within the LDP to avoid a conflict with regional policy.

4.33 In any event traffic and transport implications form a material consideration in the determination of a planning application for all forms of development and any applications for mineral development are likely to be accompanied by the relevant technical assessment. Furthermore any necessary mitigation or control measures can be enforced by the Council by way of a suitably worded planning condition or legal agreement.

Policy MIN8 - Restoration

4.34 Policy MIN8 requires workings to be restored at the earliest opportunity and applications for mineral extraction must be accompanied by satisfactory restoration proposals. Paragraph 6.161 of the SPPS also endorses this approach. In order to prevent a conflict with the SPPS, this policy approach should be carried forward in the LDP.

4.35 In any event, when considering proposals for mineral extraction the restoration phase would form part of the supporting environmental information. Furthermore, it is recognised that environmental enhancements can be gained from such operations, for example, carefully planned rehabilitation of habitats can assist in restoring and enhancing native species³³ and restoration schemes can provide new habitats (e.g. woodland).

³³ 3.25 Oceana Gold Macreas, New Zealand, Relocation of the Copper Tussock to allow the Otago Skink (lizard) to establish a new habitat.

5. Representations to the Derry City and Strabane Preferred Options Local Plan Interim Sustainability Appraisal.

A review of the Interim Report and Sustainability Appraisal process supporting the Derry City and Strabane Preferred Options Paper

- 5.1 A review of the Sustainability Appraisal (SA) documents that have been produced in support of the Derry City and Strabane District Council (DCSDC) Local Development Plan Preferred Options Paper (POP), May 2017 has been undertaken on behalf of Dalradian.
- 5.2 The documents that have been reviewed are:
- Derry City and Strabane District Council Local Development Plan (LDP) 2032, Sustainability Appraisal Scoping Report, May 2017
 - Derry City and Strabane District Council Local Development Plan (LDP) 2032, Interim Sustainability Appraisal Report incorporating Strategic Environmental Assessment, May 2017
 - Evidence Base (EVB19) Minerals, Derry City and Strabane District Council, updated May 2017
- 5.3 Dalradian have made these representations based on their current and proposed future exploration and extraction activities within Fermanagh and Omagh and the potential for future activities within the Derry City and Strabane District (DCSD).
- 5.4 Dalradian fully support the principles of sustainable development and are committed to their current and future exploration and extraction activities having a positive economic, social and environmental benefit on the local area.
- 5.5 Given the above commitment to sustainable minerals extraction and the function of the SEA/ SA process in relation to the emerging DCSDC Local Plan, Dalradian wish to engage positively and proactively in the SA and local plan process to fully capture the potential benefits of a nationally significant mineral resource whilst ensuring sustainable development in accordance with national planning policy and guidance.
- 5.6 It is recognised by national policy that sustainable minerals extraction can play a key role in sustainable economic growth. Paragraph 6.149 of the Strategic Planning Policy Statement (SPPS) states that:

“The Sustainable Development Strategy recognises that while it is important that we respect the limits of our natural resources and ensure a high level of protection and improvement of the quality of our environment, ‘sustainable development’ does not prevent us from using and capitalising on such resources. An enduring successful economy will effectively use natural resources and contribute towards the protection of the environment.”

- 5.7 Paragraph 3.1 of the SA/SEA Development Plan Practice Note (DP Practice Note) states that:

“The purpose of the SA is to promote sustainable development through the integration of social, environmental and economic considerations into the preparation of plans and programmes such as local development plans.”

- 5.8 The following provides an independent review of the Local Plan SA documents and the evidence base and a summary of our recommendations in relation to the proposed minerals options in the DCSDC Preferred Options Paper.

Derry City and Strabane District Council LDP 2032, SA Scoping Report, May 2017

- 5.9 The production of a Scoping Report is a critical first step in the SA process as its content and outputs defines the entire nature of the SA process and therefore the evolution of the local plan and its policies. The process for preparation of a SA Scoping Report is detailed in section 7 of the DP Practice note.

- 5.10 Informal and formal consultation with stakeholders and the public is an essential part of Sustainability Appraisal to ensure that the topics and issues have been fully considered. The first formal consultation required is with the Consultation Body (The Northern Ireland Environment Agency (NIEA)) on the Scoping Report.

- 5.11 Dalradian have concerns with regards to the process and content of the SA Scoping report which can be summarised as:

- (i) No outline of the comments received from the consultation body and subsequent amendments to the SA based on the recommendations made prevents consultees and interested parties making further comments which is not in accordance with the DP Practice Note guidance and recognised best practice.
- (ii) There appears to have been very limited transboundary consultation with adjoining councils which would have provided additional baseline information and highlighted wider issues for sustainable development within the plan area
- (iii) The baseline information within the scoping report fails to convey the key messages from within the Council’s own evidence base documents and recognise the potential for significant gold reserves within DCSD and the substantial benefits that minerals extraction could have on the local economy where these physical resources are extracted in a sustainable manner.

Consulting on the Scoping Report

- 5.12 Table 2.1 within the Scoping Report confirms that DCSDC invited comment from the Consultation Body (NIEA) on 21st February 2017 and received a response on the 23rd March 2017. Recommendations were incorporated where possible and will be further addressed in the updated Scoping Report for Plan Strategy. There is however, no

record within the Scoping Report or the Interim SA of the comments received or what amendments remain for future stages.

- 5.13 In line with the guidance within the DP Practice Note (paragraph 7d(iv)), an outline of the methodology for the appraisal and the proposed structure and level of detail of the SA report to inform consultees and interested parties of the next stage of the process would be helpful during this period of public consultation to allow full stakeholder consultation and demonstrate best practice.

- 5.14 Paragraph 3.5 of the 2005 SEA Guidance³⁴ states the following:

“The Directive refers only to consultation with the Consultation Bodies and with the public. Responsible Authorities will however normally consult a range of other bodies in the course of preparing their plans and programmes (e.g. Local Authorities, Regional Development Agencies and Primary Care Trusts) and information from these may be useful in SEA.”

- 5.15 DCSDC adjoins Causeway Coast and Glens Borough Council, Mid Ulster District Council, Fermanagh and Omagh District Council and Donegal County Council. These councils include those where Dalradian have mining interests and whilst Councils are invited to comment on the Preferred Options Paper and Sustainability Appraisal Reports they have not been consulted prior to this to help inform the baseline information or highlight issues of wider importance from a sustainable development perspective or to address transboundary issues.
- 5.16 As part of responsible plan making Dalradian firmly believe that the SA Scoping report should have been issued for wider consultation prior to the development and publication of the POP and its supporting SA report.

Content of the Scoping Report

- 5.17 The content of the scoping report and specifically the baseline information does not portray an accurate socio-economic and environmental profile of the plan area which, in turn unduly influences the scoping report conclusions and assessment of the POP.
- 5.18 The baseline data is used to identify key sustainability issues and help inform the SA Framework which is used to appraise and influence the development of the reasonable alternatives. If there are gaps or errors in the baseline information then this will impact the outcomes of the plan and its preferred policies.
- 5.19 Dalradian has identified the following issues with regards to presentation of baseline data and key sustainability issues detailed in Sections 5 and 6 of the report. These are set out below.

Economy and Employment

- 5.20 Dalradian consider there to be a significant deficiency in the evidence base as there is no reference to the potential for securing local economic benefit through the exploration and (subject to findings and necessary consents) extraction of gold reserves within the district. The potential for gold reserves and other metals is acknowledged within the

³⁴ A Practical Guide to the Strategic Environmental Assessment Directive. Office of the Deputy Prime Minister, 2005.

local evidence base and more generally, the role of minerals for the economy is noted as often supporting rural areas where other employment opportunities can be scarce³⁵.

- 5.21 Section 5 of the Minerals evidence base states that 'while mineral extraction and production is relatively small in the District, in comparison with others in NI, it still has a significant value to the economy and development of the District'. Minerals development should therefore be referenced within the SA scoping report as a baseline issue that could have significant benefits to the local economy.

Physical Resources

- 5.22 Page 62 of the SA Scoping report refers to the potential for minerals extraction in the DCS District and includes the following:
- *"The area is also known for its gold deposits located in the Sperrin Mountains but there are no current working operations in the Council area. The type of mining in the area tends to be opencast which can take up a wider area of land and present visual impacts.*
 - *After an area has been mined, it may become an important resource for earth science, research, recreation and nature conservation. With or without restoration, these redundant sites can become part of blue/green infrastructure, helping to connect habitats across the wider landscape and maintaining local biodiversity."*
- 5.23 Dalradian agrees (see Appendix 5 of the SA Scoping Report) that the objective as written 'to protect physical resources and use sustainably' could result in conflicting effects whereby the protection of physical resources would inhibit the sustainable operation of the minerals industry (negative effect) and their sustainable use would promote this (positive effect). Each site is unique in terms of its location and scale and therefore potential impact (if any) will vary considerably. The objective should therefore be reviewed and should read as 'to ensure the sustainable use and management of physical resources'. This could be more easily balanced through appropriate mitigation or significant economic and employment positives of a proposed site.
- 5.24 Dalradian is also concerned by the misconception at Page 62 of the SA scoping report which states that most minerals extraction tends to 'be opencast which can take up a wider area of land and present visual impacts'. For the proposed exploration and extraction activities within the nearby F&O district, Dalradian propose a system of underground tunnel extraction which is a much more sustainable option.
- 5.25 As noted within the 'Key Sustainability Issues for Physical Resources'³⁶, a spatial approach to new mineral sites and extensions could help to support rural communities and businesses as appropriate locations with adequate transport routes could be prioritised. Dalradian agrees with this approach but also note the statement within the Minerals Evidence Base (paragraph 5.4) that 'minerals can only be extracted from sites

³⁵ Derry City and Strabane District Council Evidence Base EVB 19, Paper 5: Minerals Development and the LDP, paragraph 3.6

³⁶ APPENDIX 5: SUSTAINABILITY APPRAISAL GUIDE FOR DERRY CITY AND STRABANE DISTRICT COUNCIL PREFERRED OPTIONS PAPER, Derry City and Strabane District Council SA Scoping Report, May 2017

where they occur and there may be limited opportunities for consideration of other sites' which may encompass more rural locations requiring 'adequate transport routes' to be defined as part of the appraisal methodology at a site level.

Derry City and Strabane District Council LDP 2032, Preferred Options Paper and Interim SA Report, May 2017

- 5.26 The Council's POP and its supporting Interim Sustainability Appraisal (SA) incorporates the requirements of the Strategic Environmental Assessment (SEA) Directive, hereafter referred to as the SA Report.
- 5.27 Appraisal of the options presented in the POP was carried out in April 2017 via a panel comprised of Derry City and Strabane District Council planning team, other council staff from teams that cover environmental health, economic development and biodiversity officers, and the Shared Environmental Service team. A number of representatives from local and regional stakeholder organisations are also stated as participants though no further detail is provided on these parties within the report. Given that no members of the extraction or minerals industry were present at these workshops Dalradian request that a list of stakeholders consulted, workshop attendees and a summary of their inputs should be provided as an Appendix to the report to ensure transparent plan-making.

Minerals Policy (7I)

- 5.28 Section 3.2 of the Interim SA presents the policy options and assessment results of the reasonable alternatives with respect to minerals. The strategic policy options are summarised below, the preferred option is highlighted and is broadly supported by Dalradian, notwithstanding our specific concerns with regards to the identification of the sustainable locations for extraction which are presented within these representations.
- Option 1 – Pro-development, maximise the potential growth of our local aggregates sector across the District.
 - Option 2 – Emphasis on protecting environment, consequently constrain further development and growth opportunities.
 - **Option 3 – Balanced approach, seeks to promote mineral development in sustainable locations with a focus on the protection of sensitive landscapes and reinstatement of workings.**
- 5.29 Dalradian agree that the plan should contain policies to support the sustainable extraction of minerals where a balance of positive economic, social and environmental benefits can be demonstrated by the proposals.
- 5.30 Dalradian do however have concerns with regards to the appraisal of the preferred option and reasonable alternatives and specifically the fact that the appraisal of these options was undertaken without the 'sustainable locations' for mineral extraction being identified.

- 5.31 Paragraph 8.2 of the DP Practice note³⁷ states that;
- 5.32 *Reasonable alternatives are the different realistic options available to a council for delivering the objectives of its local development plan*
- 5.33 The National Planning Practice Guidance³⁸ is useful in that it gives further definition of a reasonable alternative which is;
- 5.34 *Reasonable alternatives are the different realistic options considered by the plan-maker in developing the policies in its plan. They must be sufficiently distinct to highlight the different sustainability implications of each so that meaningful comparisons can be made. The alternatives must be realistic and deliverable.*
- 5.35 Given that the function of the SA is to *identify, describe and evaluate the likely significant effects on the environment of implementing the plan and reasonable alternatives* (different policy options), an appraisal of the sustainability impacts of Option 3 cannot be undertaken accurately or subjectively without identifying the sustainable locations for extraction.
- 5.36 Furthermore, the POP does not present any criteria for indicating the sustainability of a location which, without any evidence, can be highly subjective.
- 5.37 It is therefore clear that without the identification of the sustainable locations for minerals extraction the sustainability impacts of Policy 3 cannot be fully identified. In its current form it is therefore not a reasonable alternative to deliver minerals policy within DCSDC.
- 5.38 To rectify this deficiency, Dalradian believe that a robust supporting methodology and evidence base should be developed with full consultation with the minerals industry and key stakeholders to identify the sustainable locations prior to their re-appraisal and consultation within the Local Plan and SA process.
- 5.39 In 2016, Dalradian submitted similar representations to the Fermanagh and Omagh (F&O) Preferred Options Plan and its supporting Interim Sustainability Appraisal. Upon review, F&O District Council decided to pause their local plan in order to clearly identify the areas for sustainable minerals extraction.
- 5.40 Dalradian reserve the right to submit further representations to this Local Plan once the evidence and sustainable locations have been identified.
- 5.41 In addition to the concern highlighted above, Dalradian also have the following concerns:
- (i) Subjective scoring of the options with respect to the following key objectives:
 - ...improve health and well-being

³⁷ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015

³⁸ <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>. Paragraph: 018
Reference ID: 11-018-20140306

- ...enable sustainable economic growth
 - ...protect physical resources and use sustainably
 - ...protect natural resources and enhance biodiversity
 - ...maintain and enhance landscape character
- (ii) The inclusion of areas of constraint on mineral development as a possible measure to reduce negative and promote positive effects on the SA objectives which is contrary to the details within the DCSDC Minerals evidence base and in the absence of any evidence to identify these locations is unsound.

Subjective SA Scoring to Key SA Objectives

- 5.42 Health and Wellbeing: Dalradian disagree with the conclusion that there will be only minor negative social impacts from minerals extraction on the basis that policies to facilitate sustainable extraction will result in a large number of well paid, highly skilled jobs which will result in a wide range of positive social benefits which will include tax receipts for investment in social and health infrastructure and increased health and well-being that results from employment.
- 5.43 Economic Growth: Dalradian disagree that sustainable extraction of minerals will only result in a minor positive impact on this SA objective. The Council's own evidence base clearly recognises the importance of the minerals industry to the wider economy and recognises the potential for growth within this industry. Dalradian firmly believe that pro-development Option 1 would allow not only the growth of the local aggregates sector but also the potential growth of the mining industry which could deliver significant additional employment and thus provide a significant positive impact upon this SA objective in the medium to long term.
- 5.44 Benefits can only be identified and secured if the most sustainable locations for exploration and extraction are identified through the Local Plan and SA process and policies are developed that ensure that any future minerals extraction projects in the District are commercially viable.
- 5.45 The scoring of this objective for Option 1 should be amended to a significant positive to align with the significant negative effect upon the objective anticipated for Option 2 which would inhibit growth within the sector and the minor positive scoring for the balance provided by Option 3.
- 5.46 Physical Resources: It states in section 2.3.7 which details the limitations of the appraisal that *'for some options the approach has an uncertain relationship with the sustainability objective or it could have both positive and negative effects. In these situations 'uncertain' was recorded and potential impacts noted in the explanation paragraph.'*
- 5.47 In this respect, given the notes within the SA Scoping Report under this issue all options should be scored as uncertain to align with the methodology the Council have provided. The current scoring should be disregarded.

- 5.48 As noted previously, it is Dalradian's position that this objective is reviewed in detail and amended to '...ensure the sustainable use and management of physical resources' to be more easily balanced at site level through appropriate mitigation or demonstration of significant economic and employment positives.
- 5.49 Natural Resources and Biodiversity: Dalradian disagree that maximising sites under Option 1 would increase fragmentation of habitats and increase risks of pollution or loss of biodiversity, particularly in the long term where suitable restoration of sites is undertaken after working has ceased. As noted within the SPPS, the planning system has a key role to play in this respect and policy should facilitate a sustainable approach to minerals development.
- 5.50 Landscape Character: Major negative effects are identified in the short, medium and long-term with respect to maintaining and enhancing landscape character under the pro-development Option 1.
- 5.51 Overall, Dalradian believe that the SA scoring could be improved to more accurately reflect the significant potential for major social and economic benefits to the local community that will result from the facilitation of the extraction of minerals in an environmentally sustainable manner in accordance with Option 3.

Areas of constraint on mineral development

- 5.52 Page 30 lists a number of possible measures to reduce negative effects and promote positive effects which includes areas of constraint on mineral development.
- 5.53 Paragraph 2.29 of the Minerals evidence base states:
- "From time to time, minerals may be discovered which are particularly valuable to the economy. Their exploitation may create environmental effects which are particular to the methods of extraction or treatment of that mineral. There will not be a presumption against their exploitation in any area; however in considering a proposal where the site is within a statutory policy area, due weight will be given to the reason for the statutory zoning."*
- 5.54 The Council, by suggesting the implementation of areas of constraint are failing to address the SPPS policy provided within the evidence base for minerals, particularly when it is recognised that minerals can only be extracted from sites where they occur. The preferred policy option should be clear that any future extraction should be considered regardless of its location provided that sustainable extraction can be facilitated.
- 5.55 Dalradian cautiously support the strategic conclusion of the SA in that Policy Option 3 could result in the most sustainable approach to minerals extraction within the District. To justify this cautious support however Dalradian believe it critical to a sound and legally compliant Local Plan and SA process that DCSCD urgently develop a methodology and evidence base to identify these sustainable locations for extraction with full consultation with key stakeholders (including the minerals industry) and the community. These locations should then be reappraised through the SA process prior to continuing with the preparation of the Local Plan. Until this process and a legally

compliant SA process has been undertaken Dalradian reserve the right to amend these representations.

**Appendix 1: Magherafelt Area Plan – PAC
Report Extract, January 2011**

21.0 Areas of Constraint on Mineral Development

21.1 Designation COU 10 proposes the designation of Areas of Constraint on Mineral Development (ACMDs) as identified on Map No. 1 Countryside. Four areas are identified as follows:

- Adjacent to and part of Lough Beg;
- Part of Lough Neagh;
- Along the District's entire western boundary; and
- Adjacent to Slieve Gallion, including Longfield.

Designation COU 10 also proposes that all Wildlife Refuges, Nature Reserves, Areas of Special Scientific Interest (ASSIs), Areas of Scientific Interest (ASIs), sites identified under the Ramsar Convention on Wetlands of International Importance (RAMSAR), Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) be designated as ACMDs. These are shown on Maps Nos. 108-133 inclusive.

Sites of Local Nature Conservation Importance (SLNCIs) are also **proposed** to be ACMDs.

21.2 Proposals for the development of mineral resources (including peat) within these areas will be determined in accordance with prevailing regional planning policy, currently set out in Policy MIN 3 of A Planning Strategy for Rural Northern Ireland (PSRNI).

21.3 The main issues raised by objectors are as follows:

- General objections to all proposed ACMD designations;
- Department's methodology in designating ACMDs;
- Failure to fully acknowledge the importance of minerals in terms of both the District and the Northern Ireland (NI) economy;
- Disproportionate weight in favour of environmental interests;
- Possible adverse impact of the proposed designations on the sand and gravel industry, the region's economic development interests and the rural economy;
- Inadequate consideration of the implications of existing regional policy;
- Inconsistent approach as a smaller area has been so protected in the adjoining Cookstown District;
- Inclusion of the following lands within the proposed ACMDs:
 - Ballyscullion Road, Bellaghy;
 - Creagh Concrete's quarry at Brackagh, Disert Road;
 - Deerpark Road, Bellaghy;
 - Fallylea Road, Maghera;
 - Killnaught Road, Draperstown;
 - Letteran Road, Moneymore;
 - Lisnamuck Road, Maghera;
 - Newferry Road, Bellaghy;
 - Quilly Road, Moneymore;
 - Rannaghan Road, Maghera;
 - Seefin Hill, Maghera; and
 - Tirgan Road, Moneymore.

Objections in respect of other specified lands were found not to come within proposed ACMDs:

- Inclusion of the following RAMSAR site within the proposed ACMDs:
 - Ballynahone Bog shown on Map No. 108;

- Inclusion of the following Candidate SACs within the proposed ACMDs:
 - Ballynahone Bog shown on Map No. 111;
 - Carn/Glenshane Pass shown on Map No. 112; and
 - Teal Lough shown on Map No. 115;
- Inclusion of the following ASSIs within the proposed ACMDs:
 - Carn/Glenshane Pass as shown on Map No. 121;
 - Teal Lough & Slaghtfreeden Bogs shown on Map No. 127; and
 - Teal Lough Part II shown on Map No. 128;
- Inclusion of the following proposed SLNCIs within the proposed ACMDs:
 - Ballymacombs More shown on Map Nos. 1 & 9;
 - Charley's Hill shown on Map Nos. 1 & 17;
 - Clooney shown on Map Nos. 1 & 19;
 - Drumlamph (Annaghaboggy) shown on Map Nos. 1 & 33;
 - Eden Hill shown on Map Nos. 1 & 37;
 - Holyhill Wood shown on Map Nos. 1 & 43;
 - Moneymore Delatas incorporating Quilly Glen and Reubens Glen shown on Map Nos. 1 & 54;
 - The Island (Dreenan) North Bog shown on Map Nos. 1 & 67;
 - The Island (Dreenan) South Bog shown on Map Nos. 1 & 68; and
 - Upperlands Island Dam shown on Map Nos. 1 & 75; and
- The protection of existing quarries at Knockloughrim and Gulladuff from incompatible development.

Regional policy context

21.4 RNI 1.2 of the Regional Development Strategy (RDS) seeks to facilitate the development of rural industries, businesses and enterprises, which benefit economic activity whilst protecting or enhancing the environment. It also aims to use minerals for economic development in a sustainable manner and in a way that assesses the need to exploit the mineral resource against the need to protect and conserve environmental resources.

21.5 Operational policy for minerals development across Northern Ireland is set out in the PSRNI and Policy MIN 3 makes provision for the designation of ACMDs in development plans if for visual, conservation or other reasons, areas require to be protected from mineral developments. In these areas there is a presumption against minerals development unless the operations are short-term and the environmental implications are not significant. The policy provides scope for such designations to form all or part of areas protected for their visual, scientific, archaeological or historic interest. General policy for minerals development provides a general presumption in favour of such development but indicates the need to balance the value of minerals to the economy with the development's environmental implications and the level of mitigation when dealing with an individual proposal. This balance is echoed in Policy MIN 1 as it requires decision makers to assess the need for the mineral resource against the need to protect and conserve the environment. It makes specific reference to ASSIs, NNRs and areas that contain features of archaeological or historic interest and states that planning permission will not normally (our emphasis) be granted where the essential character of such areas would be prejudiced. The Department, however, will balance the case for a particular mineral working proposal against the need to protect and conserve the environment, taking account of all relevant environmental, economic and other considerations. Policy MIN 2 of the PSRNI deals exclusively with the visual implications of minerals extraction. Its explanatory text notes that it is a fact of geology that some of the more beautiful parts of the countryside such as Areas of Outstanding

Natural Beauty (AONBs) and areas of high scenic value contain easily workable reserves of rock and sand and gravel and acknowledges that it would be unrealistic to dispense with essential sources of supply. Accordingly, Policy MIN 2 provides that applications for new mineral workings and extensions to existing workings in AONBs will be subject to rigorous examination with particular attention being given to the landscape implications of the proposals. It is clear that, in relation to the environmental designations encompassed in Policies MIN 1 and MIN 2, there is a balance to be struck between minerals exploitation and environmental protection

- 21.6 Regional policy for the natural and built environment is set out in Planning Policy Statement 2 (PPS 2) and Planning Policy Statement 6 (PPS 6). The level of protection afforded to the environment and built heritage designations diminishes with their position in the hierarchy of international, national and local when considering development proposals. In this context, Sites of International Nature Conservation Importance such as RAMSARs, SPAs and SACs and Archaeological Remains of Regional Importance are situated at the top of the hierarchy and are afforded greatest protection from development proposals whilst those of local importance such as Wildlife Refuges are afforded lesser protection. It is important to bear in mind that PPS 2 and PPS 6 apply to all types of development proposals whereas Policies MIN 1-3 are specifically tailored to minerals development in recognition of both the potential for significant environmental damage caused by this type of development but also its importance to the economy.
- 21.7 AONBs are designated under the Nature Conservation and Amenity Lands (NI) Order 1985. Their functions are to: conserve or enhance the natural beauty or amenities of that area; conserve wildlife, historic objects or natural phenomena therein; promote the public's enjoyment of the area; and provide or maintain public access to the area. Regional policy for the control of development within AONBs is set out in Policy DES 4 of the PSRNI, which requires development proposals to be sensitive to the distinctive character of the area and the quality of their landscape, heritage and wildlife.
- Balancing environmental protection against minerals development**
- 21.8 In assessing whether the draft Plan strikes the appropriate balance between protecting and conserving the environment and the use of minerals for economic development in a sustainable manner as required by RNI 1.2 of the RDS, we were presented with no evidence of proactive planning for minerals at the regional level. Indeed, the Department acknowledged deficiencies in this respect. There is a substantial information gap in respect of the needs of industry for minerals and the location, quantity and quality of resources. Whilst the Department argued that if supplies are not available in Magherafelt District they could be imported from elsewhere, this was not supported by evidence of supply of and demand for minerals at the regional level or of the availability of resources outside the District. It is difficult, if not impossible, to draw any conclusions in respect of the need to exploit the minerals reserves of the District when there is incomplete and only ad hoc quantitative, and apparently no qualitative evidence, of the existing situation. The absence of a regional minerals plan and the piecemeal basis for forecasting regional reserves and demand is a significant gap in the information base.
- 21.9 In addition to these misgivings, little or no thought appears to have been given to rising transport costs, the effect that this would have on the cost to the consumer and the sustainability of importing minerals from outside the District when there are local reserves. These omissions are especially worrying given the relative strength of the secondary industrial sector in Magherafelt District and the prevalence of businesses

specialising in concrete products. These omissions are also surprising given that the introduction to the minerals section of the PSRNI (page 80) states that transport costs will continue to require workings to be in relatively close proximity to markets.

- 21.10 The Department's approach in Designation COU 10 is to include all areas that are subject to environmental designations within ACMDs irrespective of the relative importance of the designation. The effect of this approach is to introduce a presumption against minerals development in extensive parts of the District in which there are widespread minerals deposits that are of significant value to the local and regional economy. Such an approach does not suggest that adequate consideration has been given to balancing economic and environmental considerations.
- 21.11 The inclusion of all envisaged environmental designations as ACMDs in the development plan would preclude the development control approach advocated by Policy MIN 1 and is not the correct approach. What is required is consideration of the importance of protected sites in terms of the conservation hierarchy together with detailed analysis of those features within the designation that require the level of protection afforded by Policy MIN 3. In its evidence the Department listed what it considered to be the seven most important factors that were taken into account in designating ACMDs. Despite this, neither the Technical Supplements nor its written submission provided sufficient information on each of the factors and how they influenced the designation of particular sites/areas as ACMDs. The proper approach is to consider the hierarchy of designations and those areas most vulnerable to minerals development and to include those areas within ACMDs where policy in MIN 1 and PPS 2 is considered insufficient to address individual proposals. The outcome of this exercise should reflect the greater need for more stringent protection in those areas of greatest conservation importance. It is only in this way that the necessary balance can be struck between economic and environmental considerations.
- 21.12 The ACMD designation in the Sperrins AONB does not cover the entirety of its extent and we note that the AONB is not specifically referred to in the explanatory text of Designation COU 10. As with the environmental designations, it is not clear from the Department's evidence which factors led to the designation of such an extensive area and we are not persuaded that the necessary refinement has been carried out in respect of this part of the ACMD designation. A similar exercise to that suggested for the environmental designations needs to be carried out in respect of the AONB, clearly setting out those areas most vulnerable to minerals development and limiting areas of constraint to those parts of the AONB where the protection afforded by MIN 2 and DES 4 is considered insufficient.
- 21.13 It is noted that ACMDs have been designated in other Area Plans, including that part of the Sperrins within the adjoining Cookstown District covered by the Cookstown Area Plan. We endorse the designation of ACMDs where required but have not been persuaded that the extent of the areas so designated in the draft plan can be justified on the basis of the evidence provided by the Department.
- 21.14 In view of the Department's failure to correctly interpret the policy context within which ACMDs are designated and to give adequate reasoning for its approach, we recommend that the Department reviews the number and extent of the areas that it proposes as ACMDs and, where such a designation is proposed, that site/area specific evidence is set out clearly explaining the features that merit the additional layer of protection that Policy MIN 3 affords. On this basis, we do not endorse the four proposed ACMDs identified in

paragraph 21.1 nor the proposed designation of Wildlife Refuges, Nature Reserves, ASSIs, ASIs, RAMSAR sites, SPAs, SACs and SLNCIS as ACMDs.

Recommendations:

21.15 We recommend that Proposed Designation COU 10 is deleted from the plan and that the Department reviews the requirements for ACMDs and, if found to be required, brings forward amended proposals for the designation of Areas of Constraint on Minerals Development under Article 6 of the Planning (NI) Order 1991 as an alteration to the Plan.

Protective designation for existing quarries

21.16 Turning to the issue of the need for protection of three existing quarries adjoining the proposed Settlement Development Limits of Knockloughrim and Gulladuff. The operators are concerned about the encroachment of residential development on their quarries whereby concerns about residential amenity could then reduce or even rule out scope for extension of the existing enterprise in accordance with Policy MIN 6 of the PSRNI. We have no evidence on the extent of the approved areas of extraction, just areas indicated on OS map extracts that they wish to see subject of a designation that protects land suitable for mineral exploitation.

21.17 The Health & Safety Executive is notified on planning applications within 100m of an area of approved reserves, given concerns about safety and amenity. Whilst this offers two-way protection and provides a degree of surety for policy operators, it is only guidance and is not required by policy.

21.18 As paragraph 3 of Planning Policy Statement 4 specifies that its provisions do not apply to mineral extraction, it does not provide support for the suggested protective designation. Policy MIN 5 of the PSRNI applies only to valuable mineral reserves that are considered to be of particular value to the economy. There is no evidence that the quarries subject of objection fall into this category. SPG RNI 1 of the RDS seeks to maintain a working countryside with a strong mixed use rural economy and RNI 1.2 aims to facilitate the development of rural industries, business and enterprises in appropriate locations. However, these provisions of the RDS must be **balanced** against the prospect of a protective designation for these quarries resulting in the blight of land within their proposed associated cordon sanitaire. On balance, given the lack of evidence about the extent of reserves at these quarries and unexploited areas subject of permission to extract, weighed against the possibility of blight, we find that the suggested protective policy would be inconsistent with Article 3 of the Planning Order and paragraph 35 of Planning Policy Statement 1. Accordingly there should be no change to the plan in this respect.

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