

ANNEX B – Response Pro-forma

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Original Representation Reference Number: MUDPS/83 (for administrative use only)

Please tick the applicable box below.

a) I confirm that I wish for my original representation to be considered as my representation.

b) I confirm that I wish to amend or add to my original representation.

c) I confirm that I wish for my original representation to be withdrawn and that I no longer wish to make a representation.

Signature:  (ON BEHALF OF TURLEY AS AGENT FOR DALRADIAN GOLD LTD)
Date: 22/9/2020.....

If you require assistance when completing the above, please contact developmentplan@midulstercouncil.org

Please ensure you return this completed Pro forma (along with any additional documents if you have ticked [b]) above) to Development Plan Team, Planning Department, Mid Ulster District Council, 50 Ballyronan Road, Magherafelt, BT45 6EN, by 5pm on 21st May 2020.

Michael McGibbon

From: Emma Walker <[REDACTED]>
Sent: 18 April 2019 15:48
To: DevelopmentPlan@midulstercouncil.org
Subject: Mid Ulster Draft Plan Strategy - Dalradian Gold Ltd
Attachments: Representations to MUDC Draft Plan Strategy Dalradian.pdf; MUDC DPS Representation Form Dalradian.pdf

Dear Sir/Madam

Please find enclosed representations to the draft Plan Strategy on behalf of our client Dalradian Gold Ltd.

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

Kind regards

Emma

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Representations to Mid Ulster District Council Draft Plan Strategy

On behalf of Dalradian Gold Ltd

April 2019

Turley

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Client
Dalradian Gold Ltd
Our reference
DALB3001-09

April 2019

Executive Summary

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

Schedule of Key Draft Policy Comments

Policy	Comment	Cross ref.
Draft SPF 6	<p>Dalradian objects to the allowance for up to 4,400 new homes in the open countryside. The proposed approach conflicts with the sustainable development principles set out in the SPPS and the Council has failed to consider the environmental effects of such a number of dwellings in the countryside.</p> <p>Furthermore no evidence is provided to justify a need for this number of dwellings in the countryside.</p> <p>The draft SPF fails soundness test C3 and CE2.</p>	Section 4, Paragraph 4.1 to 4.5
Draft Policy MIN 1	<p>The intention to identify policy areas at this stage is welcomed and recognises the significant contribution that the mineral extraction industry does and will make to the local economy. However, the Council fails to identify any areas where there is a known resource that does not relate to an existing extraction operation, despite having access to evidence to show the location of other resource deposits. This approach is in conflict with the SPPS.</p> <p>Furthermore the Council fails to safeguard known mineral resources not identified as a MPRA from surface development. Again this approach conflict with the SPPS and is contrary to PSRNI.</p> <p>As such the draft policy fails against soundness test C3 and CE2.</p>	Section 5, Paragraph 5.1 to 5.15
Draft Policy MIN 2	<p>The Council has failed to provide robust evidence to demonstrate that there is a requirement for ACMDs within the District or to justify the extent of the proposed ACMDs. The Council is proposing to consider all environmental designations as a constraint on minerals development and it</p>	Section 5, Paragraph 5.16 to 5.45

is considered that this approach would conflict with the SPPS.

Finally the approach proposed by the Council is coherent as it fails to take account of the significant economic contribution that the minerals sector in the District makes to the local and regional economy and seeks to endorse a blanket constraint across all environmental designations.

On this basis the draft policy fails against soundness test C3, CE2 and CE1.

Draft Policy MIN 3	The proposal to have specific policy on valuable minerals is welcomed and aligns with the SPPS. However, the policy cross references draft Policy MIN 2 which is considered unsound.	Section 5, Paragraph 5.46 to 5.60
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Despite the recognition of the presence of a valuable mineral the draft policy does not safeguard these known resources from sterilisation by surface level development. This approach conflicts with the SPPS.

Furthermore there is no provision within prevailing regional planning policy to prohibit the use of chemicals for extraction purposes. Nor is there any evidence within the dPS or supporting document to justify the need for such a policy.

It is considered that the draft policy fails soundness test CE2 and C3.

Draft Policy MIN 5	The draft policy wording is based on the unsupported comments within the dPS. No evidence is provided to support that minerals development has a major impact on visual amenity and landscape. The proposal to restrict stockpiling is also in conflict with the SPPS which promotes a case by case assessment of restoration.	Section 5, Paragraph 5.61 to 5.65
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As such the draft policy fails soundness test C3 and CE2.

Draft Policy TOU 1	The Council is proposing to introduce a more prohibitive policy than that currently set out in the SPPS. No evidence is provided to support the need for this approach. The draft policy and supporting document fails to take account of the impact of such a policy on the minerals sector and the contribution that it makes towards the regional and local economy.	Section 6, Paragraph 6.3 to 6.12
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The draft policy fails to take consideration of the well-established policy position that mineral resources can only be extracted where they are found.

The draft policy fails to identify how impact of tourism will be assessed and therefore no consideration has been given to the implementation of the policy.

The Council has also failed to consider the landscape and

	visual impact of a relaxation of policy on tourism development within the AONB. As such the draft policy fails soundness test C3, CE2 and CE3.	
Draft Policy TOU 3	It is unclear from the dPS and the supporting documents, what if any assessment of the impact of tourism development on the countryside has been carried out. Given the Council's desire to protect the landscape the Council will need to be able to monitor development pressures and without appropriate assessment this will not be possible. As such the policy fails against soundness test CE2 and CE3.	Section 6, Paragraph 6.13 to 6.15
Draft Policy TOU 4	It is unclear what assessment of impact has informed this approach. Without understanding the landscape impact of such a policy presumption it cannot be sound. As such the draft policy fails soundness test CE2 and CE3.	Section 6, Paragraph 6.16 to 6.17
Draft Policy HE 1	The Council is proposing that development which would adversely impact an ASAI will conflict with the development plan. The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAIs. This policy therefore fails soundness tests CE2 and CE3.	Section 7, Paragraph 7.1 to 7.9
Draft Policy HE 2	The Council is proposing that development which would adversely impact on ASAI will conflict with the development plan. The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAIs. This policy therefore fails soundness tests CE2 and CE3.	Section 7, Paragraph 7.1 to 7.9
Draft Policy HE 3	The council is proposing that development which would adversely impact on ASAI will conflict with the development plan. The Council fails to identify the particular features of the ASAI to be protected and fails to provide evidence of the harmful effects of wind turbines and high structures on ASAIs. This policy therefore fails soundness tests CE2 and CE3.	Section 7, Paragraph 7.1 to 7.9
Draft Policy SCA 1	The Council is establishing a presumption against all forms of development with the SCA. The extent of the SCA has been identified based on a desktop assessment and flawed landscape character	Section 8, Paragraph 8.1 to 8.5

assessments which are also out of date.

This policy fails against soundness test CE2

Draft Policy NH 6	The draft policy cross refers to draft minerals policies which are considered unsound. Supporting text sets out that account will be taken of landscape character assessments produced as part of the Development Plan process which are flawed.	Section 8, Paragraph 8.6 to 8.11
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Therefore this policy fails soundness test CE2.

Draft Policy TOHS 1	It is unclear what is meant by the use of the term 'Regionally Important' within the policy wording. The proposed ACWTHS has been informed by insufficient and flawed evidence and is not supported by the SPPS.	Section 9, Paragraph 9.1 to 9.15
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The draft policy fails to meet soundness test C3, CE2 and CE3.

1. Introduction

- 1.1 This representation is submitted on behalf of Dalradian Gold Ltd in response to the Mid Ulster District Council Draft Plan Strategy (dPS).
- 1.2 It has been structured to reflect the template provided by the Council. 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 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.
- 1.4 The structure of the submission is as follows:
 - **Section 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:** Section 4: Growth Strategy and Spatial Planning Framework
 - **Section 5:** Details our representations to Minerals;
 - **Section 6:** Details our representations to Tourism;
 - **Section 7:** Details our representations to Environmental Policies;
 - **Section 8:** Details our representations to Natural Heritage; and
 - **Section 9:** Details our representations to Telecommunications/Overhead Cables, High Structures & Other Public Utilities.

2. Legislative Compliance

2.1 In preparing their Draft Plan Strategy (dPS), Mid Ulster District Council ('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

2.1 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.

2.2 The Council's Timetable, as approved and published on the Council's website is dates November 2018. We note that the Council has published the dPS within the broad timeframe set out in the timetable (i.e. Spring 2019). However, we would highlight that the timetable shows that this timeframe will include:

- An 8 week statutory public consultation period; and
- An 8 week statutory consultation on counter representations.

2.3 The Council will need to monitor the commencement of the counter representations stage of consultation to ensure that it is commenced and completed within the Spring 2019 timeframe. Should the Council foresee a delay in this timeframe a revision to the timetable will be needed.

2.4 In preparing a Plan Strategy, 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."

2.5 This representation identifies specific instances where, in particular, policy issued by the Department has not been taken in to account.

2.6 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."

- 2.7 We have identified significant flaws with the Council’s Sustainability Assessment and identify them in this representation in Chapter 3 and Appendix 2.

The Planning (Local Development Plan) Regulations (Northern Ireland) 2015

- 2.8 Regulation 15 relates to the preparation of the dPS. Regulation 15 identifies a schedule of the information that should be made available alongside the publication of the dPS. This includes:

“such documents as in the opinion of the council are relevant to the preparation of the local development plan.”

- 2.9 Insufficient supporting evidence is available to support a number of the proposed policies in the dPS and therefore this requirement is not met. We identify the specific concerns within the remainder of this representation.

3. Sustainability Appraisal/Strategic Environmental Assessment

- 3.1 An ongoing review of the Sustainability Appraisal (SA) documents that have been produced in support of the Mid Ulster District Council (MUDC) Local Development has been undertaken in relation to the Minerals policies on behalf of Dalradian..
- 3.2 Further to previous representations to the SA Scoping Report (June 2016) and the Interim SA Report (November 2016), this section provides a summary of the full representation provided at an appendix to this document.
- 3.3 Dalradian are fully supportive of 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 community and economy. Given their commitment to sustainable minerals extraction, Dalradian have been keen to engage positively and proactively throughout the SEA/ SA and local plan process to ensure it fully captures the potential benefits of a nationally significant mineral resource.
- 3.4 Dalradian maintain a number of concerns with regards to the process and content of the SA/ SEA which have failed to be addressed upon publication of the Draft Plan Strategy and Environmental Report (ER) documents:
 - i. **The publication of the SA Scoping report for consultation at the same time as the POP and associated Interim SA report.**

The publication of the SA Scoping report alongside the POP and supporting SA documents removed the ability for stakeholders to comment on the scoping report prior to the publication and assessment of the POP paper and therefore positively influence the evolution of the local plan.

The Council has confirmed that consultation was undertaken with the relevant statutory bodies (Natural Environment Division (NED) and Historic Environmental Division (HED)) but that the SA report was not issued for public consultation prior to the production of the POP and Interim SA.

As part of responsible plan making Dalradian firmly believe that the SA Scoping report should have been submitted for consultation prior to the development and publication of the POP and its supporting SA report. The need to receive and assess statutory and non-statutory consultee comments on the SA Scoping report prior to the assessment of alternatives within the POP is a fundamental requirement of SEA/SA guidance¹ and established best practice.

It is therefore remains Dalradian's concern that the above fundamental requirement has been overlooked and demonstrates a significant SA/SEA

¹ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Figure 1.

procedural flaw which may be challenged at Examination particularly where the Councils evidence base is demonstrated to be inadequate or flawed.

In addition, Dalradian comments made by Dalradian have not been fully considered by MUDC within the Preferred Options Paper Public Consultation Report Update (January 2019). As such, the original concerns in relation to the SA Framework within the SA Scoping report (published for consultation at the same time as the Preferred Options Paper (POP)) are reiterated within the full representation in Appendix 2.

ii. An updated evidence base which does not reflect the potential economic importance of valuable minerals reserves within Mid Ulster.

There remains an insufficient recognition of valuable minerals within the baseline information despite an updated evidence base prepared by the Council, to reflect the potential economic importance of the gold reserves within MU to the local, regional and national economy. This provides an unsound basis for the strategy and policies in relation to minerals.

One of the first and most important requirements of the SA Process (at Scoping stage) is to establish the current state of the social, economic and physical environment² to determine the socio-economic and environmental baseline of the area in question. This is a fundamental requirement of available guidance and the EAPP regulations.

Further to comments at earlier stages, MUDC has embarked upon a further information gathering process with the Minerals Industry in an attempt to strengthen the evidence base regarding existing and projected supply and demand figures which has resulted in a new Background Paper titled '*Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster*' (January 2019).

The paper is explicit in its review of aggregate resources and also discusses and confirms the proposed Areas of Constraint on Mineral Development (ACMD) but there remains no specific evidence in relation to potential gold deposits despite acknowledgement that there is '*evidence that suggests the existence of high value metalliferous metals such as gold*' within the district.

It is unclear within the POP Consultation Report Update³ whether the additional evidence gathering process has also extended to the valuable mineral reserves within the District. The only reference to gold within the report is to a deposit within a proposed ACMD, referenced as 'Crocknahala'. Again, this review fails to appreciate the baseline situation of the plan area and identify the potential extent of valuable mineral deposits within the District which will result in major long-term economic benefits to the local and national economy.

² Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 13

³ Preferred Options Paper Public Consultation Report Update, January 2019

Dalradian consider that the absence of consideration of valuable minerals within the evidence base and inclusion of restrictive policy requirements under MIN2 and MIN3 is a failure of the dPS and Final SA to correctly identify the baseline situation of the plan area and develop reasonable alternatives to address the key sustainability issues arising.

Dalradian therefore conclude that the Final SA and its associated evidence base is unsound as its assessment remains based upon a flawed (non-existent) evidence base with respect to valuable minerals which is not in accordance with paragraph 6.155 of the SPSS which states that councils should:

“...safeguard mineral resources which are of economic or conservation value, and seek to ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation.”

iii. The Sustainability Appraisal of the policy options and reasonable alternatives in relation to minerals is inaccurate and seeks to restrict extraction where possible.

The final SA does not provide an accurate assessment of emerging policy options to encourage sustainable extraction of the mineral assets but, as structured, seeks to restrict extraction where possible.

Section 5 of the SA Report details the Appraisal of Preferred Options and Reasonable Alternatives. This section is broken down by strategy/policy topic though the numbering system is continued throughout without alluding to the sub-sections which is at times confusing. The minerals policies (and the strategic approach to minerals within MU) are therefore discussed from paragraph 5.363.

Dalradian disagrees with the SA scoring in relation to the Strategic approach for Minerals provided within the SA Report. The assumption of negative impacts relating to Water Quality, Air Quality, Biodiversity and Landscape and Townscape under Option 1 (each application on its own merits) is unfounded given that each site is unique in terms of its location and scale and therefore the potential impact (if any) and ability to mitigate this will vary considerably according to the site location. The environmental impacts are therefore ‘uncertain’ and should be scored as such in relation to Option 1.

The Council justify more negative effects because this option ‘*would lead to a more liberal approach to mineral development and this could potentially result in more widespread quarrying activity which would have negative effects*’. There is no sound basis for this justification where the precautionary approach detailed within draft policies MIN2 and MIN3 would be applied without the strategic application of ACMD’s.

Dalradian therefore reiterate an objection to the identified ACMD’s based on the restrictive ability to extract valuable mineral resources which should be approached on an application by application basis base upon individual merits and to also safeguard known resources from sterilisation by surface level development. This objection is based upon the fact that these ACMDs have not considered Gold

as a valuable mineral to protect and therefore the SA has failed to identify all reasonable alternatives to the policy options.

Dalradian also disagree with the SA scoring in relation to the Areas of Constraint on Mineral Development (ACMDs). Again, the assumption of negative impacts relating to all environmental SA Objectives under Option 3 (to remove ACMDs) is unsound given that each potential site and proposals would still be assessed against the precautionary approach detailed within draft policies MIN2 and MIN3 even where ACMDs do not form part of the strategic approach.

Both Option1(Retain ACMDs) and 2 (Review and modify ACMDs) score identically under the SA but seek to promote only the environmental pillar of sustainable development without equal regard for economic and social objectives where they obtain negative scoring from the Council's own assessment. This demonstrates a failure of the ACMD's approach to deliver sustainable development in accordance with SPSS and highlights that the options considered are flawed.

The Plan Strategy and the Minerals Industry consultation undertaken since the POP , still does not consider the implications of ACMD's on the ability to extract valuable minerals (such as Gold) which may only be undertaken where they occur and which may fall within an ACMD.

Where the ACMD's are reviewed and modified appropriately, Dalradian would expect to see no negative impact upon social and economic objectives in order to demonstrate that the preferred option is compatible with the SPSS which says that minerals extraction can be done sustainably.

In relation to Mineral Reserve Policy Areas (MRPAs), none of the identified options recognise or protect the gold reserves for future extraction. To that end they fail the test of reasonable alternatives in that they fail to deliver the objectives of the policy. i.e. safeguard known mineral resources of economic or conservation value to ensure that they not sterilised by other surface development which would prejudice future extraction. As noted within the main representations, Dalradian believe this conflicts directly with the SPSS.

Recommendation

- 3.5 Dalradian seek an updated evidence base and amendments to the SA as necessary to result in policies and MRPA/ACMDs, that facilitate rather than restrict the sustainable extraction of valuable minerals for long term economic and social benefits.

4. Section 4: Growth Strategy and Spatial Planning Framework (SPF)

SPF 6 – Accommodate development within the countryside that supports the vitality and viability of rural communities without compromising the landscape or environmental quality and whilst safeguarding our natural and built heritage.

- 4.1 Dalradian objects to the Council’s position as set out in 4.34 where it states that:

“The Countryside will not be subject to an allocation of the Districts HGI, however housing development will be monitored. At presents 40% of our Districts households are located in the open countryside. Accordingly for review purposes if the number of houses being approached in the countryside exceeds 40% of the Districts HGI this will trigger the need to change policy at the Plan review.”

- 4.2 Based on a HGI of 11,000 new homes as proposed at Paragraph 4.15 of the dPS, 40% would equate to 4,400 new homes that could be approved within the open countryside. This is an alarming figure when considered against the Council’s other Spatial Planning Framework objectives to focus growth in the three main towns and local towns. Furthermore it is considered that an allowance for this scale of development within the local countryside would be contrary to the principles of sustainable development promoted within the SPPS and would therefore fail soundness test C3. We also wish to highlight that a similar concern has been raised in relation to the Fermanagh & Omagh District dPS by the Department for Infrastructure (DfI).
- 4.3 The Council has failed to consider the environmental effects of such a high number of dwellings within the countryside, particularly in relation to landscape and visual impact. We note that policies proposed within the dPS will seek to prohibit the development of mineral operations and other forms of economic development within large parts of the district because of landscape sensitivities, however residential development may occur across wider parts of the District. There is no evidence that the visual impact of this scale of residential development across the countryside has been assessed.
- 4.4 We set out in our representations to the draft Policies within the dPS that they are unsound for a number of reasons but largely due to inadequate supporting evidence. This would also apply in the case of SPF 6 as the Council has failed to demonstrate that an adequate assessment of the impact of such a scale of residential development has been carried out. As such the SPF fails soundness test CE2.

Recommendation

- 4.5 It is recommended that further work is undertaken to consider the implications of the draft SPF, particularly in relation to impact on the landscape. We also recommend that comments made by DfI in representations to the Fermanagh & Omagh dPS are considered in light of the approach proposed by Mid Ulster.

5. Minerals

Draft Policy MIN 1 – Mineral Reserve Policy Areas (MRPA)

- 5.1 Draft Policy MIN 1 identifies that development which would prejudice the future extraction of minerals within such areas shall not accord with the plan. The accompanying maps identify 4 MRPA's. These relate to the protection of known limestone deposits at Ballyreagh which are connected to existing operations; Clay beds located to the western edge of Coalisland historically associated with the making of clay bricks; and protection of shale and clay deposits to the north west of Dungannon which are associated with an existing businesses.
- 5.2 The intention to identify policy areas at this stage is welcomed and recognises the significant contribution that the mineral extraction industry does and will make to the local economy. However, the Council has not sought to identify any areas where there is a known resource that does not relate to an existing extraction operation.
- 5.3 The SPPS sets out that in preparing LDPs Councils should:
- “safeguard mineral resources which are of economic or conservation value, and seek to ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation.”* (Paragraph 6.155)
- 5.4 As such the Council should a) safeguard mineral resources which are of economic or conservation value, and b) ensure that workable mineral resources are not sterilised by surface development.
- 5.5 In relation to safeguarding mineral resources of economic or conservation value, the Council only identifies 4 mineral deposit areas for safeguarding. As stated above, these relate to existing extraction operations for limestone and clay resources and do not relate to other known resources. There is nothing within regional policy which states that safeguarded areas can only be identified for areas which currently have planning permission. Indeed SPPS states that:
- “In preparing their LDP councils may also identify areas most suitable for minerals development within the plan area. Such areas will normally include areas of mineral reserves where exploitation is likely to have the least environmental and amenity impacts, as well as offering good accessibility to the strategic transport network.”*
- 5.6 The Council sets out in the Minerals Development Paper (February 2018) that :
- “work is being carried out to map the availability of mineral resources.”*
- 5.7 The Councils position paper on Minerals which was published alongside the Preferred Options Paper (POP) also, references the presence of gold within the district and paragraph 14.19 of the dPS specifically states that:

“There is evidence which suggests the existence of high value metalliferous minerals, such as gold, in our District, and for this reason it is considered best practice to have a policy on such development.”

5.8 Despite there being evidence of the existence and location of gold within the District the Council has failed to identify this resource of economic value or protect it from sterilisation by surface development.

5.9 As such the draft policy fails against soundness test C3 and CE2.

5.10 Draft Policy MIN 1 states that:

“Within a Mineral Reserve Policy Area, surface development which would prejudice the future extraction of minerals, shall not accord with the Plan.”

5.11 This protection against the sterilisation of the MRPA's is welcomed however this approach should not be restricted to MRPA's. The SPPS states that the LDP should seek to ensure that workable mineral resources are not sterilised by surface development. It does not limit this to MRPA's and as such the approach proposed by the Council fails against soundness test C3.

5.12 It is particularly concerning that the Council is proposing to limit protection from sterilisation only to MRPA's given the important role that minerals play within the District's economy. The Council acknowledges that its area generated 56% of Northern Ireland's sand production in 2016⁴, yet there is no policy protection to prevent the sterilisation of sand resources proposed. Appendix 1 and 2 of the January 2019 Minerals Development paper prepared by the Council clearly shows the presence of quarries and mining operations across the District however no policy is proposed to protect those resources from surface development which may sterilise their current operation or future expansion plans.

5.13 Furthermore, the Council acknowledges that there is evidence of valuable mineral resources within the District, yet they are not protected from surface development.

5.14 Policy MIN 5 of the Planning Strategy for Rural Northern Ireland (PSRNI) sets out that surface development which would prejudice the future exploitation of valuable minerals reserves will not be permitted. No such protection is afforded to minerals in Mid Ulster under the dPS unless the resource is within a MRPA. This approach is not consistent with PSRNI and as such the draft policy fails against soundness test C3. The policy approach to minerals also does not align with the Council's evidence in respect of valuable mineral resources and therefore fails against soundness test CE2.

Recommendation

5.15 In order to ensure that the dPS conforms with the SPPS the Council should:

- A) identify known valuable resources as a MRPA; and

⁴ Minerals Development Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster, prepared by Mid Ulster District Council (January 2019).

- B) protect all known mineral resources from surface development to prevent the sterilisation of workable resources.

Draft Policy MIN 2 – Extraction and Processing of Hard Rock and Aggregates

5.16 Draft Policy MIN 2 of the dPS relates to the extraction of hard rock and aggregates. This draft policy sets out that extraction and processing of hard rock and aggregates in an Area of Constraint on Minerals Development (ACMD) will conflict with the plan, except where it relates to the extension of an existing operation or provides stone for restoration and repair to historic buildings.

5.17 The justification and amplification text supporting draft Policy MIN 2 sets out that ACMDs have been defined in line with regional policy in order to protect those parts of the District which are considered to be of intrinsic value. The Council is proposing to identify the High Sperrins, Beaghmore and Clogher Valley areas as ACMDs. The text goes on to state at Paragraph 14.16 of the dPS that:

*“These areas comprise of Beaghmore and the High Sperrins which are rich in terms of archaeology and represent the wilder, unspoilt and most scenically valuable parts of this Area of Outstanding Natural Beauty. It also includes Clogher Valley and its escarpment because of its scenic value and earth science interest, and has been extended to include Slieve Beagh, which is also internationally important as a natural habitat. In addition it should be remembered that there are a large number of sites recognised regionally and nationally as being important and are protected for their wildlife, scientific value or heritage interests. **In effect these also act as areas of constraint on mineral development.”***

5.18 The final sentence is of concern as it seeks to conflate all designated sites with ACMDs. Dalradian objects to this approach as it does not accord with prevailing regional policy within the SPPS where it is stated at paragraph 6.155 that:

“Where a designated area such as an Area of Outstanding Natural Beauty (AONB) covers the 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 areas as a whole or threaten to undermine the rationale for the designation.”

5.19 In representations to the POP, Dalradian directed the Council to the PAC report on the Public Inquiry into objections to the draft Magherafelt Area Plan 2015. Here the Department for the Environment, which was responsible for the preparation of the Plan at the time, was proposing all areas which were subject to an environmental designation as an ACMD, irrespective of their particular characteristics.

5.20 There the Commissioner⁵ concluded that:

“Such an approach does not suggest that adequate consideration has been given to the balancing of economic and environmental considerations. A similar exercise to that

⁵ Magherafelt Area Plan Planning Appeals Commission Report (January 2011), Paragraph 21.10.

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 MIN2 and DES4 is considered insufficient.”

- 5.21 Whilst it is acknowledged by Dalradian that the proposed ACMD as shown on the dPS maps does not include the entire AONB, there is concern that with the statement in the justification and amplification text for draft Policy MIN 2 that all designation areas will be treated as an ACMD and therefore the same point applies as in the case of Magherafelt Area Plan. In particular the wording in the justification text would suggest that the Council does consider other environmental designations provide the same policy context protection as an ACMD and there is no evidence provided within the supporting document to indicate that this is not the case.
- 5.22 The approach proposed by the Council is incoherent as it appears to be:
- Introducing an ACMD to restrict mineral development, despite the economic contribution it makes to the district;
 - Suggesting that all environmental designations will be considered as an ACMD, therefore rendering an ACMD designation unnecessary.
- 5.23 On this basis draft policy MIN 2 fails against soundness test C3, CE2 and CE1.
- 5.24 It is of note that the proposed ACMD shown on the dPS proposals maps follows the same boundary as the proposed Area of Constraint on Wind Turbines and High Structures (ACWTHS). Therefore within these areas of the District no wind turbine or mineral development will be permitted, yet residential development and other forms of economic development within the countryside will be permitted.
- 5.25 There is no evidence that a robust assessment of the impact of residential and other forms of development on the countryside has been undertaken, particularly in relation to landscape and visual impact.
- 5.26 The Council identifies that both the ACMDs and ACWTHS have been defined using landscape features and landforms that have been identified within the Northern Ireland Landscape Character Assessment, 2000 (NICLA 2000). The Council’s Minerals Development paper dated February 2018, sets out that:
- “It is proposed to carry out a review of the Landscape Assessment on which the ACMD’s were based. Whilst we remain of the opinion that it is appropriate to use the NICLA 2000 as the basis for the Landscape Assessment because ultimately, the landscape will not have changed significantly in 18 years, we do recognise that development pressures experienced in the form of wind turbines many have had an impact on the landscape.”*
- 5.27 A review of the Landscape Assessment has been undertaken by the Council. The report entitled ‘Landscape Character Assessment Review’ (LCAR) is not dated but it is noted that photographs within the assessment are dated Late 2017 and Early 2018. Following completion of the LCAR, the Council then instructed an external review of their report. This was undertaken by GM Design Associates. Following an initial review of the LCAR

the consultant identified a number of weaknesses in the Council's assessment, which were reported to the Council in August 2018. Then, following the completion of the review of the LCAR a final list of weaknesses were set out by GM Design Associates⁶, as set out below:

"No reference to specific planning policy statements, for instance PPS21 Development in the Countryside. PPS21 sets out the policies for managing development in the countryside with an emphasis on protecting the landscape. It identifies the four interrelated strands of the Countryside Assessment, including the Landscape Assessment.

A lack of reference to the Corine Database and associated document 'Land Cover of the UK' within each LCA review, despite it being identified as a source of data to inform the review of the LCA's.

Limited reference to SPG Wind Energy Development in NI's Landscape document (2010), particularly within Table 2. The SPG provides detailed information on the key landscape and visual characteristics and values of each LCA. The SPG also provides guidance on the sensitivity and ideal siting of wind energy development within each LCA.

Lack of review of LCA information on 'Landscape Condition and Sensitivity to change', Principles for Landscape Management and Principles for Accommodating New Development' contained within NICKA 2000.

Conservation Areas, Areas of Townscape Character, Areas of Archaeological Potential, Archaeological Sites/Monuments, Local Landscape Character Areas and Historic Parks, Gardens & Demesnes have not been identified as 'Key features' of the LCA's. These features play an integral role in many landscapes and any change to these could significantly affect the character and integrity of the landscape.

Limited use of visual information (photos) throughout the review with only 4 photos used in the assessment of the LCA's."

5.28 As a result of the weaknesses identified, the consultant team made a number of suggested improvements that would result in a more comprehensive and sound document. These are set out at Page 28 of the consultant report⁷ and are identified below:

- *"PPS21 Sustainable Development in the Countryside should be considered and reviewed as a relevant planning policy document relating to the protection of our landscapes.*
- *Increased reference and utilisation of the Corine Database and associated 'Landcover of the UK' for each LCA is suggested.*

⁶ Review and Audit of Mid Ulster District Council Landscape Character Assessment Review for Local Development Plan Preparation, 16 October 2018 (GM Design Associates)

⁷ Review and Audit of Mid Ulster District Council Landscape Character Assessment Review for Local Development Plan Preparation, 16 October 2018 (GM Design Associates)

- *It is suggested that an increased emphasis should be placed on the Landscape Condition of each LCA and its Sensitivity to Change.*
- *The report would benefit from additional photos, increasing the readers' visual appreciation of each LCA.*
- *Conservation Areas, Areas of Townscape Character, Areas of Archaeological Potential, Archaeological Sites/Monuments, Local Landscape Character Areas and Historic Parks, Gardens and Demesnes should be considered as 'Key Features' of the LCA's.*
- *It should be considered whether existing policy controls are being implemented effectively regarding various development types throughout the District including new residential developments, extensions to agricultural developments and single turbine applications."*

5.29 The Council has failed to demonstrate with the LCAR, as published, that these recommendations have been adequately addressed for the following reasons:

- As noted previously, the Landscape Character Assessment Review as published in support of the dPS is not dated. As such it is unclear if the published version post-dates the recommendations made above. We note that the photos contained within the report pre-date the recommendations by GM Design and therefore it is unclear where they were included in response to recommendations.
- We note that the LCAR as published does include one paragraph on PPS21 however this is a light touch approach and does not provide a detailed planning context for the assessment.
- In relation to the recommendation to increase the use of Corine data, it is noted that the LCAR as published refers only to Corine in one small section with one Corine land use map for the District provided as an appendix. Previous versions of the LCA are not available and therefore it is unclear whether this is an improved approach.
- IN relation to the recommendation to use more photographs within the LCAR to provide the reader with a better understanding of landscape character we note that 2 photographs per LCA are provided. However, these pre-date the recommendations and therefore it is unclear whether they were included in response to the recommendations. Furthermore, it is considered that 2 photos per LCA is insufficient and cannot provide a real appreciation of the character of an LCA.
- Finally, whilst Table 2 of the published LCAR does include a suggested policy response it fails to meet the required improvement suggested by GM Design Associates. The final recommendation by GM Design Associates sets out that the Council should consider whether existing policy control is being implemented effectively. This should include a review of how existing policy has been implemented and the impact that approvals and completed developments have

had on the landscape. This is not the same as an opinion by the Council on whether additional policy control is required. The information provided at Table 2 or the remainder of the LCAR, does not demonstrate that the Council has considered the effectiveness of existing policy implementation.

5.30 Based on the observations above we consider that the LCAR is flawed and therefore draft Policy MIN 2 fails soundness test CE2 as the evidence on which the extent of the proposed areas of constraint have been defined is flawed.

5.31 Outside of an ACMD, extraction of hard rock and aggregates will be permitted subject to environmental and transportation considerations. These are considered in turn below:

- Development shall not prejudice the character of an international, national or local designated sites – this should be tightened to state, *shall not have a 'significant adverse impact' on the character of an international, national or locally designated site.*
- Development shall not result in undue harm to or loss to protected species or biodiversity – this should be revised to say *result in a significant harm to protected species or biodiversity.*
- Development shall not cause significant risk to public safety;
- Development shall not impact negatively upon the safety and amenity of occupants in close proximity;
- Development shall not significantly impair the safety and amenity of road users;
- Development shall not cause undue obstruction in the landscape; or – should be revised to say *shall not have a significant adverse impact on the landscape.*
- Development shall not scar the landscape for future generations. – this should be removed as all proposals for mineral development will be assessed for landscape impact under draft Policy MIN 2 and will be required to include proposals for restoration under draft policy MIN 5. This is a duplicate policy requirement and is therefore not necessary.

5.32 In relation to ACMD's the supporting text for draft Policy MIN2 states that:

"New large scale commercial extraction in these areas would have a profound and irreparable impact on the heritage and scenic qualities of the landscape and therefore it is unacceptable."

5.33 No evidence of the profound and irreparable impact referred to has been demonstrated. Furthermore, the proposed policy criteria set out in draft Policy MIN 2 and proposed draft policy MIN 5 would ensure that development which would have such an impact would not be permitted.

5.34 Finally, in relation to draft Policy MIN 2 Dalradian objects to the strategy for mineral development set out at paragraph 14.9 of the dPS where it states:

“Our strategy is to identify where there will be a presumption against mineral exploitation; known as Areas of Constraint on Mineral Development (ACMD). These areas are designated based upon their intrinsic landscape, amenity, scientific or heritage value. Within these areas, mineral development will not be permitted except in a small range of circumstances and with certain caveats, including where development will be limited to short term extraction.”

5.35 Short term is not defined within the dPS, however as set out in representations to the POP, Dalradian objects to the imposition of a time restriction on mineral development as it does not reflect the operational practices of the minerals sector and is unjustified by evidence. This is particularly that case for Mid Ulster given the value of the mineral sector to the local and regional economy.

5.36 Furthermore, it is unclear whether the ‘short term’ time period will include the time required for the construction, extraction and restoration phases associated with mineral developments. It should be noted that the construction and restoration phases for mineral extraction operations can take a number of years in themselves. In representations to the POP, Dalradian also identified that lengthy permissions had been secured for mineral extractions elsewhere⁸. Lengthy permissions have also been permitted in NI. In 2014 the Department for the Environment granted planning permission for 25 years of further extraction at Demesne Quarry in Glenarm within an ACMD. Condition No. 2 of the permission states:

“Extraction shall be for a limited period only, and shall cease before the expiry of 25 years from the date of this decision, unless otherwise agreed in writing with the Department”

5.37 Also, in 2016 the Department granted planning permission for 40 years of extraction from a basalt quarry in Dunloy.

5.38 These permissions and other longstanding operations within ACMDs across NI, demonstrate that longer timeframes can be acceptable.

5.39 The proposals to restrict the timeframe for extraction operations fails to acknowledge the wide range of factors which should be important in making a decision on how long extraction should be permitted. These factors, which vary across the mineral sector, include:

- The type of mineral extraction process (eg underground or surface level) and the required level of associated infrastructure;
- The associated level of capital investment;
- The value of the target mineral;
- The scale of the mineral resource;

⁸ York Potash, North Yorkshire National Park, Planning Application Reference NYM/2014/0676/MEIA

- The rate at which the resource might reasonably be extracted;
 - The environmental implications of the operation; and
 - The economic value of the operation.
- 5.40 Each of these variables has implications for the time it will take to prepare a site and extract the resource and in turn, the economics of a project. It is for this reason that an arbitrary timeframe is unacceptable and judgement is required on a case by case basis.
- 5.41 On the basis that the draft Policy does not align with the mineral strategy and that the introduction of a timeframe is not based on evidence or clearly defined, the policy fails soundness test CE1 and CE2.

Recommendation

- 5.42 The Council should carefully consider the need for ACMDs to be defined within the District, particularly given that they intend to assess all mineral development proposals within an environmentally designated site under draft Policy MIN 2. This approach should be considered in the context of the SPPS and recent local plan precedent regarding the classification of expansive areas of landscapes as ACMDs.
- 5.43 It is also recommended that further work is undertaken by the Council to ensure that a robust assessment of the landscape character, landscape sensitivity and landscape capacity is completed to inform any proposed ACMDs.
- 5.44 Criteria identified within draft Policy MIN 2 should also be reconsidered to ensure that they are measurable and that the impact of development can be monitored.

Draft Policy MIN3 - Valuable Minerals

- 5.45 The Council in this case is proposing to introduce a specific policy on Valuable Minerals. Draft Policy MIN3 proposes that:
- “The exploration and extraction of valuable minerals including hydrocarbons and metalliferous minerals will accord with the Plan providing that there are no significant environmental impacts or significant risks to human health. A precautionary approach will be adopted to assessing applications for valuable minerals and hydrocarbons and therefore criteria a) – g) in Policy MIN 2 will also apply. Unconventional extraction of hydrocarbons and gases such as hydraulic fracturing (‘fracking’) or use of biological methods or the extraction of valuable minerals by way of chemicals shall not accord with the Plan until there is sufficient and robust evidence on all environmental impacts.”*
- 5.46 The proposal to have specific policy on valuable minerals is welcomed and aligns with the SPPS. However, Dalradian objects to indication set out in the strategy at paragraph 14.9 of the dPS. Our objections to this are set out above in relation to draft Policy MIN 2 but also apply in this case.
- 5.47 Our comments in relation to criteria a) to g) of draft Policy MIN 2 also apply in this case.

- 5.48 Dalradian welcomes the inclusion of paragraph 14.19 in the dPS, where it states that:
- “There may be situations where minerals are discovered which are particularly valuable and the exploitation of these would bring about economic benefits. There is evidence which suggests the existence of high value metalliferous minerals, such as gold, in our District and for this reason, it is considered best practice to have a policy on such development.”*
- 5.49 It is disappointing that despite the recognition of the presence of a valuable mineral such as gold that draft Policy MIN 3 does not safeguard these known resources from sterilisation by surface level development. This approach is unsound given that the SPPS sets out that the LDP should:
- “Safeguard mineral resources which are of economic or conservation value..”*
(Paragraph 6.155).
- 5.50 In this regard dPS fails against soundness test C3.
- 5.51 Dalradian also objects to the inclusion of the following wording within draft Policy MIN 3:
- “the extraction of valuable minerals by way of chemicals shall not accord with the Plan until there is sufficient and robust evidence on all environmental impacts.”*
- 5.52 The supporting texts at paragraph 14.21 goes on to states:
- “Some extraction methods used in the extraction of high value metalliferous minerals can involve the use of chemicals, such as cyanide, in order to separate the metalliferous deposits from the rock in which they are found. Therefore it must be proven that such processes, if they occur, will not have a negative impact on human health, in order for that proposal to be considered as acceptable.”*
- 5.53 Firstly there is no provision within prevailing regional planning policy which restricts the use of chemicals in the extraction of any minerals. As such the introduction of a restriction on the use of chemicals would be a variation from the current policy position. No evidence is provided within the dPS and the supporting documents to demonstrate the need for a specific policy restriction in the District.
- 5.54 Furthermore the dPS sets out that it will be necessary to demonstrate that use of such chemicals will not have an adverse impact on human health. Dalradian would highlight to the Council that criterion c) of their own draft Policy MIN 2 already makes provision for the applicant in all mineral development applications to go further and demonstrate that the proposal would not:
- “cause significant risk to public safety or amenity caused by dust, noise, blasting or the use of chemical and/or biological agents.”*
- 5.55 It is considered that the requirement proposed as part of draft Policy MIN 3 is therefore not required. Furthermore, any proposals for the use of a chemical in the extraction of minerals will be the subject of separate environmental regulation.

5.56 It is considered that draft Policy MIN 3 fails soundness test CE2 and C3.

Recommendation

5.57 It is recommended that the Council safeguards known valuable mineral resource from surface development so that the dPS aligns with the requirements of the SPPS.

5.58 The Council should also remove the requirement to demonstrate that the use of chemicals for extraction will not be harmful to human health as this is a repeat of the criterion set out under draft Policy MIN 2.

5.59 Clarification should also be included within the supporting text that policy provisions relating to an ACMD will not apply in the case of valuable minerals.

Draft Policy MIN 5 – Restoration of Mineral Sites

5.60 Draft Policy MIN5 sets out that proposals for mineral development should include suitable and satisfactory restoration proposals. The policy goes on to set out that a restoration scheme provided as part of a planning application should include a programme of works and a timetable for the implementation of the works. Progressive onsite restoration is preferred to stockpiling.

5.61 The draft policy wording is based on the unsupported comment at paragraph 14.9 that mineral development can have a major impact on visual amenity and landscape. As such the policy fails against soundness test CE2.

5.62 Paragraph 6.161 of the SPPS states that:

“Applications for the extraction of minerals must include satisfactory restoration proposals. The preferred type of reclamation and after use depend on a number of factors, including the characteristics of the deposits, nature of excavation, availability of fill materials, the surrounding landscape, the needs of the local community and the potential for nature conservation on the site.”

5.63 This approach does not specify that stockpiling should be avoided, but rather that a case by case approach is promoted. As such draft Policy MIN 3 fails soundness test C3 as it does not demonstrate that account has been taken of the SPPS.

Recommendation

5.64 Without prejudice to participation in subsequent proceedings in respect of alternative wording, we currently suggest that the wording of the draft policy is revised to take account of cases where stockpiling is shown not to have a significant adverse impact on the landscape and visual character of an area it should be permitted.

6. Tourism

- 6.1 Section 15 of the dPS sets out the Council's proposal for tourism across the District. Specifically paragraph 15.12 states:

*"Given that tourism is underdeveloped in Mid Ulster there is **room for a more flexible, less prescriptive approach**. Our strategy to attain sustainable tourism development is to achieve a balance between meeting the needs of the tourist coupled with the need to conserve tourist assets and the environment."*

- 6.2 The Council is therefore proposing to introduce Tourism Opportunity Zones (TOZs) and Tourism Conservation Zones (TCZ's). Tourism proposals within a TOZ will accord with the Plan and tourism proposals are restricted within TCZ's.

Draft Policy TOU 1 – Protection of Tourism Assets and Tourist Accommodation

- 6.3 Draft Policy TOU1 states:

"Development shall conflict with the plan where it would in itself or in combination with existing and approved development in the locality have a significant adverse impact on a tourism asset."

- 6.4 We note that the SPPS, at paragraph 2.262, states:

"Planning permission should not be granted for development that would in itself or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset, such as to significantly compromise its tourism value."

- 6.5 The proposed wording for draft Policy TOU 1 introduces a more restrictive policy approach than existing policy in the SPPS and is unjustified. As such it fails soundness test C3.
- 6.6 A tourism asset is then defined at paragraph 15.18 as 'any feature associated with the built or natural environment which is of intrinsic interest to tourists'. Such features will include a number of environmental designations but no further clarification is provided.
- 6.7 Furthermore the policy fails to take account of the SPPS exception of valuable mineral extraction within designated sites. The draft policy also fails to identify how impact on a tourism asset will be assessed and therefore no consideration has been given to the implementation of the draft policy.
- 6.8 As such the draft policy fails against soundness test C3 and CE3.
- 6.9 Draft Policy TOU 1 also introduces an exception to development within a TCZ. This includes the provision of tourism accommodation or facilities through the re-use of existing vernacular dwellings. We note that parts of the Sperrins AONB are proposed as TCZs. There does not appear to have been any consideration of the impact of such development on the landscape character of the AONB, particularly given the Council's

proposals to restrict other forms of development based on the impact on the AONB. For this reason the draft Policy fails soundness test CE2.

Recommendation

- 6.10 The Council should review the evidence base on tourism and the contribution to the local economy and all information relating to tourism assets should be made available.
- 6.11 The draft wording should be revised to reflect the provisions of the SPPS.

Draft Policy TOU 3 – Tourism Accommodation

6.12 Draft Policy TOU 3 relates to tourism accommodation proposals. This proposed policy sets out that outside of settlements, TCZ's and Special Countryside Areas, accommodation will be permitted where it comprises:

- Accommodation located near to the edge of a settlement or visually associated with a settlement; or
- The reuse of or conversion of suitable buildings; or
- Replacement of an existing building; or
- Part of a farm diversification scheme; or
- Accommodation in connection with an existing tourism facility; or
- Accommodation within an existing hotel complex; or
- Accommodation located near to a key transport corridor.

6.13 It is unclear from the dPS and the supporting documents, what if any assessment of the impact of tourism development on the countryside has been carried out. Given the Council's desire to protect the landscape the Council will need to be able to monitor development pressures and without appropriate assessment this will not be possible. As such the policy fails against soundness test CE2 and CE3.

Recommendation

6.14 It is recommended that further assessment of the landscape impact of the draft policy is carried out to understand the impact of the proposed relaxation in policy.

Draft Policy TOU 4 - Other Tourism Facilities / Amenities and Attraction

6.15 Draft Policy TOU 4 would also permits the development of outdoor tourism facilities within the open countryside (with the exception of TCZ's). Again is in unclear what assessment of impact has informed this approach. Without understanding the landscape impact of such a policy presumption it cannot be sound as it would fail against soundness test CE2 and CE3.

Recommendation

6.16 It is recommended that further assessment of the landscape impact of the draft policy is carried out to understand the impact of the proposed relaxation in policy.

7. Environmental Policies

Draft Policy HE1 – Beaghmore Stone Circles – Area of Significant Archaeological Interest; Draft Policy HE2 – Creggandevosky – Area of Significant Archaeological Interest; Draft Policy HE3 – Tullahogue– Area of Significant Archaeological Interest

- 7.1 The Council is proposing to have three policies within the dPS relating specifically to Areas of Significant Archaeological Interest (ASAI) within the district. Draft Policy HE 1, HE2 and HE 3 set out that development which would adversely impact on the distinctive heritage values and landscape of the particular ASAI will conflict with the development plan.
- 7.2 The policies fail to identify the specific values and landscape merits justifying designation of the ASAs and there is limited information with the justification and amplification text. As such it is unclear against what baseline development proposals will be considered and therefore the policy fails soundness test CE3.
- 7.3 The draft policies go on to specifically identify masts, pylons, wind turbines and large scale development as being the type of development that would have adverse impact on the distinctive qualities of the archaeological remains and the historic landscapes.
- 7.4 The use of the word ‘would’ within the proposed policy wording suggests that there is evidence that any of these forms of development will result in an adverse impact. There is however no evidence of this provided within the Council’s assessment of Landscape Capacity or the methodology for the establishment of Areas of Constraint on Wind Turbines and High Structures. There is no recognition within the proposed policy wording for mitigation measures that may change the potential impact of a proposal or specific siting and design measures that may reduce impacts.
- 7.5 As set out in the previous sections reliance upon NICA 2000 and a flawed LCAR is unsound. The draft policies therefore fail soundness test CE2.
- 7.6 The supporting justification texts for draft policy HE1 sets out that:
- “The landscape of this ASAI has been shaped by traditional farming activity, but is characterised by open, distant vistas with a distinct absence of modern development.*
- The landscape of this ASAI is sensitive to change which would adversely affect those distinctive qualities outlined above. The erection of masts, pylons, turbines and other large scale development, including larger agricultural sheds, or quarrying and mining activities, within this distinctive landscape would adversely impact the historic landscape character and the contribution it makes to setting, experience and significance of the stone circles and heritage values of archaeological remains within the ASAI.”*
- 7.7 The approach proposed by the Council is based on their opinion that the visual appearance of a turbine or other high structure is adverse. Furthermore sensitivity to

change does not correlate directly with no capacity for development or adverse impacts and as previously stated it is our view that the Council assessment of landscape capacity within the LCAR is flawed.

Recommendation

- 7.8 It is recommended that further work is carried out by the Council to provide evidence for its conclusion that large scale development would have an adverse impact on the ASAI.
- 7.9 In any event the wording of the policy should be revised to 'could have' as this would make allowance for mitigation measures and more detailed site assessments carried out as part of the planning application process.

8. Natural Heritage

Draft Policy SCA 1 – Special Countryside Areas

- 8.1 Policy SCA1 of the strategy introduces Special Countryside Areas. There will be a presumption against all new development within these areas in order to protect the unique quality.
- 8.2 The supporting text goes to set out that these areas have been proposed to protect the wild and unspoilt natures of these unique landscapes from inappropriate development. As previously set out in representation to the POP Dalradian considered the reliance upon NICLA 2000 flawed. Since then the Council has undertaken a review of the LCAs within the district, however as set out in Section 5 of this representation, it is Dalradian's view that the LCAR is flawed. The LCAR as published has failed to have regard to or adequately address weaknesses identified by GM Design Associates and as such cannot be relied upon as robust evidence to justify the designation of an SCA in the district or the proposed extent of such areas.
- 8.3 It is clear that the boundary for the extent of the proposed SCA's has been defined based upon a desktop assessment and landforms and features identified within NICLA 2000. It is disappointing that the Council has not completed a robust detailed assessment of the localised character areas. This is despite the Council's own acknowledgement of the strategic natures of the assessment included within the NICLA2000.
- 8.4 To rely upon out of date and strategic evidence which is not bespoke to the context of the location is flawed. Furthermore the Council's assessment of such data is flawed. For these reasons the draft policy fails against soundness test CE2.

Recommendation

- 8.5 It is recommended that the proposed SCA is reviewed in light of more update to and robust evidence that the Council should prepare.

Draft Policy NH 6 – Areas of Outstanding Natural Beauty

- 8.6 The draft policy sets out that development will be required to be sensitive to the character and landscape quality of the AONB. It goes on to refer to the assessment of proposals for mineral development and policy MIN 1.
- 8.7 Section 5 above identified a number of weaknesses within the draft MIN policies and the soundness tests that they currently fail to meet. Until such times as those comments are addressed, cross reference within draft Policy NH6 also renders this policy unsound for the same reasons.
- 8.8 As such draft Policy NH 6 fails soundness test CE2.
- 8.9 Furthermore, the justification and amplification text for draft Policy NH 6 sets out that account will be taken of landscape capacity and landscape character assessments prepared as part of the Development Plan process when considering proposals within

the AONB. As set out in Section 5 of this representation the landscape evidence provided by the Council in support of the dPS is not robust. Therefore this draft policy fails soundness test CE2.

Recommendation

- 8.10 The Council should undertake a robust assessment of the AONB and further local level assessments of the landscape character to provide a baseline against which development proposals can be assessed.

9. Telecommunications, Overhead Cable, High Structures and Other Public Utilities

Draft Policy TOHS 1 – Outside of Areas of Constraint on Wind Turbines and High Structures

- 9.1 The Council is proposing to introduce a new designation in the form of ‘An Area of Constraint on Wind Turbines and High Structures’ (ACWTHS). Within this area, the development of high structures over 15m will not be permitted, with the exception of essential electricity transmission equipment or telecommunications apparatus.
- 9.2 The policy goes on to state that higher structures, in excess of 25m in height, will only be considered if it is demonstrated that the proposal is of regional importance. It is unclear from the dPS how the Council proposes to define ‘regional importance’ and clarification should be provided on this point so that there is a consistent approach to the policy interpretation. If it is intended that ‘regional importance’ relates to those development proposals would fall within Section 26 of the Planning Act (Northern Ireland) 2011 then this should be clarified in policy or the supporting text. We would however, set out that a project may not fall within the scope of Section 26, but could still be of regional importance.
- 9.3 Without clarification on what is meant by regional importance the policy fails to meet soundness test CE3.
- 9.4 The proposed ACWTHS have been informed by a number of technical papers prepared by the Council and these have been published alongside the dPS. They comprise:
- Background Evidence Paper High Sperrins and Clogher Valley Areas of Constraint on Wind Turbines and High Structures;
 - Landscape Character Assessment Review; and
 - Review and Audit of Mid Ulster Landscape Character Review.
- 9.5 The purpose of these documents is to provide the background, rationale and methodology for the designation of ACWTHCs within the Mid Ulster District.
- 9.6 In preparing this draft policy the Council has considered that all high structures in excess of 15m are inappropriate forms of development within a designated ACWTHS, yet no evidence is provided within the dPS or supporting papers to demonstrate that this is the case. On this basis the draft policy fails soundness test CE2.
- 9.7 The dPS recognises that outside of a proposed ACWTHS taller structures are not an inappropriate forms of development and the wording of draft policy TOHS1 suggests that taller structures of regional importance are not inappropriate.

- 9.8 The Council has assumed that the appearance of high structures and turbines within an ACWTHS is inappropriate due to landscape capacity, however in relation to wind turbine development specifically, the SPPS sets out that:

“it will not necessarily be the case that the extent of visual impact or visibility of windfarm development will give rise to negative effects; windfarm developments are by their nature highly visible yet this in itself should not preclude them as acceptable features in the landscape.”

- 9.9 The view taken by the Council is therefore in conflict with the SPPS and fails soundness test C3.

- 9.10 The methodology for defining ACWTHS is set out in the Council’s technical reports. According to the methodology the Council identified the sensitivity of the landscape from the Northern Ireland Landscape Character Area 2000 (NICLA2000). The Council’s Landscape Character Assessment Position Paper (September 2015) included a review of the landscape character areas defined within NICLA 2000 and at that time the Council recognised that this assessment could lack rigour as there may be considerable variances in the level of landscape vulnerability given the strategic nature of the NICLA.

- 9.11 In order to consider this further the Council has prepared a paper entitled ‘Landscape Character Assessment Review (LCAR)’. WE have previously considered the robustness of this review in representations to draft Policy MIN 2 and have concluded that the assessment is flawed. As such draft Policy TOU 1 fails soundness test CE2.

- 9.12 It is also concerning to note that within the methodology for the LCAR, it is set out that the Council has then considered the landscape capacity of the LCA based on a desk top visual assessment which relied upon natural features to inform the boundaries of the ACWTHS. This approach would conflict with the SPPS, where it states that:

“the ability of the landscape to absorb development depend on careful siting, the skill of the designer, and the inherent characteristics of the landscape such as landform, ridges, hills, valleys and vegetation.”

- 9.13 The Council has been unable to assess landscape capacity taking account of the bespoke elements of individual proposals and therefore the conclusions reached within the assessment cannot be robustly upheld and the policy which it informs fails soundness test CE2.

- 9.14 Despite the Council’s methodology and proposed assessment of landscape character and landscape capacity the technical reports clearly set out that the proposed areas of constraint have been primarily informed by prominent ridges and key views that have been identified in the NICLA 2000. This would suggest that the Council has continued to rely upon information dated from 2000 which does not take account of the current landscape position, despite concerns being raised in response to the POP. As such the draft policy and designation fails to take account of up to date information and fails soundness test P2 and CE2.

Recommendation

- 9.15 It is recommended that the Council removes any areas of constraint proposed for wind turbines and high structures as this approach conflicts with the SPPS in that it fails to support a diverse range of renewable energy developments as is promoted in the SPPS. The approach also fails to take account of site specific character, development proposals and mitigation measures that may be included within proposals.

**Appendix 1: Representation to Mid Ulster
Preferred Options Paper**

Mid Ulster District Council – Preferred Options Paper

Representation on behalf of Dalradian Gold
Ltd

January 2017

Turley

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Client

Turley

Our reference

DALB3001

27 January 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 Mid Ulster in their Local Development Plan Preferred Options Paper and also set out the fundamental concerns which Dalradian has in respect of the approach taken by Mid Ulster.
3. Dalradian's particular concerns are set out below:-
 - (i) The Council's approach to minerals policy in particular the following:-
 - Its conclusion, which is inconsistent with the evidence base provided that the impacts on the economy from mineral extraction are neutral, rather than positive (see Section 5)
 - Its failure to distinguish between the different parts of the minerals sector when developing policy (see Paragraph 4.56-4.68);
 - Its failure to identify areas requiring protection because of their intrinsic value and the proposed blanket application of an area of Constraint on Minerals Development to the Sperrin AONB in its entirety (see Paragraph 4.1 – 4.24);
 - Its proposal to limit mineral operations to short term extraction activities with no sound evidential base (see Paragraph 4.39 – 4.44);
 - Its proposal to exclude on-site processing and its failure to recognise the environmental consequences of such an approach (see Paragraph 4.47 – 4.49);
 - Premature consultation on its Preferred Option in the absence of evidence in relation to mineral resource safeguarding, with the result of inadequate interrogation and an unlawful approach (see Paragraph 4.25 – 4.35);
 - (ii) The Council's failure to consult with the Department for Economy and the Geological Survey of Northern Ireland to ensure that the process is based on sound evidence (see Section 4);
 - (iii) The Council's failure to base their Preferred Options Paper on sound landscape evidence and to carry out a landscape character assessment, in accordance with good practice (see Paragraph 4.5 – 4.20);
 - (iv) The approach adopted by the Council in respect of the Sustainability Appraisal and in particular its failure to comply with best practice and consult on the SA/SEA Scoping Report (see Section 5).

1. Introduction

- 1.1 These representations have been prepared by Turley, on behalf of Dalradian Gold Limited ('Dalradian').
- 1.2 On 7 November 2016, Mid Ulster District Council ('The Council') published their Local Development Plan 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, June 2016;
 - Sustainability Appraisal (incorporating Strategic Environmental Statement SEA) Interim Report, November 2016; and
 - Equality Impact Assessment (EQIA) Progress Report.
- 1.3 The following Development Plan Preparatory Position Papers and Development Plan Policy Review Papers, prepared by the Council have also been considered in preparing these representations:

Development Plan Preparatory Position Papers:

- Population and Growth (September 2014)
- Housing (November 2014)
- Employment and Economic Development (February 2015)
- Town Centres and Opportunity Sites (March 2015)
- Public Utilities (May 2015)
- Transportation (May 2015)
- Open Space, Recreation and Leisure (June 2015)
- Tourism (June 2015)
- Strategic Settlement Evaluation (July 2015)
- Housing Allocation (July 2015)
- Environmental Assets (July 2015)
- Landscape Assessment (September 2015)
- Development Pressure Analysis (September 2015)
- Minerals (January 2016)
- Health, Education and Community Uses (January 2016)

Development Plan Policy Review Papers:

- Archaeology and Built Heritage Policy Review (February 2016)
- Economic Development Policy Review (February 2016)
- Flood Risk Policy Review (April 2016)
- General Planning Principles Policy Review
- Housing in Settlements – Quality Residential Environments Policy Review (April 2016)
- Minerals Development Policy Review (April 2016)
- Natural Heritage Policy Review (February 2016)
- Open Space Recreation and Leisure Policy Review (April 2015)
- Renewables Policy Review (April 2016)

- Sustainable Development in the Countryside Policy Review (April 2016)
- Telecommunications and Overhead Cables Policy Review (May 2016)
- Tourism Policy Review (June 2016)
- Town Centre and Retailing Policy Review (May 2016)
- Transportation Policy Review (February 2016)
- Urban Design Policy Review (April 2016)
- Waste Management Policy Review (April 2015)

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:

Growth Strategy and Spatial Framework

- 1) Do you agree with the objectives set out? – (Page 15)
- 2) Does our approach to the Environment provide a balance between the protection of Mid Ulster's Environmental assets and the promotion of sustainable development? – (Page 29)
- 3) Are there any locations that have not been identified within Mid Ulster that require additional protection? – (Page 29)

Economic Development

- 4) Do you agree with the policy approach of a more flexible economic development policy? If not, tell us why. – (Page 60)
- 5) Do you agree that size restriction should be placed on small workshops in the countryside? – (Page 61)
- 6) Do you agree that the policy should: accommodate workshop style development in rural areas; allow for site expansion in rural areas; remove floor space restriction in settlements; allow for small enterprises on the edge of settlement locations? – (Page 61)
- 7) Do you agree with the principle that the plan should contain Rural Industrial Policy Areas (RIPA's)? In addition to the suggested candidates are there any other candidates which you think should be considered? – (Page 61)

Minerals

- 8) Do you agree that Areas of Mineral Constraint should be included in the Plan? – (Page 69)
- 9) If so, to what extent should they cover the District? – (Page 68)
- 10) Do you agree with the preferred option? If not tell us why? – (Page 68)
- 11) Are there any other areas which you feel should be considered as Areas of Constraint on Mineral Development? – (Page 68)

- 12) Do you agree with the preferred option of keeping Mineral Reserve Policy Areas but amending the boundaries of the zoning? – (Page 73)
 - 13) Do you agree with the suggested wording of the subject policies MIN 1, MIN 2 and MIN 3? – (Page 75)
 - 14) Should the minerals policy for Mid Ulster include a specific policy on the extraction of valuable minerals? – (Page 75)
 - 15) Should the extraction of valuable minerals be treated as an exception within Areas of Constraint on Mineral Development? – (Page 75)
 - 16) Do you think that on site processing of materials should be allowed within an Area of Constraint on Mineral Development, if it can be demonstrated that there will be limited environment impacts? – (Page 75)
- 1.5 This report concludes by setting out concerns in respect of compliance of the POP with the legislative requirements of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 ('the Regulations'), and the Departmental guidance set out in Development Plan Practice Note 05 – Preferred Options Paper (April 2015) ('the 2015 Practice Note').

2. Growth Strategy and Spatial Framework

Do you agree with the objectives set out? – (Page 15)

- 2.1 Dalradian supports the broad objectives set out in the POP, in summary Dalradian supports the Council's objectives of:
- Accommodating people and creating places;
 - Creating jobs and promoting prosperity; and
 - Enhancing the environment and improving infrastructure.
- 2.2 It is considered that the Minerals industry can contribute towards the delivery of such objectives, in particular the sector can make the following contributions:
- Accommodating people and creating places:*
- 2.3 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 communities¹²³.
- 2.4 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 opportunities for promotion and advancement through training and experience are therefore regarded as contributing to improved health and wellbeing.
- 2.5 The Council's POP (page 67) recognises that the safeguarding of minerals is necessary to facilitate the construction of housing to be built across the plan period. It is important for the Council also to note that it applies equally to all forms of development in the district, including infrastructure.
- Creating jobs and promoting prosperity*
- 2.6 The minerals sector in Mid Ulster creates more employment than in any other District (c, 1,257 employees)⁴;
- 2.7 The minerals sector provides and supports a wide range of employment opportunities across a spectrum of skills, including:
- Environmental monitoring and management

¹ 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.

² 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.

³ 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.

⁴ Mid Ulster Position Paper – Minerals (January 2016)

- 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.

- 2.8 In their supporting papers⁵, the Council acknowledges the high economic dependences on the mineral and construction sector in the district. The Council clearly sets out in their papers that approximately 3.2 million tonnes of aggregates are produced in Mid Ulster each year, providing an annual value of c.£10.2 million. More specifically the sector provides for more jobs in Mid Ulster than in any other council area and exceeds the Northern Ireland average.
- 2.9 It is clearly set out in the supporting papers that sand, gravel and clay resources within the district are of regional significance⁶ however this is not drawn out in the economic objectives and is at odds with the Council's proposal to constrain minerals extraction in the district.
- 2.10 Minerals exploited from within Mid Ulster support construction and manufacturing industry across the district and the wider region and beyond. Given the recognised economic significance of the minerals sector, more emphasis should be given towards a policy approach that will ensure a continuous supply of resources to meet need and demand.

Enhancing the environment and improving infrastructure

- 2.11 Dalradian supports the environmental objectives set out in the POP in so far as economic considerations should be balanced against the social and economic considerations of any proposal.
- 2.12 Statistics for 2014-15 issued by NIEA⁷ 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.
- 2.13 Dalradian acknowledges that they have a role to play in conserving the environment when preparing proposals for mineral extraction.

⁵ Mid Ulster Position Paper – Minerals, January 2016

⁶ Mid Ulster Position Paper – Minerals (January 2016) , paragraph 5.2

⁷ Quarry Products Association NI

Does our approach to the Environment provide a balance between the protection of Mid Ulster’s Environmental assets and the promotion of sustainable development? – (Page 29)

2.14 Under the Council’s options for environmental considerations, set out at page 28 of the POP, the Council confirms that the preferred option is to take a policy position of a presumption in favour of sustainable development.

2.15 This approach however is contrary to that principle as it proposes additional constraints to be applied above existing environmental designations in the District. One of the ‘key environment measures’ proposed at Page 29 of the POP, is:

“Manage developments in the Sperrins to protect open vista and bogland whilst accommodating sensitive development to meet the needs of local residents and visitors.”

2.16 In order to support this, the Council has failed to present any assessment of the open vistas and areas of bogland that should be protected and therefore fails to consider and seek to balance the respective interests.

Are there any locations that have not been identified within Mid Ulster that require additional protection? – (Page 29)

2.17 Dalradian’s view is that there is currently sufficient protection of land in place through existing environmental designations and no further locations should be identified.

3. Economic Development

Do you agree with the policy approach of a more flexible economic development policy? If not, tell us why. – (Page 60)

- 3.1 Dalradian welcomes a more flexible approach to economic development policy, reflecting the rural nature of mineral operations, which make both a significant contribution towards the economy in Mid Ulster and beyond. Such an approach would also recognise the wider rural nature of the district.
- 3.2 However, whilst this option provides some additional, though limited flexibility it continues to restrict the opportunity for new employment development within the rural areas. It is our view that this could unduly discriminate against opportunities for new minerals development as the location of development is set by the location of the mineral resource itself. We would therefore propose that the Council considers a policy approach in favour of new mineral development, where it does not have an adverse impact.

Do you agree that size restriction should be placed on small workshops in the countryside? – (Page 61)

- 3.3 Size restriction should not restrict development of a scale where it can be demonstrated that it is appropriate for the scale and nature of the use proposed.
- 3.4 This would help to promote sustainable rural economic development.

Do you agree that the policy should: accommodate workshop style development in rural areas; allow for site expansion in rural areas; remove floor space restriction in settlements; allow for small enterprises on edge of settlement locations? – (Page 61)

- 3.5 Dalradian supports this approach; however as per our comments above they should extend to support all new development where it is appropriate.
- 3.6 As it is acknowledged by the Council⁸ that minerals development needs to be located where they are found. It is critical that Council policy facilitates appropriate exploitation of minerals in rural areas, particularly given the significant contribution that the minerals sector makes to the local and regional economy.

⁸ Mid Ulster Position Paper – Minerals (January 2016), paragraph 2.18

Do you agree with the principle that the plan should contain Rural Industrial Policy Areas (RIPA's)? In addition to the suggested candidates are there any other candidates which you think should be considered? – (Page 61)

- 3.7 Dalradian supports the introduction of RIPAs, which will support the local and rural economy of the district.
- 3.8 Notwithstanding this, we would reiterate the view that since some forms of economic development, mainly minerals development, are location specific economic development in rural areas cannot be restricted to areas zoned at RIPAs.

4. Minerals

Do you agree that Areas of Mineral Constraint should be included in the Plan? – (Page 68)

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

“Identify areas⁹, which should be protected from minerals development because of their intrinsic landscape, amenity, scientific or heritage value (including natural, built and archaeological heritage).”

- 4.2 With this in mind it is our view that the LDP should include ACMD's where appropriate, as it is amongst a range of other designations prescribed in the SPPS which should be included within an LDP.

- 4.3 Whilst we agree 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)

- 4.4 In this regard it is essential that the Council should undertake an assessment of the AONB to inform what specific areas should be classified as ACMD's.

If so, to what extent should they cover the District? – (Page 68)

- 4.5 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.

- 4.6 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.

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

- 4.8 In considering their approach to minerals development the POP states that:

“Mid Ulster has many areas of high landscape quality, including areas which have been identified as vulnerable landscapes in addition to the existing Area of Outstanding

⁹ Normally referred to in Development Plans as 'Areas of Constraint on Minerals Development'

Natural Beauty (AONB) designation. These important landscapes, by their nature, tend to be remote, rural areas where mineral deposits are commonly located. Therefore the extraction of important minerals can often conflict with the need to protect important landscapes.

In addition to this Mid Ulster possess numerous Priority Habitats in Northern Ireland and the destruction of these through development of minerals is a legitimate concern. Bearing all this in mind, the Plan will need to recognise the importance of minerals development while at the same time ensuring that our environment is protected and that the impacts of mineral development on the amenity of neighbouring land uses is minimised.”

- 4.9 This approach recognises the significant economic contribution that the minerals sector makes towards the local economy, however assumes that the impact of such development is a concern. There is no evidence or robust base to conclude within the POP or supporting documents that such development is having a negative impact.
- 4.10 Furthermore, the extent of the ACMD proposed does exclude areas of ‘vulnerable landscape’ on the basis that there are existing mineral operations ongoing in some locations. It appears that these areas have been excluded in recognition of the significant economic contribution that their operations make rather than a robust or evidenced landscape or environmental appraisal.
- 4.11 The Council acknowledges the presence of valuable/gold resources within the District at page 67 of the POP and some high level mapping is provided within the Minerals Position Paper (January 2016), however, despite the significant economic contribution that the extraction of valuable minerals could make to the district there has been no discussion or evidence provided on the need or desire to protect such resource for future extraction or from other forms of conflicting development.
- 4.12 It is important to consider that minerals can only be extracted at their source and this should be a key consideration in determining both areas of constraint and reserve.
- 4.13 In considering the designation of the ACMD, the Council references but fails to apply the approach adopted in the Magherafelt Area Plan 2015. 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 Commissioner¹⁰ 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

¹⁰ Magherafelt Area Plan Planning Appeals Commission Report (January 2011), Paragraph 21.10 – Appendix 1 of this report

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”

- 4.14 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.
- 4.15 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 have been carried out to justify the extent of the proposed ACMD. In addition there has been no assessment of the economics of the mineral resources within the District against the environmental considerations.
- 4.16 In order to inform the options set out in the POP and preferred policy wording, the Council has prepared a series of position papers on minerals and landscape. The Council’s Landscape Assessment Position Paper (September 2015) includes a review of the landscape character areas defined within NICKLA 2000 which fall within Mid Ulster and the SPG for Wind Energy Development.
- 4.17 The evaluation of landscape sensitivity and capacity set out in the Landscape Assessment is not grounded in best practice guidance such as:
- Third Edition of the Guidelines for Landscape and Visual Impact Assessment (GLVIA3), published by the Landscape Institute and Institute of Environmental Management and Assessment, 2013; and
 - Guide to Commissioning a Landscape Capacity Study, SNH, 2011
- 4.18 The Council’s conclusions on the sensitivity of the landscape to development are based upon the conclusions of NICKLA and no further rigour of this data has been carried out, despite the Council’s own recognition that:
- “there may be considerable variation in the level of vulnerability within identified areas reflecting the strategic picture it provides.”* (Landscape Assessment, paragraph 2.1)
- 4.19 This recognition indicates that much more detailed assessment of landscapes is required to inform the capacity for development. Without such assessment this could be interpreted as a constraint on all forms of development without regard to the nature of the development or mitigation proposals.
- 4.20 Because of the lack of evidence available, it is therefore not possible to comment further on their proposed extent and further consultation will be required by the Council once the exercise has been carried out and the evidence is publically available.

Do you agree with the preferred option? If not tell us why? – (Page 68)

- 4.21 Dalradian disagrees with the Council's preferred option for the extent of the AMCD, on the basis that it is not based on sound environmental and economic evidence. It is our view that the Council should obtain evidence from the Department for Infrastructure and GSNI, to ensure that the emerging Plan does not contradict the established approach to safeguarding mineral resources, and the opportunity they represent.
- 4.22 The Council should also revisit its evidence base on landscape to ensure that its proposed approach to constraint is both informed and proportionate. It should only move to designate areas of constraint once it has a clear and defensible view on both the opportunity which exists within its boundaries, and the areas where constraints are legitimately required above and beyond those environmental designations already in place.

Are there any other areas which you feel should be considered as Areas of Constraint on Mineral Development? – (Page 68)

- 4.23 As stated previously, it is Dalradian's view that when defining the ACMDs in the district; careful consideration should be given firstly to the need to designate an ACMD in addition to other environmental designations, then to landscape capacity and the merits of the known minerals resource.
- 4.24 Dalradian does not agree with the extent of the current proposed ACMD and sees no justification for any extension to other areas.

Do you agree with the preferred option of keeping Mineral Reserve Policy Areas but amending the boundaries of the zoning? – (Page 73)

- 4.25 Dalradian supports the Council's proposal to include Mineral Reserve Policy Areas (MRPAs) within the emerging LDP. This is important in recognising the significant economic contribution that the mineral extraction 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 the construction and manufacturing sectors¹¹.

"The presence of regionally important sand and gravel and clay resources within the District has meant that mining and quarrying is a significant employer along with associated concrete production such as Lafarge Cement in Cookstown and Creagh Concrete in Ardboe and companies specialising in the manufacture of mining and quarrying machinery such as Sandvik and Terex/Pwerscreen."

- 4.26 Dalradian welcomes the Council's acknowledgement, at page 67 of the POP, of a gold resource in the district. The Council's position paper on Minerals¹² also references the presence of gold, as a valuable mineral, in the district. Beyond this reference to the

¹¹ Mid Ulster Position Paper – Minerals (January 2016),

¹² Mid Ulster Position Paper – Minerals (January 2016)

presence of a valuable mineral there is no proposed policy approach to the future protection of such resource. Some mapping information is included within the Minerals paper, to provide an indication of where valuable minerals could be found across Northern Ireland. This mapping has been provided by the British Geological Survey, however no further scrutiny is given at a district level to better understand the extent or quality of the resource. Dalradian is concerned that the Council has not undertaken appropriate consultation with GSNI to secure the necessary information to inform the preparation of the POP.

- 4.27 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 any preferred option.
- 4.28 Furthermore, in determining the extent of the proposed MRPA's the Council has not carried out any consultation with those operating in the minerals extraction industry, or representative bodies such as Quarry Products Association for Northern Ireland. Again it is our view that the lack of engagement with the key stakeholders undermines the preparation of the options presents as they do not take account of industry need, available resource, extraction rates, infrastructure requirements etc.
- 4.29 In preparing minerals policies and planning for mineral extraction in England the Planning Practice Guidance, England¹³ 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."*
- 4.30 A failure to identify and understand the requirements of the sector before setting reserve areas is a fundamental flaw with the consequence of undermining the operations of existing mining and quarrying operators. The results of such consultation may require changes to the options presented in the POP. To introduce new option/s at the next stage of the plan making process would not be in accordance with the consultation requirements.
- 4.31 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 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.
- 4.32 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.

¹³ Planning Practice Guidance Paragraph 007 Reference ID 27-007-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/planning-for-minerals-extraction/>

- Proper consideration of the options in respect of minerals development should then be carried out.
 - A preferred option should be identified;
 - A further consultation exercise should then take place.
- 4.33 We would also highlight that the assessment of the appropriate information and options should be subject to further consideration and assessment as part of the SA process.
- 4.34 In relation to policies for the safeguarding of minerals it is important for the Council to appreciate 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 Guidance¹⁴, 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*
- 4.35 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.

Do you agree with the suggested wording of the subject policies MIN 1, MIN 2 and MIN 3? – (Page 75)

Policy MIN 1

- 4.36 The Council is proposing a general policy for Mineral Development. This policy is worded to reflect the current policy set out in the Planning Strategy for Rural Northern Ireland (PSRNI). The policy considerations set out under Policy MIN 1 of the POP would be subject to detailed technical assessment as part of a planning application or Environmental Statement.

Policy MIN2

- 4.37 Dalradian welcomes the proposal in the Policy MIN 2 of the POP that extraction may be permitted where it would offer significant benefit to the community.
- 4.38 Policy MIN2 proposes a series of policy tests for extraction proposals in AMCDs. Dalradian would comment as follows:

¹⁴ Planning Practice Guidance - Planning Practice Guidance - Paragraph: 006 Reference ID: 27-006-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/minerals-safeguarding/>

"The application is for a proposal with a short term of extraction"

- 4.39 It is our view that the imposition of a time restriction on mineral development is inappropriate as it could be unduly restrictive, particularly where the quantum of mineral resource dictates the timescales for extraction. The Council should recognise the differential impact that this approach would have on different parts of the minerals sector. In terms of Dalradian's specific interest, the extraction of valuable minerals could require £100millions 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.
- 4.40 There is no evidence within the POP, or the supporting information to justify this requirement. We would highlight that 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.
- 4.41 Furthermore the development management process and conditions associated with the grant of permission can ensure that continuous monitoring and assessment of the development can be carried out as necessary.
- 4.42 We would draw attention to a recently approved development within the North York Moors National Park¹⁵, 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 authority¹⁶ attaches 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
- 4.43 In considering the proposals, the local planning authority¹⁷ 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
- 4.44 The introduction of an arbitrary time limit with no evidential base is misconceived and an inappropriate constraint on sustainable minerals development.

"It can be demonstrated that there will be limited environmental effects"

¹⁵ Planning Application Reference NYM/2014/0676/MEIA – North York Moors National Park Authority, Applicant: York Potash.

¹⁶ North York Moors National Park Authority

¹⁷ North York Moors National Park Authority

- 4.45 It is envisaged that 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 conditions as part of the grant of planning permission.
- 4.46 The use of the term 'limited environmental effects' is un-descriptive and could be difficult to define what limited effects are. We would therefore propose that this policy consideration is revised to 'It can be demonstrated that there will be no unreasonable adverse environmental effects' as these effects could be considered through an Environmental Impact Assessment.

"There will be no on site processing of excavated material"

- 4.47 Dalradian opposes the inclusion of this policy consideration.
- 4.48 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.
- 4.49 Furthermore, in some cases it is more appropriate to use on-site processing to minimise impacts relating to traffic movement, noise and air quality.

"In all of the above cases, adequate restoration proposals area provided."

- 4.50 This approach is welcomed, and in considering proposals for mineral extraction the restoration phase would form part of the support environmental information.
- 4.51 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 species¹⁸ and restoration schemes can provide new habitats (e.g. woodland).

Policy MIN3

- 4.52 Dalradian welcomes the inclusion of a policy which would prohibit other forms of development that would sterilize or prejudice mineral extraction.
- 4.53 Notwithstanding this, the proposed policy should also apply to development proposed where a mineral resource is known to exist and in this regard it is our view that further consultation should be carried out with GSNI to better understand the extent and type of resources in the District.
- 4.54 In preparing minerals policies and planning for mineral extraction the Planning Practice Guidance, England¹⁹ states:

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

¹⁹ Planning Practice Guidance Paragraph 007 Reference ID 27-007-20140306
<http://planningguidance.communities.gov.uk/blog/guidance/minerals/planning-for-minerals-extraction/>

“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.”

- 4.55 To date this has not be carried out and in our view this undermines the evidential basis for any other options presented in the POP.

Should the minerals policy for Mid Ulster include a specific policy on the extraction of valuable minerals? – (Page 75)

- 4.56 Dalradian would support the inclusion of a specific policy relating to the extraction of valuable minerals.

- 4.57 Whilst reference to the presence of gold is made within the POP and the Minerals Position Paper, there is not consideration of what policy approach would be taken towards the extraction of valuable minerals.

- 4.58 SPPS 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)

- 4.59 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.”

- 4.60 Dalradian would propose that this approach is carried forward by the Council.

- 4.61 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. “

- 4.62 It is our view that this approach should be carried forward to ensure that the future extraction of valuable resources is not prohibited.

- 4.63 If the existing policies on valuable minerals are not carried forward in the LDP then they will no longer be in place following the adoption of the Plan Strategy. It is our view that a

failure to include specific policies on valuable minerals would result in a policy void and a conflict with the SPPS which recognises the importance to plan for such resources.

- 4.64 National planning policy in England sets out a clear expectation that a disaggregated approach is expected. Section 13 of the NPPF²⁰ 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)

- 4.65 This approach is also endorsed in Planning Practice Guidance in England, which set clear guidance on planning for different types of minerals²¹. 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.

Should the extraction of valuable minerals be treated as an exception within Areas of Constraint on Mineral Development? – (Page 75)

- 4.66 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)

- 4.67 It is our view that 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 in conflict with the SPPS which clearly states that:

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

- 4.68 With this in mind it is Dalradian’s view that the extraction of valuable minerals should be treated as an exception.

²⁰ National Planning Policy Framework, 2012

²¹ <http://planningguidance.communities.gov.uk/blog/guidance/minerals/>

Do you think that on site processing of materials should be allowed within an Area of Constraint on Mineral Development, if it can be demonstrated that there will be limited environment impacts? – (Page 75)

- 4.69 Dalradian considers that on site processing of materials should be permitted, if it can be demonstrated that there will be no unreasonable adverse environmental impacts.

5. Sustainability Appraisal – Interim Report

A review of the Scoping Report and Sustainability Appraisal process supporting the Mid Ulster Preferred Options Paper

- 5.1 A review of the Sustainability Appraisal (SA) documents that have been produced in support of POP has been undertaken.
- 5.2 The documents that have been reviewed are;
- Mid Ulster District Council Local Development Plan, Sustainability Appraisal Scoping Report, June 2016
 - Mid Ulster District Council Local Development Plan. Interim Sustainability Appraisal Report incorporating Strategic Environmental Assessment. November, 2016.
- 5.3 For Northern Ireland the relevant guidance with respect to Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) is;
- Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (the Regulations); and
 - Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015.
- 5.4 Given the complexity of the SA process and the experience of its application in England, Scotland and Wales, it is also useful to refer to the following guidance where necessary;
- A Practical Guide to SEA. Department of Communities and Local Government, September 2005
 - National Planning Practice Guidance. Strategic environmental assessment and Sustainability appraisal. (<http://planningguidance.communities.gov.uk/>).
- 5.5 Dalradian are fully supportive of 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 community and economy.
- 5.6 It is recognised by national policy that sustainable minerals extraction can play a key role in sustainable economic growth. Indeed 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 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 Given the commitment of Dalradian to sustainable minerals extraction and the function of the SEA/ SA process in relation to the emerging Mid Ulster Local Plan, Dalradian are committed to engaging positively and proactively in the SA and local plan process.

5.9 A review of the SA documents listed above against the Regulations and the Development Plan (DP) Practice note has been undertaken to identify where there are;

- Areas of procedural or technical non-compliance with the Regulations; and/ or
- Areas of procedural or technical non-compliance with the guidance within the DP SA/ SEA (hereafter referred to as the DP Practice note) Practice note.

5.10 Dalradian have made these representations based on their current and proposed future exploration and extraction activities within Fermanagh and Omagh District Council area and the potential for future activities within Mid Ulster.

5.11 Given the role of the SA/ SEA in process in securing a sustainable local plan, Dalradian are committed to helping the SA process to fully capture the potential benefits from a nationally significant mineral resource.

Mid Ulster District Council, SA Scoping Report. June, 2016

5.12 The production of a Scoping Report is best practice and a critical first step in the SA process as set out in section 7 of the DP Practice note. We consider the following key tasks of the scoping report particularly relevant to these representations;

- Establish the baseline of the geographical area of the plan as required by Schedule 2 (2) and (3) of the EAPP regulations and Paragraph 7.3b of the DP Practice Note. The DP Practice note makes the following statements with regards to the evidence base of a SA scoping report;
 - A robust understanding of the baseline position is important in ensuring a sound evidence base for the plan²²
 - Paragraph 7.3 b (ix) also sets out the functions of the baseline information to the council which includes the requirement to identify particularly sensitive or important elements of the social, economic and physical environment which are likely to be affected by the draft plan.

²² Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 11, Paragraph 7.3 b ii

- Present the framework of sustainability objectives for consultation which is then used to assess the social, environmental and economic effects of the plan in later iterations of SA reports.
 - Seek, consider and integrate representations from statutory and non-statutory consultees before embarking on the development of the POP.
- 5.13 The Scoping report is therefore a fundamental part of 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.
- 5.14 Following our review Dalradian have significant concerns with regards to the process and content of the SA/ SEA Scoping report which are;
- (i) The publication of the SA Scoping report alongside the POP and supporting SA documents which removes the ability for stakeholders to comment on the scoping report prior to the publication and assessment of the POP paper and therefore positively influence the evolution of the local plan.
 - (ii) The content of the scoping report and specifically the baseline information which 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.

The publication of the SA Scoping report for consultation at the same time as the POP and associated Interim SA report.

- 5.15 Paragraph 6.2 and Figure 1²³ of the SA/ SEA guidance document sets out the key stages of the LDP process and how the SA/ SEA process should interact with it. Paragraph 6.2 states that

Whilst there are clear linkages at various stages of both processes, it is important to note that the preparation of the LDP and SA should be an iterative process whereby findings at each stage should be taken into account to inform subsequent stages of the plan.

- 5.16 Figure 1 of the guidance clearly links the SA Scoping report with the production of the POP but states that Stage A(1) SA Scoping Report should be prepared, issued for consultation and (subject to consultee comments) amended before the assessment of alternatives within the POP.
- 5.17 Paragraph 8.1-8.3 of the scoping report confirms that consultation has been undertaken with the Natural Environment Division (NED) and Historic Environmental Division (HED) however there is no record of the comments received within the scoping report. It would also appear that the SA report was not issued for public consultation prior to the production of the POP and Interim SA.

²³ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Paragraph 6.2 and Figure 7.1

- 5.18 Dalradian consider that the need to receive and assess statutory and non-statutory consultee comments on the SA Scoping report prior to the assessment of alternatives within the POP is a fundamental requirement of the guidance and process for the following three reasons;
- 5.19 One of the first and most important requirements of the scoping report is to establish the environmental and socio-economic baseline of the area in question. This is a requirement of the guidance and EAPP regulations. The SA/ SEA guidance document states that;

The baseline information should enable a council to determine the current state of the social, economic and physical environment²⁴

- 5.20 The baseline data is then used to identify any 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.
- (i) The need to ensure the correct sustainability issues are identified which the plans policies should then attempt to mitigate or enhance.
 - (ii) The structure of the SA framework will significantly influence the policies and the plan making process and therefore comments on the SA framework should be received and incorporated prior to assessment of the reasonable alternatives.
- 5.21 It is also considered best practice to allow wider stakeholders such as members of the public within the plan area the opportunity to comment on the SA Scoping report.

- 5.22 Paragraph 3.5 of the 2005 SEA Guidance²⁵ 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.

- 5.23 As part of responsible plan making Dalradian firmly believe that the SA Scoping report should have been submitted for consultation prior to the development and publication of the POP and its supporting SA report.

The content of the SA Scoping Report

- 5.24 As stated above, the content of the SA Scoping report has a fundamental impact upon the POP, its SA and the ongoing local plan process.
- 5.25 Dalradian set out their concerns below with regards to the information within the scoping report along with references to supporting evidence where necessary.

²⁴ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 13

²⁵ A Practical Guide to the Strategic Environmental Assessment Directive. Office of the Deputy Prime Minister, 2005.

Baseline information and sustainability issues

- 5.26 Dalradian would like to make the following comments with regards to presentation of baseline data and key sustainability issues which is presented in Section 6 and within Appendix 2 and 3 of the report. These are set out below.

Population and Human Health.

- 5.27 Dalradian agree with many of the issues raised on page 24 of the Scoping Report which list the main potential impacts on local population and human health issues if the plan does not progress without policies to tackle such issues. Dalradian note that one key issue is the need for the local plan to meet the estimated 8,500 new jobs needed over the plan period in order to provide a range of benefits to the local economy and health of residents.
- 5.28 Dalradian agree with the conclusion within paragraph 4.4 of the evidence base document²⁶ which recognises that mining and quarrying is a significant employer within Mid Ulster. Dalradian are currently preparing an application for Gold extraction within the neighbouring district of Fermanagh and & Omagh where it is estimated that the construction and operation of the Goldmine could support approximately 750 skilled jobs during the construction and operational phases of the Goldmine which, in total, is approximately 10% of the jobs needed within Mid Ulster over the plan period. Should the Mid Ulster Local Plan develop policies to support mineral and gold extraction then this could make a major positive contribution.
- 5.29 Dalradian consider there to be a significant deficiency in the evidence base as there is no reference to the potential for securing major local economic benefit through the exploration and (subject to findings and necessary consents) extraction of the gold reserves. The presence of gold reserves is acknowledged within the Council's evidence base²⁷ and therefore should be referenced within the SA scoping report as a baseline issue that could have significant benefits to the local economy.

Landscape

- 5.30 Paragraph 6.66 of the SA Scoping report refers to the potential for landscape impact from minerals extraction in the district. Dalradian disagree with this statement and the general assumption of such negative impacts given that each site is unique in terms of its location and scale and therefore potential impact (if any) will vary considerably. This point is elaborated further in paragraphs 4.16-4.19 of the main representations.
- 5.31 Dalradian would agree with Paragraph 6.70 of the scoping report however which recognises the important economic contribution that the minerals sector plays in Mid Ulster and that any impact upon landscape (or any other baseline issue) must be considered as part of the need to create a sustainable local economy. Dalradian consider that such recognition should also be contained within the Population and Human Health section of the baseline information.

Developing a SA Framework

- 5.32 The SA Framework is a critical output of the SA scoping report as it forms the basis from which the economic, social and environmental performance of the proposed policies

²⁶ Mid Ulster District Council. Position Paper 3. Employment and Economic Development. Page 11.

²⁷ Mid Ulster District Council. Position. Position Paper. Minerals. Paragraph 5.14-5.15.

within the Local Plan are assessed. The SA Framework is specifically developed to address the key sustainability issues identified in the SA report. Our comments on the SA framework are as follows;

- 5.32.1 Objective 16 -'to minimise the production of waste and use of non-renewable materials' should be amended to – 'To minimise the production of waste and adopt a sustainable approach to the use of non-renewable materials' in order to allow the SA process to facilitate policies to secure the sustainable use of resources.
- 5.32.2 We believe an SA objective should be inserted to specifically address the key sustainability issue of the substantial mineral reserves within Mid Ulster to ensure that it is extracted in a sustainable manner and continues to make a major contribution to the local economy. We therefore propose a new SA objective within the SA framework - *To utilise the substantial mineral assets of the district in a sustainable manner.*

Summary of the Mid Ulster SA Scoping report.

5.33 In summary, Dalradian have significant concerns with regards to the process and content of the SA Scoping report which can be summarised as;

- (i) Publication of the SA Scoping report at the same time as the POP SA report is not in accordance with the DP SA/ SEA Guidance²⁸ or recognised best practice.
- (ii) 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 Mid Ulster and the substantial benefits this could have on the local economy if these resources are extracted in a sustainable manner.
- (iii) The baseline information does not recognise the economic importance of the minerals extraction area to the local and wider economy despite this being a clear conclusion in the evidence base document²⁹
- (iv) The scoping report does not recognise the key sustainability issues associated with the gold reserves and the substantial opportunities available to the local economy and community through sustainable extraction.
- (v) The SA framework does not allow the assessment of emerging policies to facilitate sustainable extraction of the mineral assets but, as structured, seeks to restrict extraction where possible.

²⁸ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Paragraph 6.2 and Figure 1.

²⁹ Mid Ulster District Council. Position. Position Paper. Minerals. Section 5.

The Sustainability Appraisal of the Mid Ulster Preferred Options Paper.

Minerals & Minerals Reserve Policy Areas

- 5.34 Section 2.12 of the Interim SA published in November 2016 presents the policy options and assessment results of the reasonable alternatives to deliver the mineral policies. These policy options are summarised below.

Strategic Approach – Areas of Constraint on Mineral Development

- Option 1 – Consider all applications for minerals development regardless of their location against a criteria based policy.
- Option 2 – Develop a strategy based on Areas of Constraint and Mineral Policy Areas to protect areas of intrinsic landscape, amenity or scientific value from mineral development

Mineral Reserve Policy Areas

- Option 1 – Retain Mineral Reserve Policy Areas
- Option 2 – Modify the existing Areas
- Option 3 - Remove Mineral Reserve Policy Areas from the Plan

- 5.35 The SA recognises the importance of the minerals sector to the economy of Mid Ulster although this is specifically with regards to the quarrying industry with no mention of the potential from gold deposits which is contrary to the plans supporting evidence base paper³⁰. Dalradian consider it highly likely that, given the significant deposits present in the Curraghinalt hills within Fermanagh and Omagh District Council, that the evidence base considerably underestimates the quantity and quality of available gold resource within Mid Ulster.
- 5.36 Dalradian believe that in the interests of sound plan making on the basis of a robust evidence base the mining sector and GSNI should have been consulted as part of the preparation of these documents to ensure that the plan recognises the potential scale of minerals opportunities. This view is provided in greater detail within paragraph 4.26 of section 4 above.
- 5.37 The SA states that minerals extraction is likely to lead to significant impacts on the landscape and that the plan should contain policies to extract these responsibly. Whilst not accepting that there is evidence of significant impacts on landscape, Dalradian agree that the plan should contain policies to support the sustainable extraction of minerals in accordance with SPPS provided that this is based on a sound evidence base and does not restrict any minerals extraction.
- 5.38 It is important to note Paragraph 6.150 of the SPPS which states that;

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

³⁰ Mid Ulster District Council. Local Plan Preparatory Paper. Minerals. Page 19.

Sustainability Impacts of the strategic approach to areas of constraint on minerals development and mineral reserve policy areas.

- 5.39 The SA first summarises the negative and positive social, environmental and economic effects of the strategic approach to minerals development before considering the impacts of the three mineral reserve policy options.

Social Impacts of the strategic policy options.

- 5.40 Dalradian have the following comments on the social sustainability impacts of the strategic policy options;

- The SA identifies no major positive or negative social benefits from either of the strategic options. Dalradian disagree with the conclusion that there will be no major positive social impacts from minerals extraction on the basis that policies to facilitate sustainable extraction in line with the SPPS 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.
- The SA identifies only minor positive social impacts from the creation of new jobs from the minerals industry. Dalradian disagree that sustainable extraction of minerals will only result in a minor positive social impact. The Council's own evidence base clearly recognises the importance of the minerals industry to the local economy and recognises it is the largest employer within Mid Ulster. Dalradian firmly believe that policies to allow the sustainable extraction of minerals will result in a major positive benefit against SA/ SEA objectives 1, 2 and 3.

Social Impacts of the mineral reserve policy options.

- 5.41 Dalradian have the following comments on the social sustainability impacts of the mineral reserve policy options;

- The SA identifies no major positive or negative social benefits from any of the three policy options. As stated in section 4 above, Dalradian disagree with the identified Areas of Constraint for Minerals Development (ACMD), the 'short term' extraction time limit and the restriction on on-site processing within Policy Min 2. Unless these policy requirements are removed, minerals extraction is likely to be prejudiced which will therefore inhibit positive social benefits from minerals extraction.
- Should Policy MIN 2 be amended, this would result in major positive social benefits to the local community from responsible and sustainable minerals extraction.

Summary of social impacts of the strategic options and mineral reserve policy areas.

- 5.42 Dalradian believe that the SA is unsound in that it fails to recognise the potential for major social benefits to the local community that will result from the removal of policy restrictions facilitating the sustainable extraction of minerals.

- 5.43 Dalradian would be pleased to engage proactively with the Council to discuss these benefits and how they could improve social sustainability within Mid Ulster.

Environmental impacts of the strategic policy options.

- 5.44 The SA identifies the following environmental sustainability impacts of the strategic policy options to which Dalradian would like to make the following comments;
- The SA identifies no major positive or negative environmental effects from the strategic policy options. Dalradian agree with this conclusion of the SA which identifies there to be no major environmental impacts from a strategic policy option to facilitate the sustainable extraction of minerals.
 - The SA identifies a range of minor positive environmental impacts if strategic policy option 2 is selected. Dalradian broadly agree that policy option 2 will result in a range of positive environmental impacts by adopting a strategic approach to minerals extraction.

Environmental impacts of the mineral reserve policy options.

- 5.45 The SA identifies the following environmental sustainability impacts from the three different mineral reserve policy options to which Dalradian make the following comments.
- The SA identifies no major positive or negative environmental impacts resulting from any of the three policy options. Dalradian agree with the results of the SA assessment which concludes that (depending on the ACMD identified) there will no major negative environmental impacts although Dalradian reiterate that we disagree with the current proposed ACMD having reviewed the evidence base. Dalradian also note that any planning application for minerals extraction must assess and mitigate as far as possible any environmental impact and that , with mitigation, there can often be long-term environmental benefits.
 - The SA identifies a number of negative environmental impacts resulting from mineral reserve policy options 1 and 2. Dalradian acknowledge that, depending on the nature of a minerals project and its location, there is the potential for minor negative environmental impacts. This is recognised within the SPPS in paragraphs 6.149 and 6.150 which confirm the need to consider any negative impacts in the context of the economic need for sustainable extraction of minerals where impacts can be mitigated and in the context of the planning balance.
 - Paragraph 4.47 above set out our objection to the wording of preferred mineral reserve policy option (option 2) which includes a requirement for no on-site processing of minerals. Dalradian believe that this approach is unjustified and misplaced as such a requirement is likely to result in a greater environmental impact from the transportation of materials to and from any off-site processing facility.

Summary of environmental impacts of the strategic options and mineral reserve policy options.

- 5.46 The SA identifies only minor negative environmental impacts resulting from policies to facilitate the sustainable extraction of minerals. Dalradian support this conclusion

although we reiterate our objection to the identified ACMD, the proposed time limit for minerals extraction and the requirement for no on-site minerals processing facilities.

- 5.47 Dalradian would welcome the opportunity to work proactively with the Council to provide information to update the existing evidence base to assist with the identification of the most sustainable location for minerals extraction. Any subsequent policies and mineral extraction resulting from this evidence would create a lower environmental impact whilst maximising long-term economic and social benefit to the local community.

Economic impacts of the strategic policy options

- 5.48 The SA identifies the following economic sustainability impacts of the strategic options to which Dalradian make the following comments;
- The SA identifies major positive economic impacts resulting from option 1 and minor economic impacts from option 2 with the potential for some minor negative economic impacts through a restriction of minerals extraction. Dalradian firmly agree with the SA in that policies to facilitate the sustainable extraction of minerals (and particularly gold) will result in major long-term positive economic impacts for the local and national economy. Whilst Dalradian agree that such a benefit can occur from the whole minerals extraction industry, we believe the quantity and quality of the gold deposits that could be present within Mid Ulster will result in a disproportionately greater benefit to the local economy.
 - Key to securing this benefit however is the need to identify the most appropriate location for minerals exploration and extraction which can only occur through the development of an updated evidence base utilising data from the minerals industry, Geological Survey of Northern Ireland and the Council.

Economic impacts of the mineral reserve policy options.

- 5.49 The SA identifies the following economic sustainability impacts from the three different mineral reserve policy options to which Dalradian make the following comments.
- The SA has identified major and minor positive economic benefits associated with the protection of land for future minerals extraction. Dalradian firmly believe that the minerals extraction industry (and particularly gold extraction) will result in major long-term economic benefits to the local and national economy. These benefits can only be secured however if policies are developed that ensure minerals extraction projects are commercially viable.
 - Paragraphs 4.39 and 4.47above presents our objection to the inclusion within the preferred mineral reserve policy option (MIN2) of a 'short term extraction' period and a requirement for no-onsite processing. Such policy requirements would render a valuable minerals extraction project unviable and therefore eliminate the potential for major long-term economic benefits to the local community and national economy.

Summary of economic impacts of the strategic options and mineral reserve policy options.

- 5.50 The SA identifies major and minor positive economic impacts from the preferred policy options of restricting minerals development through the amendments of mineral reserve

areas. Dalradian firmly believe that if the most appropriate location for minerals (and particularly gold extraction) is identified and there are no time restrictions upon extraction, then major long-term economic benefits will occur for the local and national economy.

- 5.51 As stated above however, in order to develop policies to secure these benefits, Dalradian consider it critical that the minerals extraction industry and GSNI works proactively with the Council to collate a sound evidence base and develop policies to facilitate the sustainable extraction of minerals in accordance with paragraphs 6.148-6.151 of the SPPS.

Summary of Representations to the Mid Ulster District Council SA Scoping Report and Interim Sustainability Appraisal.

- 5.52 Dalradian have significant concerns with regards to the process and content of the SA Scoping report which can be summarised as;
- (i) Publication of the SA Scoping report at the same time as the POP SA report is not in accordance with the DP SA/ SEA Guidance³¹ or recognised best practice.
 - (ii) 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 Mid Ulster and the substantial benefits this could have on the local and wider economy if these resources are extracted in a sustainable manner.
 - (iii) The baseline information does not recognise the economic importance of the minerals extraction area to the local and wider economy despite this being a clear conclusion in the evidence base document³²
 - (iv) The scoping report does not recognise the key sustainability issues associated with the valuable mineral reserves and the substantial opportunities available to the local and wider economy and community through sustainable extraction.
 - (v) The SA framework does not facilitate the accurate assessment of emerging policies to encourage sustainable extraction of the mineral assets but, as structured, seeks to restrict extraction where possible.

- 5.53 With regards to the Interim SA, Dalradian have fundamental concerns that the inadequate evidence base and inclusion of restrictive policies within MIN2 will severely restrict the viability of minerals and valuable mineral extraction and therefore the ability to secure major economic and social benefits for the community. It is disappointing to see no reference within the SA to the presence of (potentially nationally) significant gold deposits within Mid Ulster despite being recognised within the council's own evidence base documents.

³¹ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Paragraph 6.2 and Figure 1.

³² Mid Ulster District Council. Position. Position Paper. Minerals. Section 5.

- 5.54 Dalradian believe that the Interim SA and its associated evidence base is unsound as its assessment is based upon a flawed evidence base and the policies proposed are inconsistent with the SPPS and likely to severely restrict minerals exploration.
- 5.55 Whilst Dalradian agree with some of the conclusions of the SA, Dalradian do not believe that the policies as drafted will deliver a sustainable minerals extraction industry. Our principal concerns are summarised as follows;
- Inappropriate evidence has been collated and the minerals extraction industry and GSNI should be consulted as soon as possible in order to identify the substantial opportunity that exists for the Council to create major long-term social and economic benefits by the introduction of policies to facilitate and enable the sustainable extraction of minerals. In particular Dalradian believe the evidence base should be revised in order to identify, through collaboration, the most appropriate locations for minerals extraction.
 - Dalradian agree that, with amendments to the policies and ACMD, that minerals and particularly valuable mineral extraction will result in major long term social and economic benefit to the local economy.
 - Dalradian acknowledge that minerals extraction has the potential to result in negative environmental impacts however, as stated within the SA, such impacts can be minor and indeed mitigated.
- 5.56 Dalradian firmly believe that the Council should amend the preferred policy options (following consultation with the minerals industry and GSNI and the production of a revised evidence base) and then reappraise the sustainability impacts through a revised SA.

6. Compliance

- 6.1 In preparing their POP, the Council are required to adhere to the provisions of Part 3 of the Regulations. This report sets out Dalradian's concerns in respect of compliance of the POP with the Regulations and generally.

Preparation of the preferred options paper

- 6.2 Regulation 9 sets out what is required by the Council when preparing their POP as follows:

- “(1) Before a council complies with regulation 11, it must, for the purpose of generating alternative strategies and options, engage the consultation bodies.*
- (2) In preparing the preferred options paper the council must take into account any representation received from the consultation bodies.”*

- 6.3 The POP fails to set out the level of engagement that has taken place with the consultation bodies to date. This needs to be addressed to demonstrate whether the legislative requirements for the test of soundness have been met. In addition, we are concerned by the absence of any evidence of consultation with the Department for Economy and in particular Geological Survey of Northern Ireland. Critical evidence required for a sound plan to come forward is not yet available.

Content of the preferred options paper:

- 6.4 The SPPS set out that the POP should:

“contain a series of options for dealing with key issues in the plan area, as well as the council's justification for its proposed approach. Key issues should include:

- The overall pattern of new development throughout the plan area;*
- Options for planned growth of main settlements; and*
- Options for major infrastructure projects.”*

- 6.5 The Departmental Practice Note 5 on Preferred Options Paper (April 2015) goes on to set out what should form the content of the POP. Paragraph 8.3 of Practice Note 5 sets out that the POP should contain:

“Options including a council's preferred options consisting of broad proposals for plan issues such as settlement hierarchy, housing in settlements, natural and built heritage, economic development, industry and commerce, town centres and retailing, open space and recreation, development in the countryside, tourism, transportation, renewable energy, waste management, telecommunications, public services and public utilities and any other issues as considered relevant e.g. minerals and coastal development. “

- 6.6 The Note goes on to set out other elements that should be included within the POP, however at no point does the SPPS and Practice Note suggest that the draft Policies should be included within the POP.

- 6.7 The inclusion of draft Policy wording at this early stage of engagement is premature and goes beyond the broad principles which are required. We are most concerned that this indicates that the alternatives have not been adequately considered and that the Plan Strategy policies have been pre-determined. Furthermore, where policy wording is proposed, only one version is provided.

**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 & Slaughterfreeden 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 (ACNBs) and areas of high scenic value contain many valuable reserves of rock and sand and gravel and acknowledges that it would be unwise to attempt to secure with essential sources of supply. Accordingly, Policy MIN 2 provides that applications for new mineral workings and extensions to existing workings in ACNBs 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 3 (PPS 3). The level of protection afforded to the environment and built heritage designations varies, 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 3 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 ACNBs are designated under the Nature Conservation and Amenity Lands (NCA) 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 ACNBs is set out in Policy DES 4 of the PPS 2, which requires development proposals to be sensitive to the distinctive character of the area and the quality of their landscape, heritage and wildlife.

21.8 **Balancing environmental protection against minerals development**
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 national situation. The absence of a regional minerals plan and the planning basis for assessing regional resources and demand has significant gaps 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 Mineral Development under article 3 of the Planning (NI) Order 1991 as an alteration to the Plan.
- 21.16 **Protective designation for existing quarries**
Turning to the issue of the need for protection of three existing quarries adjoining the proposed Settlement Development Limits of Keshborough and Olladuff. The objections are concerned about the concentration of residential development in their immediate vicinity increasing the residential density could then reduce or overrule 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 extend that they wish to see subject of a designation that protects land available for extraction.
- 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 a partial and limited approach to protection.
- 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 3 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 associatedordon sennaire. 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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Appendix 2: Sustainability Appraisal and Strategic Environmental Assessment – Environmental Report

Sustainability Appraisal and Strategic Environmental Assessment – Environmental Report

A review of the Sustainability Appraisal process supporting the Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

- 1.1 In February 2019, Mid Ulster District Council (MUDC) published the Local Development Plan (LDP) 2030 - Draft Plan Strategy and its supporting Sustainability Appraisal (SA) which incorporates the requirements of the Strategic Environmental Assessment (SEA) Directive, hereafter referred to as The SA report.
- 1.2 An ongoing review of the Sustainability Appraisal (SA) documents produced in support of the MUDC Local Development Plan has been undertaken in relation to the Minerals policies on behalf of Dalradian Gold Limited (hereafter referred to as Dalradian).
- 1.3 The documents that have been reviewed throughout the LPD process are:
 - Sustainability Appraisal incorporating Strategic Environmental Assessment Report (Environmental Report) to accompany Mid Ulster District Council's Plan Strategy, February 2019.
 - Preferred Options Paper Public Consultation Report Update, January 2019
 - Mid Ulster District Council Local Development Plan. Interim Sustainability Appraisal Report incorporating Strategic Environmental Assessment, November 2016.
 - Mid Ulster District Council Local Development Plan, Sustainability Appraisal Scoping Report, June 2016.
- 1.4 For Northern Ireland the relevant guidance with respect to Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) is:
 - Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004 (the EAPP Regulations); and
 - Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015.
- 1.5 Paragraph 3.1 of the SA/SEA 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.
- 1.6 Dalradian are fully supportive of 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 community and economy. Given this commitment to sustainable minerals extraction, Dalradian have been keen to engage

positively and proactively in the SEA/ SA and local plan process to ensure it fully captures the potential benefits of a nationally significant mineral resource.

1.7 Dalradian have made representations based on their potential for future activities within Mid Ulster and linked to the current and proposed future exploration and extraction activities within Fermanagh and Omagh.

1.8 In the wider policy context, it is recognised at national policy level that sustainable minerals extraction can play a key role in sustainable economic growth. Paragraph 6.149 of the Strategic Planning Policy Statement (SPSS) states:

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.

1.9 A review of the SA documents listed above against the EAPP Regulations and the Development Plan (DP) Practice note has been undertaken to identify where there are;

- Areas of procedural or technical non-compliance with the EAPP Regulations; and/ or
- Areas of procedural or technical non-compliance with the guidance within the DP SA/ SEA (hereafter referred to as the DP Practice note) Practice note.

1.10 Further to previous representations to the SA Scoping Report (June 2016) and the Interim SA Report (November 2016), Dalradian maintain a number of concerns with regards to the process and content of the SA/ SEA which have failed to be addressed upon publication of the Draft Plan Strategy and final Environmental Report (ER) documents. These objections are:

- i. The publication of the SA Scoping report alongside the POP and Interim SA documents which removed the ability for stakeholders to comment on the scoping report and SA Framework prior to the publication and assessment of the POP paper and therefore positively influence the evolution of the local plan. No consideration of this concern or any planned remedial action is provided by MUDC¹.
- ii. Insufficient recognition of valuable minerals such as Gold within the baseline information despite an updated evidence base² prepared by the Council which identifies the potential economic importance of the gold reserves within MU to the local, regional and national economy.³
- iii. The final SA does not accurately assess emerging policy options or consider all reasonable alternatives to encourage sustainable extraction of the mineral assets but, as structured, seeks to restrict extraction where possible.

¹ Preferred Options Paper Public Consultation Report Update, January 2019

² Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster', January 2019

³ Mid Ulster District Council. Position. Position Paper. Minerals. Section 5.

The publication of the SA Scoping report for consultation at the same time as the POP and associated Interim SA report.

- 1.11 Paragraph 6.2 and Figure 1⁴ of the SA/ SEA Development Plan Practice Note guidance document sets out the key stages of the LDP process and how the SA/ SEA process should interact with it. Paragraph 6.2 states that;

Whilst there are clear linkages at various stages of both processes, it is important to note that the preparation of the LDP and SA should be an iterative process whereby findings at each stage should be taken into account to inform subsequent stages of the plan.

- 1.12 Figure 1⁵ of the guidance clearly links the SA Scoping report with the production of the POP but states that Stage A(1) SA Scoping Report should be prepared, issued for consultation and (subject to consultee comments) amended before the assessment of alternatives within the POP.
- 1.13 The Council has confirmed that consultation was undertaken with the relevant statutory bodies (Natural Environment Division (NED) and Historic Environmental Division (HED)) but that the SA report was not issued for public consultation prior to the production of the POP and Interim SA.
- 1.14 As part of responsible plan making Dalradian firmly believe that the SA Scoping report should have been submitted for consultation prior to the development and publication of the POP and its supporting SA report. The need to receive and assess statutory and non-statutory consultee comments on the SA Scoping report prior to the assessment of alternatives within the POP is a fundamental requirement of SEA/SA guidance⁶ and established best practice.
- 1.15 It is therefore remains Dalradian's concern that the above fundamental requirement has been overlooked and demonstrates a significant SA/SEA procedural flaw which may be challenged at Examination particularly where the Councils evidence base is demonstrated to be inadequate or flawed.
- 1.16 At this stage, it is also clear that the above comments made by Dalradian have not been fully considered by MUDC within the Preferred Options Paper Public Consultation Report Update (January 2019). As such, the original concerns in relation to the SA Framework within the SA Scoping report (published for consultation at the same time as the Preferred Options Paper (POP)) are reiterated and further comments provided as follows:
- 1.16.1 SA Objective 16 -'to minimise the production of waste and use of non-renewable materials' should be amended to – 'To minimise the production of waste and adopt a sustainable approach to the use of non-renewable materials' in order to allow the SA process to facilitate policies to secure the sustainable use of resources.
- 1.16.2 The SA Framework would benefit from the insertion of an SA objective to specifically address the key sustainability issue of the substantial mineral reserves within MU to

⁴ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Paragraph 6.2 and Figure 7.1

⁵ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Figure 1.

⁶ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015. Page 7, Figure 1.

ensure that it is extracted in a sustainable manner and continues to make a major contribution to the local economy. We therefore propose a new SA objective within the SA framework - *To utilise the substantial mineral assets of the district in a sustainable manner.*

- 1.17 It is also considered best practice to allow wider stakeholders such as members of the public within the plan area the opportunity to comment on the SA Scoping report.

Baseline Information – An updated evidence base which does not reflect the potential economic importance of valuable minerals reserves within Mid Ulster.

- 1.18 As noted within the representations made at Preferred Options stage, the SA Framework, informed by an appropriate evidence base, forms the basis from which the economic, social and environmental performances of the proposed policies and reasonable alternatives within the Local Plan are assessed.
- 1.19 One of the first and most important requirements of the SA Process (at Scoping stage) is to establish the current state of the social, economic and physical environment⁷ to determine the socio-economic and environmental baseline of the area in question. This is a fundamental requirement of available guidance and the EAPP regulations.
- 1.20 The baseline data is then used to identify any 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.
- (i) The need to ensure the correct sustainability issues are identified which the plans policies should then attempt to mitigate or enhance.
 - (ii) The structure of the SA framework will significantly influence the policies and the plan making process and therefore comments on the SA framework should be received and incorporated prior to the development and assessment of the reasonable alternatives.
- 1.21 Further to comments submitted by Dalradian and others to the POP and its Interim SA, Mid Ulster District Council has undertaken a further information gathering process with the Minerals Industry in an attempt to strengthen the evidence base regarding existing and projected minerals supply and demand figures.
- 1.22 A new Background Paper titled '*Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster*' (January 2019) has been prepared by the Council. The document focuses on aggregates and states that:
- “following consultation on the POP and consideration of all of the representations received, the approach to where ACMD’s should be located has been clarified and adjusted having taken further advice from DFE/GSNI and having considered the impact of surface development on aggregate resources and also having undertaken a Landscape Character Assessment Review.”*

⁷ Development Plan Practice Note. Sustainability Appraisal incorporating Strategic Environmental Assessment. April 2015.
Page 13

- 1.23 The paper is explicit in its review of aggregate resources and also discusses and confirms the proposed Areas of Constraint on Mineral Development (ACMD) but there remains no specific evidence in relation to potential gold deposits despite acknowledgement that there is *'evidence that suggests the existence of high value metalliferous metals such as gold 'within the district.*
- 1.24 It is unclear within the POP Consultation Report Update⁸ whether the additional evidence gathering process has also extended to the valuable mineral reserves within the District. The only reference to gold within the report is to a deposit within a proposed ACMD, referenced as *'Crocknahala'*. Again, this review fails to appreciate the baseline situation of the plan area and identify the potential extent of valuable mineral deposits within the District which will result in major long-term economic benefits to the local and national economy.
- 1.25 On this basis, Dalradian would reiterate the following comments made at Preferred Options stage with regards to presentation of baseline data and potential effects of implementing the proposed ACMDs on key sustainability issues:
- 1.25.1 Population and Human Health: Dalradian consider there to be a significant deficiency in the evidence base as there is no reference to the potential for securing major local economic benefit through the exploration and (subject to findings and necessary consents) extraction of the gold reserves. The presence of gold reserves is acknowledged within the local evidence base⁹ and therefore should be referenced within the final SA report as a baseline issue that could have significant benefits to the local economy, particularly as the Local Plan needs to meet the estimated 8,500 new jobs needed over the plan period.
- 1.25.2 Landscape: Whilst Dalradian agree that the plan should contain policies to support the *sustainable* extraction of minerals in accordance with SPSS, this must not serve to restrict any minerals extraction. As such, Dalradian disagree with the general assumption of negative landscape impacts given that each site is unique in terms of its location and scale and therefore potential impact (if any) will vary considerably.
- 1.25.3 The comments within the draft Planning Strategy around landscape and visual amenity to justify the proposed ACMD's remains based upon data which is severely out dated and/or not relevant to valuable minerals despite the Councils acknowledgement of this issue at Preferred Options stage and attempts to redress this through engagement with the minerals industry and central government.
- 1.26 Dalradian consider that the absence of consideration of valuable minerals within the evidence base and inclusion of restrictive policy requirements under MIN2 and MIN3 is a failure of the dPS and Final SA to correctly identify the baseline situation of the plan area and develop reasonable alternatives to address the key sustainability issues arising.
- 1.27 Dalradian therefore conclude that the Final SA and its associated evidence base is unsound as its assessment remains based upon a flawed (non-existent) evidence base with respect to valuable minerals which is not in accordance with paragraph 6.155 of the SPSS which states that councils should:

⁸ Preferred Options Paper Public Consultation Report Update, January 2019

⁹ Mid Ulster District Council. Position. Position Paper. Minerals. Paragraph 5.14-5.15.

“...safeguard mineral resources which are of economic or conservation value, and seek to ensure that workable mineral resources are not sterilised by other surface development which would prejudice future exploitation.”

The sustainability appraisal of the policy options in relation to minerals is inaccurate and seeks to restrict extraction where possible.

- 1.28 Section 5 of the SA Report details the Appraisal of Preferred Options and Reasonable Alternatives. This section is broken down by strategy/policy topic though the numbering system is continued throughout without alluding to the sub-sections which is at times confusing. The minerals policies (and the strategic approach to minerals within MU) are therefore discussed from paragraph 5.363.
- 1.29 The SA recognises the importance of the minerals sector to the economy of Mid Ulster although this is specifically with regards to the quarrying industry with no mention of the potential from gold deposits despite acknowledgement within the evidence base for the potential for gold bearing rock in the Sperrin Mountain areas. Dalradian consider it highly likely that, given the significant deposits present in the Curraghinalt hills within Fermanagh and Omagh DC, that the evidence base considerably underestimates the quantity and quality of available gold resource within MU and therefore the potential economic and social benefits available.
- 1.30 The SA states that minerals extraction is likely to lead to significant impacts on the landscape but that the plan should contain policies to extract these responsibly. Dalradian agree that the plan should contain policies to support the sustainable extraction of minerals in accordance with SPSS provided that this is based on a sound evidence base and does not impose a blanket restriction on any minerals extraction.

Strategic Approach - Minerals

- 1.31 The POP suggested two reasonable alternatives to the strategic approaches available for dealing with the issue of minerals, these were;
- (i) Consider all applications for minerals development regardless of their location against a criteria based policy.
- (ii) A strategy based on Areas of Constraint and Minerals Reserve alongside tailored policy (preferred approach).
- 1.32 These reasonable alternatives were assessed in the Interim SA/SEA Report. However, at this stage to align with other policy approaches, MUDC consider there to be an additional reasonable alternative, which is to simply take forward the existing ACMD designations along with the current policies.
- 1.33 Dalradian disagrees with the SA scoring in relation to the Strategic approach for Minerals provided within the SA Report (and included for reference in Table 1). The assumption of negative impacts relating to Water Quality, Air Quality, Biodiversity and Landscape and Townscape under Option 1 is unfounded given that each site is unique in terms of its location and scale and therefore the potential impact (if any) and ability to mitigate this will vary considerably according to the sites location. The environmental impacts are therefore ‘uncertain’ and should be scored as such in relation to Option 1.

Table 1 - Strategic Approach - Minerals Options

Strategic Approach - Minerals		SA/SEA 1: Poverty & social exclusion	SA/SEA 2: Health & wellbeing	SA/SEA 3: Education & skills	SA/SEA 4: Opportunity of decent home	SA/SEA 5: Reduce crime	SA/SEA 6: Sense of community	SA/SEA 7: Accessibility to key services	SA/SEA 8: Effect of traffic	SA/SEA 9: Water quality	SA/SEA 10: Air quality	SA/SEA 11: Conserve biodiversity	SA/SEA 12: Landscape & townscapes	SA/SEA 13: Historic environment	SA/SEA 14: Climate change	SA/SEA 15: Flood risk	SA/SEA 16: Waste	SA/SEA 17: Land quality	SA/SEA 18: Sustainable growth	SA/SEA 19: Employment	SA/SEA 20: Economic performance	SA/SEA 21: Inward investment	SA/SEA 22: Efficient movement patterns
Minerals	Each application on its merits (RA)	+	+	+	0	N/R	0	0	-	-	-	-	-	-	-	0	-	-	+	+	+	+	-
	Designation approach alongside reconfigured existing policy (PA)	+	+	+	0	N/R	0	0	-	0	0	0	0	-	0	0	-	-	+	+	+	+	-
	Retain existing policy, alongside existing ACMDs and MRPAs (RA)	+	+	+	0	N/R	0	0	-	0	0	0	0	-	0	0	-	-	+	+	+	+	-

1.34 It is important to note Paragraph 6.150 of the SPSS in relation to the application of Options 2 and 3 which states that:

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

1.35 The Council state that approach (i) would have more negative effects because it 'would lead to a more liberal approach to mineral development and this could potentially result in more widespread quarrying activity which would have negative effects'. There is no sound basis for this justification where the precautionary approach detailed within draft policies MIN2 and MIN3 would be applied without the application of ACMD's.

1.36 In this light, Dalradian reiterate the objection to the identified ACMD's based on the restrictive ability to extract valuable mineral resources which should be approached on an application by application basis base upon individual merits and to also safeguard known resources from sterilisation by surface level development. This objection is based upon the fact that these ACMDs have not considered Gold as a valuable mineral to protect and therefore the SA has failed to identify all reasonable alternatives to the policy options.

1.37 As stated within the wider representation, the Council should carefully consider the need for ACMDs to be defined within the District, given the context of the SPPS and recent local plan precedent¹⁰ refuting the classification of expansive areas of landscapes as ACMDs.

1.38 Dalradian consider that MUDC have failed to update the existing evidence base to accurately identify the baseline characteristics of the plan area which includes valuable minerals. As a result, there has been a failure to identify all reasonable alternatives to the policy options given that those presented will result in a blanket sterilisation of all gold reserves which is unsound and contrary to the SPSS.

¹⁰ Magherafelt Planning Appeals Commission Report, January 2011

Identifying Areas of Constraint on Mineral Development

- 1.39 To reiterate the above comments in relation to the strategic approach, the SA reviews the following options in relation to Areas of Constraint on Mineral Development:
- (i) Retain Areas of Constraint on Mineral Development (ACMD) as contained within the Dungannon and South Tyrone Area Plan and the Cookstown Area Plan.
 - (ii) Review and amend ACMD's designations, involving the removal of the designation in certain areas but introducing it to others, as shown in the Plan Strategy (preferred approach).
 - (iii) Remove ACMD's from the Plan.
- 1.40 The Councils preferred approach seeks to retain and modify ACMD's based upon an assessment of prominent landscapes within MU as well as through consideration of the scientific importance of certain landscapes which are already designated as ACMD's. Following the POP there has been engagement with the Minerals Industry to ascertain future levels of supply and demand to ensure sufficient levels of production over the plan period.
- 1.41 Dalradian disagrees with the SA scoring (see Table 2) in relation to the Areas of Constraint on Mineral Development. Again, the assumption of negative impacts relating to all environmental SA Objectives under Option 3 is unsound given that each potential site and proposals would still be assessed against the precautionary approach detailed within draft policies MIN2 and MIN3 even where ACMDs do not form part of the strategic approach. This should be reflected by an 'uncertain' score as indicated within the appraisal for the removal of Minerals Reserve Policy Areas.

Table 2 - Areas of Constraint on Mineral Development Options

Areas of Constraint on Mineral Development (ACMD)		SA/SEA 1: Poverty & social exclusion	SA/SEA 2: Health & wellbeing	SA/SEA 3: Education & skills	SA/SEA 4: Opportunity of decent home	SA/SEA 5: Reduce crime	SA/SEA 6: Sense of community	SA/SEA 7: Accessibility to key services	SA/SEA 8: Effect of traffic	SA/SEA 9: Water quality	SA/SEA 10: Air quality	SA/SEA 11: Conserve Biodiversity	SA/SEA 12: Landscapes & Townscapes	SA/SEA 13: Historic environment	SA/SEA 14: Climate change	SA/SEA 15: Flood risk	SA/SEA 16: Waste	SA/SEA 17: Land quality	SA/SEA 18: Sustainable growth	SA/SEA 19: Employment	SA/SEA 20: Economic performance	SA/SEA 21: Inward investment	SA/SEA 22: Efficient movement patterns
Areas of Constraint on Mineral Development	Retain Areas of Constraint on Mineral Development (RA)	-	0	-	-	N/R	0	0	-	-	-	-	-	-	-	0	-	-	-	-	-	-	0
	Review and Modify Areas of Constraint on Mineral Development (PA)	-	0	-	-	N/R	0	0	-	-	-	-	-	-	-	0	-	-	-	-	-	-	0
	Remove Areas of Constraint on Mineral Development (RA)	-	0	-	-	N/R	0	0	-	-	-	-	-	-	-	0	-	-	-	-	-	-	0

- 1.42 The Council state that there is no evidence to suggest that by introducing ACMD's they would be harming the capability of the District to produce an adequate amount of minerals to meet local and regional needs and that the ACMD's as proposed in the Plan Strategy do not consider all environmental designations as an ACMD (e.g. not all Areas of Special Scientific Interest are proposed ACMD's).

- 1.43 However, the Plan Strategy and the Minerals Industry consultation undertaken since the POP¹¹, does not consider the implications of ACMD's on the ability to extract valuable minerals (such as Gold) which may only be undertaken where they occur and which may fall within an ACMD.
- 1.44 Both Option1 and 2 score identically under the SA but seek to promote only the environmental pillar of sustainable development without equal regard for economic and social objectives where they obtain negative scoring from the Council's own assessment. This demonstrates a failure of the ACMD's approach to deliver sustainable development in accordance with SPSS and highlights that the options considered are flawed.
- 1.45 Where the ACMD's are reviewed and modified appropriately, Dalradian would expect to see no negative impact upon social and economic objectives in order to demonstrate that the preferred option is compatible with the SPSS which says that minerals extraction can be done sustainably.
- 1.46 The Council conclude that the preferred approach is accompanied by a series of revised and strengthened Minerals policies and supplemented by an overarching General Principles Policy and Natural Heritage policies. This includes policy MIN3 on valuable minerals and therefore, as stated within the main representation, where the ACMDs approach is retained clarification should be included within the supporting text that specific policy provisions relating to an ACMD will not apply in the case of valuable minerals such as Gold.
- 1.47 Dalradian firmly believe that where valuable mineral deposits are correctly recognised within the evidence base and safeguarded (in accordance with the requirements of the SPSS), that the SA could record major long-term economic and social benefits for the local and national economy for the preferred option.

Mineral Reserve Policy Areas

- 1.48 The existing Area Plans include three designations to protect important mineral deposits which are of particular economic value to protect them from surface development which would prevent their future use. The three options identified for the Draft Plan Strategy are:
- (i) Retain Mineral Reserve Policy Areas at Ballyreagh, Derraghadoan and Derryvale Road.
 - (ii) Retain existing Mineral Reserve Policy Area at Ballyreagh and modify Mineral Reserve Policy Areas at Derraghadoan and Derryvale Road (preferred option).
 - (iii) Remove Mineral Reserve Policy Areas from the Plan.
- 1.49 None of the three reasonable alternatives identified propose Mineral Reserve Policy Areas that recognise or protects the gold reserves for future extraction. To that end they fail the test of reasonable alternatives in that they fail to deliver the objectives of the policy. i.e. safeguard known mineral resources of economic or conservation value to ensure that they not sterilised by other surface development which would prejudice future extraction. As noted within the main representations, Dalradian believe this conflicts directly with the SPSS.

¹¹ Identification of Areas of Constraint on Mineral Development & Impact of Surface Development on Aggregate Resources in Mid Ulster', January 2019

1.50 The SA scoring summarised in the Table 3 (as provided in the final SA report) identifies minor positive economic impacts and minor negative environmental impacts from the preferred approach of restricting minerals development through the amendments of mineral reserve areas. Fundamentally, this assessment is flawed as the reasonable alternatives and the preferred option have failed to recognise and consider the valuable gold deposits within the policy despite clear evidence confirming their existence.

Table 3 - Mineral Reserve Policy Area Options

Mineral Reserve Policy Area		SA/SEA 1: Poverty & social exclusion	SA/SEA 2: Health & wellbeing	SA/SEA 3: Education & skills	SA/SEA 4: Opportunity of decent home	SA/SEA 5: Reduce crime	SA/SEA 6: Sense of community	SA/SEA 7: Accessibility to key services	SA/SEA 8: Effect of traffic	SA/SEA 9: Water quality	SA/SEA 10: Air quality	SA/SEA 11: Conserve Biodiversity	SA/SEA 12: Landscape & townscapes	SA/SEA 13: Historic environment	SA/SEA 14: Climate change	SA/SEA 15: Flood risk	SA/SEA 16: Waste	SA/SEA 17: Land quality	SA/SEA 18: Sustainable growth	SA/SEA 19: Employment	SA/SEA 20: Economic performance	SA/SEA 21: Inward investment	SA/SEA 22: Efficient movement patterns
Mineral Reserve Policy Area	Retain existing Mineral Reserve Policy Areas (RA)	+	0	-	-	N/R	+	0	-	-	-	-	-	-	-	N/R	-	-	+	+	-	+	-
	Retain and Modify existing Mineral Reserve Policy Areas (PA)	+	0	-	-	N/R	-	0	-	-	-	-	-	-	-	N/R	-	-	+	+	+	+	-
	Remove Mineral Reserve Policy Areas (RA)	-	0	-	-	N/R	-	0	?	?	?	?	?	?	?	N/R	-	-	-	-	-	-	0

1.51 Furthermore, should the policy have recognised and safeguarded valuable mineral deposits (in accordance with the requirements of the SPSS) then Dalradian firmly believe the SA could have recorded major long-term economic and social benefits for the local and national economy.

1.52 The main representation document presents the objection to the wording of preferred mineral reserve policy option (option 2) and proposed recommendations in order to ensure policy MIN1 also identifies and safeguards known valuable resources as a MRPA.

Conclusions on the Sustainability Appraisal process supporting Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

1.53 Whilst Dalradian agree with some of the conclusions of the SA, the SA process in relation to the strategic approach and development, analysis and selection of the reasonable alternatives is flawed. As drafted the SA raises a number of soundness and procedural concerns which can be summarised as follows:

- The revised evidence base (which was undertaken following consultation comments on the POP) still does not recognise or reflect the potential economic importance of valuable minerals reserves within Mid Ulster and therefore provides an unsound basis for the strategy and policies in relation to minerals. There is therefore a failure of the SA Process to meet the requirements of the SEA Regulations to provide an accurate environmental baseline of the plan area¹².

¹² Item 2, SCHEDULE 2 Regulation 11(3), (4), Information for Environmental Reports, The Environmental Assessment of Plans and Programmes Regulations (Northern Ireland) 2004

- As a result of the Plan and SA's failure to recognise all mineral reserves (and therefore the baseline situation) the reasonable alternatives are unsound on the basis that they do not meet the strategic policy objectives and the requirements of the SPSS to protect mineral reserves.
- The SA is unnecessarily negative with respect the environmental SA objectives where there is no application of ACMD's as part of the strategic approach. Dalradian acknowledge that minerals extraction can result in negative environmental impacts however, as stated within the SA, such impacts can be minor and indeed mitigated as a result of identifying the most sustainable location and through any environmental assessments undertaken as part of any application for exploration and/ or extraction without the application of ACMD's as required by the precautionary approach within draft policies MIN2 and MIN3.
- The SA fails to recognise all reasonable alternatives in relation to the application of ACMDs and MRPA's that would facilitate the sustainable extraction of minerals within Mid Ulster. The options presented and the preferred approach will result in a blanket sterilisation of all gold reserves which is unsound and contrary to the SPSS.
- Dalradian believe with amendments to the policies and MRPA/ACMDs as set out in the main representations the SA could record the potential for major long term social and economic benefits of minerals and particularly gold extraction to the local economy which can be balanced in terms of environmental concerns as a result of the specific requirements within draft policies MIN2-MIN5.

Turley Office
Belfast

028 9072 3900

Submission of a Representation to Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy



**Local Development Plan
Representation Form
Draft Plan Strategy**

Ref:
Date Received:
(For official use only)

Name of the Development Plan Document (DPD) to which this representation relates

Representations must be submitted by 4pm on 19th April 2019 to:

Mid Ulster District Council Planning Department
50 Ballyronan Road
Magherafelt
BT45 6EN

Or by email to developmentplan@midulstercouncil.org

Please complete separate form for each representation.

SECTION A

1. Personal Details

Title

First Name

Last Name

Job Title (where relevant)

Organisation (where relevant)

2. Agent Details (if applicable)

Address Line 1	3 Killybrack Road	Hamilton House
Line 2	Killybrack Business Park	3 Joy Street
Line 3	Omagh	Belfast
Line 4		
Post Code	BT79 7DG	BT2 8LE
Telephone Number	[REDACTED]	028 9072 3900
E-mail Address	[REDACTED]	[REDACTED]

SECTION B

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

3. To which part of the DPD does your representation relate?

- (i) Paragraph _____
- (ii) Objective _____
- (iii) Growth Strategy/
 - Spatial Planning Framework SPF 6
- (iv) Policy MIN 1; MIN 2; MIN 3; MIN 5; TOU 1; TOU 3; TOU 4; HE 1; HE 2, HE 3; SCA1; NH 6 & TOHS 1
- (v) Proposals Map _____
- (vi) Site Location _____

4(a). Do you consider the development plan document (DPD) is:

Sound Unsound

4(b). If you consider the DPD to be unsound, please identify which test(s) of soundness your representation relates, having regard to Development Plan Practice Note 6 (available on the Planning Portal Website at <https://www.planningni.gov.uk/index/advice/practice-notes/development-plan-practice-note-06-soundness-version-2-may-2017-2a.pdf>).

Soundness Test No.

Refer to enclosed report

5. Please give details of why you consider the DPD to be unsound having regard to the test(s) you have identified above. Please be as precise as possible.

If you consider the DPD to be sound and wish to support the DPD, please set out your comments below:

Refer to enclosed report

(If not submitting online and additional space is required, please continue on a separate sheet)

6. If you consider the DPD to be unsound, please provide details of what change(s) you consider necessary to make the DPD sound.

Please note your representation should be submitted in full and cover succinctly all the information, evidence, and any supporting information necessary to support/justify your submission. There will not be a subsequent opportunity to make a further submission based on your original representation. After this stage, further submissions will only be at the request of the independent examiner, based on the matters and issues he/she identifies at independent examination.

Refer to enclosed report

(If not submitting online and additional space is required, please continue on a separate sheet)

7. If you are seeking a change to the DPD, please indicate if you would like your representation to be dealt with by:

Written Representation Oral Hearing

Please note that the Department will expect the independent examiner to give the same careful consideration to written representations as to those representations dealt with by oral hearing.

Signature: Date: