

PROPOSED LOCAL DEVELOPMENT PLAN 2: SCOTTISH GOVERNMENT DIRECTION

1.0 EXECUTIVE SUMMARY

- 1.1 Proposed Local Development Plan 2 (as modified) (PLDP2) was submitted to the Scottish Ministers, as part of the Adoption process (as agreed by [Council on 28/09/23 – Item 14](#)). The aim of this Report is to advise the Council that, the Scottish Ministers have since issued a Direction (15th December 2023) requiring further modifications to PLDP2. (See Appendix 1). Therefore, in order to proceed with the adoption of Local Development Plan 2 the Council requires to demonstrate compliance with this Direction.
- 1.2 The need for further modifications to PLDP2 has arisen from new regulations, policies and targets. The modifications are considered necessary to:
- Ensure the LDP accurately reflects the current regulatory position in respect of mitigating the effects of aquaculture development.
 - Ensure the LDP takes account of the fact that National Planning Framework 4 (NPF4) has been adopted and that this replaces National Planning Framework 3 and Scottish Planning Policy.
 - Ensure the LDP accurately reflects the Climate Change (Scotland) Act 2009 net zero target.
- 1.3 The modifications raise no substantive issues and are welcomed for bringing the Local Development Plan 2 into better alignment with new national regulations, policies and targets.

RECOMMENDATIONS

It is recommended that Council:

- i. consider the further modifications proposed to PLDP2 by the Scottish Ministers in their Direction, see Appendix 1;
- ii. agree to the proposed modifications to PLDP2 and proceed to adoption;

- iii. agree that officers notify Scottish Ministers that the modifications are made and that LDP2 will be adopted on confirmation from Scottish Ministers that they are satisfied the modifications are duly made.

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DIRECTION**

2.0 INTRODUCTION

2.1 Proposed Local Development Plan 2 (as modified) has now been considered by the Scottish Ministers. This has resulted in the Scottish Ministers issuing a Direction on the 15th December 2023. This Direction requires further modifications to the plan before it can be adopted to take in to account new policies, regulations and targets. (See Appendix 1)

3.0 RECOMMENDATIONS

3.1 It is recommended that Council:

- i. consider the further modifications proposed to PLDP2 by the Scottish Ministers in their Direction, see Appendix 1;
- ii. agree to the proposed modifications to PLDP2 and proceed to adoption;
- iii. agree that officers notify Scottish Ministers that the modifications are made and that LDP2 will be adopted on confirmation from Scottish Ministers that they are satisfied the modifications are duly made.

4.0 DETAIL

4.1. The Proposed Local Development Plan 2 went through an independent Examination into unresolved issues with Scottish Government appointed Reporters in 2022/23. National Planning Framework 4 (NPF4) was published during the course of this Examination and this now forms part of the Development Plan for this area. The Examination was extended to allow the issues before the Reporters to be reassessed for alignment with NPF4. The Examination Report was received in June 2023.

4.2. The Council accepted all the modifications proposed in the Examination Report. Following this, the Proposed Local Development Plan 2 (as modified) (PLDP2) was submitted to the Scottish Ministers, as part of the Adoption process ([Council Paper 28/09/23 – Item 14](#)). The consideration by the Scottish Ministers

generally takes a 28 day period. However, this was extended by the Scottish Ministers to allow for further consideration of PLDP2 and a Direction was then issued on the 15th of December. This directs the Council to make further modifications to PLDP2. (See Appendix 1) prior to Adoption. Therefore, in order to proceed with the adoption of Local Development Plan 2 the Council requires to demonstrate compliance with this Direction to the Scottish Ministers.

- 4.3 The need for further modifications to PLDP2 has arisen from new regulations, policies and targets. The modifications are considered necessary to:
- Ensure the LDP accurately reflects the current regulatory position in respect of mitigating the effects of aquaculture development.
 - Ensure the LDP takes account of the fact that National Planning Framework 4 (NPF4) has been adopted and that this replaces National Planning Framework 3 and Scottish Planning Policy.
 - Ensure the LDP accurately reflects the Climate Change (Scotland) Act 2009 net zero target.
- 4.4 The modifications relate to: aquaculture in Policy 28 Supporting Sustainable Aquatic and Coastal Development; emissions target being updated; amendments to housing terminology to align with new national policy, including Policy 65, Tables 2 and 6, and Proposal F; and, other minor amendments – typographical and glossary. The changes are detailed in Appendix 1.
- 4.5 The modifications proposed in the Direction raise no substantive issues and are welcomed as they bring Local Development Plan 2 into better alignment with new national regulations, policies and targets. Accepting the modifications would allow the Council to Adopt Local Development Plan 2.

5.0 CONCLUSION

- 5.1 Following approval by Full Council in September 2023, PLDP2, as modified by the Reporters, was submitted to Scottish Ministers for approval prior to adoption. In December 2023, Scottish Ministers issued a direction to the Council, that it must make further modification to PLDP2, as detailed in Appendix 1, prior to adopting PLDP2. These modifications are considered un-substantive and will better align PLDP2 with NPF4. The report recommends Council agree to these further modifications so that PLDP2 can be adopted once Scottish Ministers have acknowledged they have been made.

6.0 IMPLICATIONS

- 6.1 Policy – Once Adopted, Local Development Plan 2 will be part of the Development Plan for Argyll and Bute (excluding Loch Lomond and the Trossachs National Park) alongside National Planning Framework 4. The planning authority, in the determination of planning applications, shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. The Adopted Plan contains the planning authority's policies, proposals and allocations.

- 6.2 Financial – None related to the Direction. However, the Adoption process has costs which were dealt with in the 28/09/23 Council paper.
- 6.3 Legal – The Adoption process is a statutory process. Once adopted the planning authority is required to have regard to the provisions of the local development plan as part of the Development Plan for the area, so far as material to the application, and to any other material considerations, in the determination of planning applications.
- 6.4 HR – None.
- 6.5 Fairer Scotland Duty:
- 6.5.1 Equalities - protected characteristics - None related to this Direction.
- 6.5.2 Socio-economic Duty – None related to this Direction.
- 6.5.3 Islands – None related to this Direction.
- 6.6 Climate Change – Direction brings LDP2 into alignment with current emissions target.
- 6.7 Risk – Failure to Adopt would result in i) lack of an up-to-date Plan which reflects current Policy issues; ii) reduced alignment of Policy with National Planning Framework 4 giving rise to uncertainty in the determination of applications; iii) reduction in efficiency in the planning application process. Failure to follow the statutory process correctly may open the Council to legal challenge.
- 6.8 Customer Service – None.
- 6.9 Rights of the Child (UNCRC) – None.

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APPENDICES

Appendix 1: Scottish Government Direction

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Table of modifications

Reference	Modification	Reason for modification
Paragraph 3.7	Remove reference to "effective" land supply	No longer part of national planning policy.
Paragraph 3.44	Replace "reduce emissions by at least 80% by 2045" with "reduce emissions to net zero by 2045"	Correcting an error.
Table 2	Remove reference to "effective" and "non-effective" sites	No longer part of national planning policy.
Policy 28	<p>Delete final paragraph "Proposals for new open cage/pen sites and the expansion of existing open cage/pen sites will only be permitted where there will be no adverse impact upon wild salmon using migratory routes. Where proposals are likely to impact wild salmon migratory routes, the operator must mitigate these effects through the implementation of an agreed Environmental Management Plan prepared in accordance with advice provided by Marine Scotland Science, NatureScot, and the Planning Authority."</p> <p>Replace with "Proposals for new open cage/pen sites and the expansion of existing open cage/pen sites will only be permitted where there will be no significant adverse impact upon wild salmon using migratory routes and where any impacts are suitably mitigated."</p>	To align with NPF4 and ensure that it does not become outdated as regulatory regimes change and once new national guidance on mitigation of relevant environmental concerns is issued.
Table 6	Remove defined Housing Market Areas and tenure split	Local Development Planning Guidance, May 2023 indicates that LDPs are no longer required to refer to Housing Market Areas and that the Local Housing Land Requirement should be all tenure.
Table 6	Remove reference to "effective" housing land supply.	No longer part of national planning policy.
Proposal F	Delete current text and replace with "The Council will work with	To take account of NPF4 policy 16 Quality Homes.

	developers, service providers and other partners to maintain a sufficient pipeline of deliverable housing land.”	
Policy 64	Delete additional “be” preceding “normally” in second line of text.	Correcting a typographical error.
Policy 65	Delete second bullet “they demonstrate that they will not result in a shortfall in housing land supply during the plan period.”	No longer part of national planning policy.
Appendix 1: Glossary	Delete entry pertaining to “Effective housing land supply”.	No longer part of national planning policy.
Appendix 1: Glossary	Delete entry pertaining to “Established housing land supply”.	There is no reference to “Established housing land supply” in the plan.
Appendix 1: Glossary	Delete entry pertaining to “Housing Market Areas”.	Subsequent to other modifications as listed above the plan will no longer reference “Housing Market Areas”.