

For Decision	✓
For Information	

ITEM 6 – SUPPLEMENTARY GUIDANCE

Report by: Ian Angus, SDP Manager

PURPOSE

This Report has been prepared to:

- Inform the SESplan Joint Committee of the consultation responses received, the main issues raised and the SESplan responses to the responses received on the draft Supplementary Guidance on Housing Land;
- Seek SESplan Joint Committee approval of minor editorial changes of a non policy nature to the draft Supplementary Guidance and accompanying documents;
- Seek SESplan Joint Committee approval to submit the Supplementary Guidance to Scottish Ministers for consideration;
- Inform the SESplan Joint Committee that member authorities will be required to ratify the minor editorial changes and the decision to submit the Supplementary Guidance to Scottish Ministers and adopt the Guidance following the expiration of the 28 day Ministerial consideration period; and
- Inform the SESplan Joint Committee of the findings of the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) of the Supplementary Guidance.

RECOMMENDATIONS

It is recommended that the SESplan Joint Committee:

1. Notes the summaries of the consultation responses received on the Draft Supplementary Guidance on Housing Land attached as Appendix A to this Report;

2. Notes the summaries of the main issues raised by the consultation responses and the SESplan responses attached as Appendix B to this Report;
3. Approves the editorial changes of a non policy nature to the draft Supplementary Guidance on Housing Land, attached as Appendix C to this Report;
4. Approves the draft Supplementary Guidance on Housing Land subject to the minor editorial changes outlined in Recommendation 3 for submission to Scottish Ministers;
5. Requests that the Member Authorities ratify the editorial changes at Recommendation 3 and the decision to submit to Scottish Ministers at Recommendation 4 and adopt the Supplementary Guidance on Housing Land at the expiration of the 28 day Ministerial consideration period unless Scottish Ministers direct otherwise;
6. Notes the updated Strategic Environmental Assessment (SEA) Environmental Report attached as Appendix D to this Report; and
7. Notes the Habitats Regulations Assessment (HRA) of the potential impacts on European Sites from the Supplementary Guidance attached as Appendix E to this Report.

RESOURCE IMPLICATIONS

As set out below.

LEGAL AND RISK IMPLICATIONS

All risks are detailed in the SESplan Risk Register and reported to Joint Committee on an annual basis.

POLICY AND IMPACT ASSESSMENT

No separate impact assessment is required.

1. BACKGROUND

- 1.1 In approving the Strategic Development Plan (SDP) on the 27 June 2013, Scottish Ministers made modifications to Policy 5 (Housing Land).

- 1.2 The modifications require Supplementary Guidance to be prepared to provide further detailed information for Local Development Plans (LDPs) as to how much of the overall housing land requirement should be met in each of the six member authority areas (City of Edinburgh, East Lothian, Fife (southern part of Fife only), Midlothian, Scottish Borders and West Lothian) in the periods 2009 - 2019 and 2019 - 2024.
- 1.3 As set out in the SDP approval letter (available for download from the Directorate for Planning and Environmental Appeals website (<http://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=qA313854>), Scottish Ministers expect the Supplementary Guidance to be adopted within 12 months from the date of approval of the SDP. The Guidance must therefore be adopted by no later than the 27 June 2014.

2. THE CONSULTATION

- 2.1 At its meeting on the 30 September 2013, the SESplan Joint Committee approved the draft Supplementary Guidance for ratification and thereafter publication. The document was formally published on the SESplan Consultation Portal (<http://sesplan-consult.objective.co.uk/portal>) for a six week period on the 12 November 2013.

The Questions / Number of Respondents

- 2.2 The Consultation on the draft Supplementary Guidance posed seven questions and a total of 167 Consultees responded, raising 583 responses. Responses were received as follows.

Question	No of Responses Received
1 Do you agree that the Supplementary Guidance complies with Scottish Planning Policy? If not, why not? In what way does the Guidance need to change in order to comply with Scottish Planning Policy?	80

Question	No of Responses Received
2 Do you agree that the distribution of the housing land requirement across each of the six Member Authority areas set out in Table 3.1 is justified? Do you have any further comments on the distribution of the housing land requirement set out in Table 3.1 of the Supplementary Guidance?	87
3 Do you agree with the breakdown by Strategic Development Area as shown in Table 3.2 of the Supplementary Guidance? Do you have any further comments on the additional allowances by Strategic Development Area set out in Table 3.2 of the Supplementary Guidance?	81
4 Do you agree with the additional allowances outwith Strategic Development Areas as shown in Table 3.2 of the Supplementary Guidance? Do you have any further comments on the additional allowances outwith Strategic Development Areas set out in Table 3.2 of the Supplementary Guidance?	70
5 Is the distribution of the housing land requirement including additional allowances, over the period to 2024, shown in Tables 3.1 and 3.2 of the Supplementary Guidance, deliverable? Please set out any comments.	72
6 What can SESplan, the key agencies, developers and Scottish Government do to facilitate delivery of the strategic housing land requirement?	73
7 Are there any further comments on the draft Supplementary Guidance you would like us to consider?	120
Total Responses	583

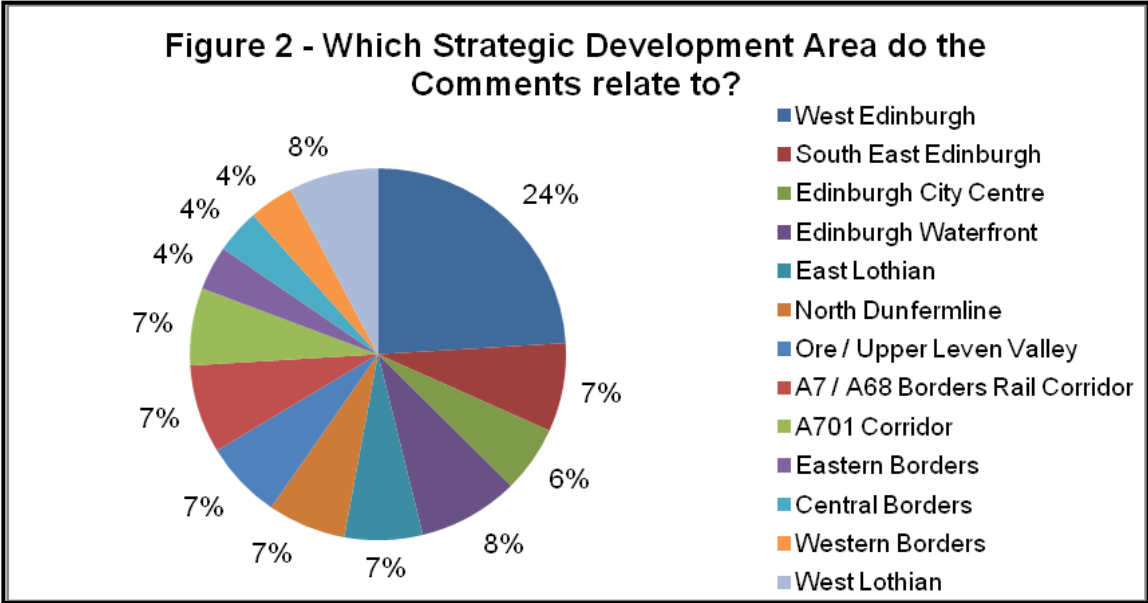
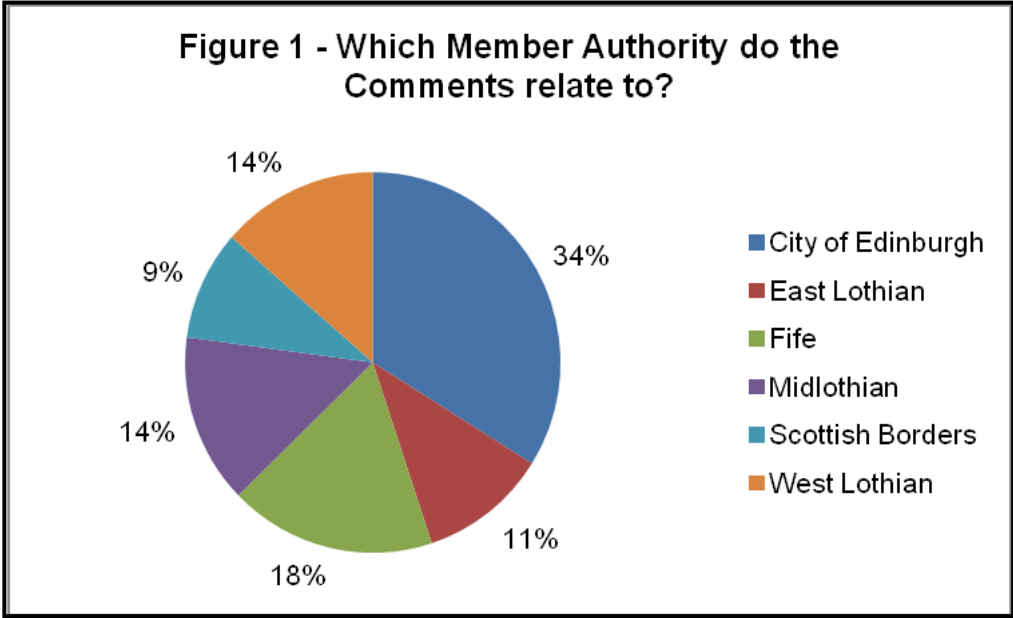
2.3 A summary of all responses received is attached as Appendix A to this Report. The full responses are available to view and download on the SESplan Consultation Portal (<http://sesplan-consult.objective.co.uk/portal/sq/hsgland?tab=list>).

The Responses in Summary

2.4 There was a wide range of Consultees who responded including key agencies, individuals, community councils, developers, planning agents and landowners.

- 2.5 All respondents to Questions 1, 2 and 3 were asked to initially vote yes / no as to whether the Supplementary Guidance complies with Scottish Planning Policy (SPP) (Question 1) and whether they agreed with Tables 3.1 (Question 2) and 3.2 (Question 3) before being asked to provide comments to explain their answers.
- 2.6 An initial analysis of the yes / no responses shows that the majority of respondees to these questions do not think that the Supplementary Guidance complies with SPP. Nor do they agree with the contents of Tables 3.1 and 3.2. However, a fuller analysis of the comments received (and the summaries set out within Appendix A) shows that there are many opposing views which result in a 'no' response. This could be representative of opposing positions reflecting public / community and development industry views on housing development.
- 2.7 For Question 1, many individual and community groups feel that the Guidance does not comply with SPP because pursuing the delivery of the housing requirement on greenfield and green belt land and at locations which they consider unsustainable will be to the detriment the Government's and SESplan's sustainable goals and aims. It is felt that the delivery of brownfield sites should be prioritised and incentivised. This is the opposite of what many developers and landowners responses state in that more greenfield and green belt sites in or near Edinburgh are required to meet need and demand where it arises.
- 2.8 The divergence of qualifying comments to Questions 2 and 3 were similar. Some community groups and individuals state that the requirements and allowances were too high, undeliverable and would result in detrimental environmental impacts and overstretched infrastructure. Whereas many developers and landowners felt that the requirements and allowances were too low with some submitting further information on particular site interests. Furthermore these groups considered that existing strategic sites should not be relied upon since they will not deliver. Many felt that Edinburgh could accommodate more development than required by Table 3.1.

2.9 Respondents on Questions 2 and 3 were also asked which Member Authority area and which Strategic Development Area (SDA) the comments relate to. The majority of respondents as detailed in Figures 1 and 2 below indicated that their comments related to Edinburgh (34%) and to the West Edinburgh SDA (24%).

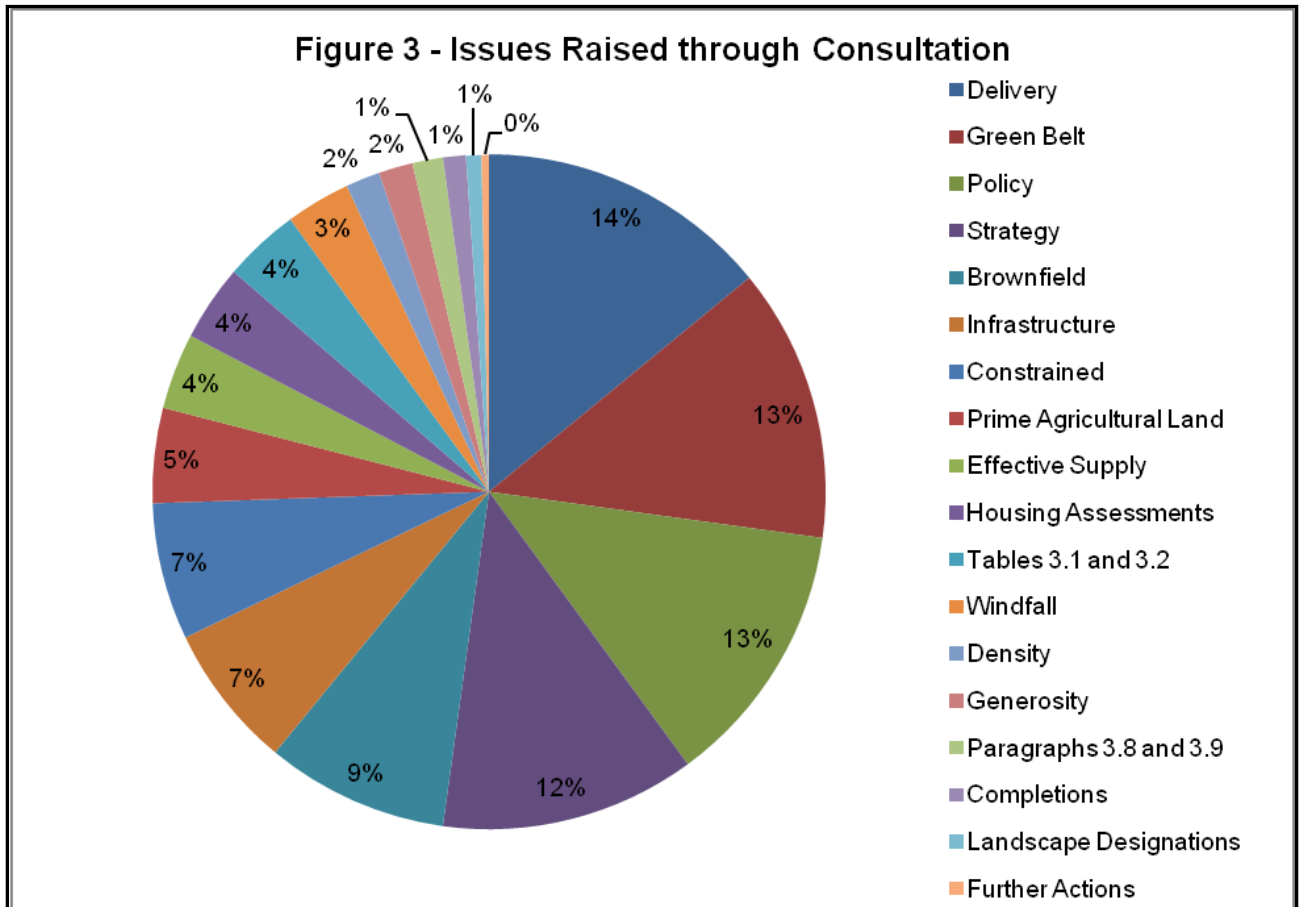


2.10 Whilst Questions 2 and 3 focussed on Tables 3.1 and 3.2 and agreement with the housing land requirement figures, Questions 5 and 6 sought responses on wider planning issues related primarily to infrastructure and delivery. These responses will inform future iterations of the SDP, other ongoing related work on infrastructure funding and delivery and the preparation of LDPs.

2.11 Question 7 sought any further comments. For those making one single comment, often individual members of the public, this is where they made their comments. Others used their responses to this question to summarise the points they had made in the previous questions.

The Issues Raised

2.12 As detailed within Appendix B the responses received have raised several issues. The majority of the responses as shown in Figure 3 below focus on four issues – delivery (14%), the Green Belt (13%), policy (13%) and strategy (12%).



- 2.13 **Delivery** - The majority of responses (Appendix B Issue D3) raised the issue of lack of finance and that it is the current economic downturn which is preventing delivery. Both the SDP and LDP will promote sustainable economic growth and housing completions will be required to be increased from recent levels. This is challenging and ambitious and SESplan together with the Member Authorities will continue to work with the development industry, key agencies and the Scottish Government to increase housing delivery rates.
- 2.14 **Green Belt** – The clear majority of responses (Appendix B Issue J1) advised that the Green Belt should be protected for the benefits it provides. In terms of the Supplementary Guidance the Green Belt was a criteria examined through the Spatial Strategy Assessment. The purpose and importance of the Green Belt are acknowledged in SDP Policy 12 (Green Belts). A key criteria of SDP Policy 7 (Maintaining a Five Year Housing Land Supply) is that development on greenfield sites either within or outwith the identified SDAs will not undermine Green Belt objectives.
- 2.15 **Policy** – Related to the responses on the Green Belt, a number of respondents considered that delivery of the housing land requirement on greenfield land will lead to outcomes contrary to the Government’s and SESplan’s overall Vision and Aims (Appendix B Issue Q1). In preparing the Supplementary Guidance, SESplan has taken a balanced and considered approach. The housing land requirement across the SESplan area has to be met and the Supplementary Guidance seeks to do this by balancing the requirement to meet sustainable economic growth objectives with other goals whilst taking into account infrastructure and environmental constraints.
- 2.16 **Strategy** – A number of respondents considered that there is no justification to explain the distribution of the housing land requirement set out in Table 3.1 (Appendix B Issue S1). As detailed in the Technical Note, the distribution of the requirement is based upon a full consideration of the infrastructure and environmental constraints across the SESplan area. To assist clarity, it is proposed to replace Paragraph 3.5 of the Guidance. The replacement wording will provide further transparency as to the assessments undertaken to inform the Supplementary Guidance.

The Key Agencies and Scottish Government

- 2.17 Responses were received from four key agencies (Scottish Natural Heritage (SNH), SEPA, Scottish Water and Historic Scotland) and Scottish Government which included comments from Transport Scotland.
- 2.18 SNH, in answering Question 2, advised they cannot comment on housing need and demand. However, SNH did advise that meeting the housing land requirement is likely to impact on a number of natural heritage interests, including soils, habitats, species and landscape and that opportunities for enhancement should be identified within LDPs. There was agreement on Question 3 with further advice that the distribution of housing numbers should be used to realise strategic infrastructure, placemaking and green network opportunities.
- 2.19 SEPA advised that flood risk should be given more consideration with a Strategic Flood Risk Assessment (SFRA) being produced alongside the Supplementary Guidance. On Question 3, SEPA advised that they cannot answer this question without comprehensive assessments of all allowances, for which detailed site boundaries would be necessary. Flooding and water management is of concern. SEPA understands that water and drainage infrastructure capacity has been taken into account when assessing infrastructure constraints. This assessment, however, only considers Scottish Water infrastructure and not other issues relevant to water management. The impacts of development on ground and surface water within South East Edinburgh for example and the potential for increased flood risk from inadequate drainage or a lack of integration of drainage between individual developments is of considerable concern to SEPA. An even greater housing land allowance in this area between the Edinburgh and Midlothian Council areas only emphasises the need for strategic SUDS to enable development in and between these two LDP areas.
- 2.20 Scottish Water advised that they fully support the Supplementary Guidance and, at the present time, have no other comments to make.

- 2.21 Historic Scotland responded to Question 4 advising that they have no specific comments to make in relation to the actual breakdown and distribution of the additional allowances within or outwith the SDAs. Historic Scotland did note that the allocation of additional housing land increases the potential for impacts on the historic environment which will require to be reviewed during the site allocation process by the relevant Local Authorities in the preparation of their LDP's.
- 2.22 Scottish Government advised that they are content and agree with Tables 3.1 and 3.2 subject to the queries raised under Questions 5 and 6. In relation to Question 5, the Government noted that without a clear understanding of the phasing of development and infrastructure provision, the impact on the deliverability of development that may require additional infrastructure is unclear. The failure of the process so far to provide a resolution that is supported by all stakeholders and delivers a clear mechanism, or mechanisms, for addressing cross boundary transport issues and funding contributions, and a suite of interventions shown to be deliverable, at least in part by such mechanisms, means that the deliverability of the infrastructure that might be necessary to support the overall spatial strategy is questionable.
- 2.23 Under Question 6, Transport Scotland advised that they would be in a position to engage with authorities to identify what mitigation might be appropriate to address the impact on the strategic transport network. It would then be possible to consider phasing of this mitigation, the levels of detriment that might be appropriate and to take an informed view on how cumulative impacts might be addressed through appropriate delivery mechanisms.
- 2.24 The comments raised by the key agencies are noted, however the issues raised by SNH, SEPA and Historic Scotland are outside the remit of the Supplementary Guidance which focuses on setting a housing land requirement for the SESplan area. Work is underway on an SFRA for the SESplan area to inform the Main Issues Report (MIR) for SDP2.

2.25 In terms of transport and infrastructure again work is underway and discussions ongoing between Transport Scotland, SEStran and the member authorities to further understand the issues and how they can be dealt with. All key parties, including the Scottish Government, will have a role in funding infrastructure in the SESplan region.

3. Responses and Proposed Editorial Changes

3.1 As set out in Appendix B and Figure 3 above, the summaries of the responses were grouped into issues raised under subject headings – brownfield, completions, constrained, delivery, density, effective supply, further actions, general, generosity, green belt, housing assessments, infrastructure, key agency, landscape designations, paragraphs 3.8 and 3.9, policy, prime agricultural land, strategy, Tables 3.1 and 3.2 and windfall. Responses which raised particular LDP issues were categorised by Member Authority.

3.2 Each response, summary and issue was given full consideration as to whether the correct approach had been taken with the preparation, policy compliance and content of the Supplementary Guidance. The next step was to provide a considered officer response to the issues raised and to identify if any modifications should be made.

3.3 Whilst the responses requested many changes to be made on various issues, it is felt that the content of the Supplementary Guidance is the most appropriate outcome following the weighing up the planning considerations. Many wanted wholesale changes which would have not been in line with the strategy of the approved SDP and would have undermined the delivery of existing committed development. Many of the issues raised were also relating to specific sites and locations rather than wider strategic locations and are therefore more appropriate for the relevant LDP to address. These comments are available to the member authorities when considering their LDPs.

3.4 Nevertheless following a comprehensive review of the responses received and the draft Guidance it is proposed that some editorial changes are made to the Guidance itself and the accompanying Technical Note. The full detail of the changes is set out in Appendix C. In summary, these are:

- An expanded descriptive paragraph in the Supplementary Guidance explaining how the shortfall of meeting housing need that arises in Edinburgh will be met;
- Clarifying the role and justification behind identifying land outwith Strategic Development Areas;
- Editorial changes to Sections 5 and 6 of the Technical Note clarifying the methodology undertaken and that the Supplementary Guidance must accord with the approved Spatial Strategy; and
- Corrections to the Technical Note.

4. Strategic Environmental Assessment and Habitats Regulations Appraisal

4.1 Scottish Borders Council prepared the SEA and HRA on behalf of SESplan. This was considered at September 2013 Joint Committee. The Environmental Report was consulted upon at the same time as the Supplementary Guidance and was made available on the SEA Gateway and the SESplan Consultation Portal.

4.2 The Environmental Report and the analysis within it was based on updating the Environmental Report for the SDP. It assessed the potential impacts of the implementation of the housing land requirements and additional allowances on the nine environmental objectives of the SEA, in comparison to the SDP SEA.

4.3 This approach was discussed and agreed with the Consultation Agencies (SNH, Historic Scotland and SEPA) in advance of producing the report.

4.4 Responses from the Consultation Authorities resulted in making changes to the SEA monitoring framework, wording changes within the Environmental Report and changes to the impact assessment on air quality and cultural heritage. Full details on the consultation responses and changes are available in the Environmental Report in Appendix D.

4.5 The key findings of the SEA were potential impacts on:

- Air Quality – increased car emissions;
- Cultural Heritage – impact of development;
- Landscape and Townscape;
- Soil; and
- Water.

4.6 These impacts could be mitigated through measures that can be introduced through LDPs. These include:

- Locating development in locations accessible to sustainable transport;
- Taking a design-led approach to development in LDPs;
- Locating development to avoid impact on landscape designations;
- Protecting conservation areas;
- Prioritising brownfield sites; and
- Using sustainable urban drainage systems (SUDS).

4.7 Due to the strategic nature of the Supplementary Guidance more detailed impacts and mitigation measures will be identified as part of SEA work undertaken for LDPs.

- 4.8 The regulations require SESplan to produce an SEA Post Adoption Statement and publicise details of the adopted Supplementary Guidance and the accompanying Environmental Report. This will be done following adoption of the Supplementary Guidance. It is proposed to publicise this in the Scotsman rather than all individual local newspapers. This will result in a cost reduction.
- 4.9 HRA is a process to assess whether the proposals within a plan will cause likely significant effects (LSE) on European Sites within and outwith the SESplan area. The methodology builds on the HRA undertaken for the SDP.
- 4.10 As with the SDP HRA, it was found that there could be LSEs on European Sites but that a further assessment would be required at LDP level. This would determine the precise nature of these and any mitigation requirements that would arise as a result of the housing requirements of the Supplementary Guidance. The HRA sets out strategic mitigation measures that could guide development in LDPs.
- 4.11 The updated SEA Environmental Report and draft HRA Record can be found in Appendices D and E. The HRA Record is required to be considered draft until the Supplementary Guidance is adopted and no further changes are made. If Minister's direct that any changes should be made, it will require to be amended to reflect those. Following the adoption of the Supplementary Guidance, the HRA Record will need to be finalised and an SEA Adoption Statement published. The publication of the SEA Adoption Statement requires to be advertised.

5. Next Steps

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- 5.1 Once approved by SESplan Joint Committee, Section 22 requires the Authority to send Scottish Ministers a copy of the Guidance they wish to adopt. Authorities must also send Ministers a Statement setting out the publicity measures they have undertaken, the comments received and an explanation of how these comments were taken into account.

- 5.2 Paragraph 143 and 144 of Circular 6/2013 (Development Planning) advises that, given that the principle of Supplementary Guidance will already have been established, scrutiny by Scottish Ministers is likely to focus more on ensuring that the principles of good public involvement and a proper connection with the SDP have been achieved consistently, rather than on detailed policy content. However, Ministers will not wish to allow Supplementary Guidance to be adopted which they consider significantly contrary to SPP.
- 5.3 Subject to approval by the SESplan Joint Committee, the minor editorial changes and the decision to submit, the Supplementary Guidance on Housing Land will require to be ratified by each of the member authorities. Member Authorities as well as ratifying these decisions will be required to adopt the Guidance at the expiration of the 28 day Ministerial consideration period unless Scottish Ministers direct otherwise. This process of ratifying the SESplan Joint Committee decisions at Recommendations 3 and 4 of this Report and adopting the Guidance in line with Recommendation 5 of this Report is anticipated to be concluded by the 15 May 2014.
- 5.4 Following ratification and adoption (subject to Ministerial consideration) the Supplementary Guidance will be submitted to Scottish Ministers on the 16 May 2014. After 28 days has elapsed (13 June 2013) and unless Scottish Ministers have directed otherwise, the Guidance will be adopted by each of the Member Authorities.
- 5.5 The process of preparing and adopting the Supplementary Guidance will therefore have been completed within the timescale set out in the SDP approval letter, where Scottish Ministers set out that they expected the Guidance to be adopted within 12 months from the date of approval of the SDP i.e. by no later than the 27 June 2014.

Appendices

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- A** Summaries of Consultation Responses Received on the draft Supplementary Guidance on Housing Land

- B** Summary of the main issues raised by the Consultation Responses Received and SESplan Responses to the Consultation Responses Recieved on the draft Supplementary Guidance on Housing Land
- C** Proposed Editorial Changes to the draft Supplementary Guidance on Housing Land
- D** Strategic Environmental Assessment Environmental Report
- E** Habitats Regulations Assessment

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APPENDIX A Summaries of Consultation Responses Received on the draft
Supplementary Guidance on Housing Land

APPENDIX B

Summary of the main issues raised by the Consultation Responses Received and SESplan Responses to the Consultation Responses Recieved on the draft Supplementary Guidance on Housing Land

APPENDIX C Proposed Editorial Changes to the draft Supplementary Guidance on
Housing Land

APPENDIX D

Strategic Environmental Assessment Environmental Report

APPENDIX E Habitats Regulations Assessment