

## 2 ENERGY AND PLANNING POLICY

### 2.1 INTRODUCTION

This Chapter of the Environmental Impact Assessment Report (EIA Report) describes the legislative and policy background relevant to the proposed Ackron Wind Farm (the Development). It refers to national energy and planning policy at a national and local level. This Chapter does not include an assessment of the accordance of the Development with reference to planning policy: a separate Planning Statement has been prepared to support the planning application and should be referred to for a detailed planning policy appraisal.

The principal planning statute in Scotland applicable to the planning application for the Development is the Town and Country Planning (Scotland) Act 1997<sup>1</sup> (“the 1997 Act”), as amended by the Planning etc. (Scotland) Act 2006<sup>2</sup>.

Sections 25 and 37(2) of the 1997 Act require planning decisions to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

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### 2.2 Renewable Energy Policy: Summary

In recent years, European, United Kingdom (UK) and Scottish Government policies have focussed increasingly on concerns about climate change. Each tier of Government has developed targets, policies and actions to achieve targets to deal with the climate crisis and generate more renewable energy and electricity.

The Renewable Energy Directive 2009/28/EC<sup>3</sup> on the promotion of the use of energy from renewable sources established an overall policy for the production and promotion of energy from renewable sources in the European Union (EU). It requires the EU to fulfil at least 20% of its total energy needs with renewables by 2020 – to be achieved through the attainment of individual national targets. All EU countries must also ensure that at least 10% of their transport fuels come from renewable sources by 2020.

In December 2018, the revised Renewables Energy Directive (2018/2001) entered into force – establishing a new binding renewable energy target for the EU for 2030 of at least 32%, including a clause for a possible upwards revision by 2023.

On 29 March 2017, the UK formally notified of its intention to leave the EU under Article 50 of the Treaty of the EU. The European Union (Withdrawal Agreement) Act 2020<sup>4</sup> received Royal Assent on 23 January 2020 and converts all EU laws, rules and targets into domestic UK governance. The existing EU renewable energy targets for the UK, such

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<sup>1</sup> Scottish Government (1997). Town and Country Planning (Scotland) Act 1997. [Online] Available at: <https://www.legislation.gov.uk/ukpga/1997/8/contents> (Accessed 07/08/20).

<sup>2</sup> UK Government (2006). Planning etc. (Scotland) Act 2006. [Online] Available at: <http://www.legislation.gov.uk/asp/2006/17/contents> (Accessed 07/08/20).

<sup>3</sup> Official Journal of the European Union (2009). Directive 2009/28/EC of the European Parliament and of the Council [Online] Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:140:0016:0062:en:PDF> (Accessed 07/08/2020).

<sup>4</sup> UK Government (2020). European Union (Withdrawal Agreement) Act 2020. [Online] Available at: <http://www.legislation.gov.uk/ukpga/2020/1/contents/enacted> (Accessed 07/08/20).

as the requirements of the Renewable Energy Directive, remain applicable despite the UK's intention to formally leave the EU.

The UK Government retains responsibility for the overall direction of energy policy, although some elements are devolved to the Scottish Government. The UK Government has published a series of policy documents setting out how the EU targets can be achieved. Onshore wind generation, located in Scotland, is identified as an important component to achieve these various goals.

The Scottish Government has published a number of policy documents and its own targets. The most relevant policy, legislative documents and more recent statements published by the Scottish Government include:

- The Letter from Chief Planner to all Heads of Planning in relation to energy targets and SPP (November 2015)<sup>5</sup>;
- Scottish Energy Strategy (December 2017)<sup>6</sup>;
- Onshore Wind Policy Statement (December 2017)<sup>7</sup>;
- The Scottish Climate Change Plan (2018)<sup>8</sup>;
- The Scottish Government's declaration of a Climate Emergency (April 2019)<sup>9</sup>;
- The Scottish Government's 'Programme for Government' (September 2019)<sup>10</sup>; and
- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019<sup>11</sup> and the legally binding net zero target for 2045 and interim targets for 2030 and 2040.

The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 requires that "The Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline (the target is known as the "net-zero emissions target")." The target year is 2045 and the Act also sets out challenging interim targets. It requires that:

"The Scottish Ministers must ensure that the net Scottish emissions account for the year—

- (a) 2020 is at least 56% lower than the baseline,
- (b) 2030 is at least 75% lower than the baseline, and
- (c) 2040 is at least 90% lower than the baseline."

It is important to note that these targets are minimum targets, they are not maximums or aspirations. The targets legally bind the Scottish Ministers and have largely been legislated to set the framework for Scotland's response to the Climate Emergency.

The Development relates to the generation of electricity from renewable energy sources and comes as a direct response to national planning and energy policy objectives.

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<sup>5</sup> Scottish Government (2015) Energy Targets and Scottish Planning Policy: Chief Planner Letter [Online] Available at: <https://www.gov.scot/publications/energy-targets-and-scottish-planning-policy-chief-planner-letter/> (Accessed 07/08/20)

<sup>6</sup> Scottish Government (2017) The Future of Energy in Scotland: Scottish Energy Strategy [Online] Available at: <https://www.gov.scot/publications/scottish-energy-strategy-future-energy-scotland-9781788515276/> (Accessed 07/08/20)

<sup>7</sup> Scottish Government (2017) Onshore Wind: Policy Statement [Online] Available at: <https://www.gov.scot/publications/onshore-wind-policy-statement-9781788515283/> (Accessed 07/08/20)

<sup>8</sup> Scottish Government (2018) Climate Change Plan: Third Report on Proposals and Policies 2018-2032 [Online] Available at: <https://www.gov.scot/publications/scottish-governments-climate-change-plan-third-report-proposals-policies-2018-9781788516488/> (Accessed 07/08/20)

<sup>9</sup> Climate Emergency Declaration (2019) the Scottish Government's declaration of a Climate Emergency [Online] Available at: <https://climateemergencydeclaration.org/scotland-worlds-first-government-to-declare-a-climate-emergency/> (Accessed 07/08/20)

<sup>10</sup> Scottish Government (2019) Protecting Scotland's Future: the Government's Programme for Scotland 2019-2020 [Online] Available at: <https://www.gov.scot/publications/protecting-scotland-s-future-governments-programme-scotland-2019-20/> (Accessed 07/08/2020)

<sup>11</sup> Scottish Government (2019) Climate Change (Emissions Reduction Targets)(Scotland) Act 2019 [Online] Available at: <http://www.legislation.gov.uk/asp/2019/15/enacted> (Accessed 07/08/20)

The Development would make a contribution to the attainment of emissions reduction, renewable energy and electricity targets at both the Scottish and UK levels. Detailed reference to the renewable energy policy context is provided in the Planning Statement.

## 2.3 National Planning Policy and Guidance

### 2.3.1 *The National Planning Framework (NPF3)*

National Planning Framework 3 (2014) (NPF3) is a long-term strategy for Scotland. It is the spatial expression of the Scottish Government's Economic Strategy, and of plans for development and investment in infrastructure.

Part of the vision is of Scotland as a low carbon place, where the opportunities arising from the ambition to be a world leader in low carbon energy generation have been seized. NPF3 is informed by, and aims to help achieve, the Scottish Government's climate change and renewable energy targets.

NPF3 acknowledges that the energy sector accounts for a significant share of the country's greenhouse gas emissions, and that addressing this requires capitalising on Scotland's outstanding natural advantages, including its significant wind resource. NPF3 makes it clear that onshore wind will continue to play a significant role in de-carbonising the energy sector and diversifying energy supply.

National Planning Framework 4 (NPF4) is under preparation and will include all aspects of national planning policy as per the provisions of the Planning (Scotland) Act 2019<sup>12</sup> (the Planning Act 2019), which was passed by the Scottish Parliament in June 2019. It is anticipated that a consultation draft NPF4 will be issued in 2021. The Planning Act 2019 includes a broad range of changes to be made across the planning system.

### 2.3.2 *Scottish Planning Policy (SPP)*

Scottish Planning Policy (2014) (SPP) is Scottish Government policy on how nationally important land use planning matters should be addressed.

SPP contains a number of principal policies, one of which crucially expresses "a presumption in favour of development that contributes to sustainable development" (page 9). Paragraph 28 goes on to state that;

*"the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development".*

Paragraph 29 highlights a series of criteria which should guide decision-making in this regard and the following provisions are considered relevant to the Development:

- Net economic benefit;
- Economic issues, challenges and opportunities;
- Good design and qualities of successful places;
- Delivery of infrastructure;
- Climate change mitigation and adaptation;
- Principles of sustainable land use as set out in the land use strategy;
- Protecting, enhancing and promoting cultural heritage;
- Protecting, enhancing and promoting natural heritage and landscape;
- Reducing waste; and
- Over-development, amenity and effects on water, soil and air.

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<sup>12</sup> UK Government (2019). Planning (Scotland) Act 2019. [Online]. Available at: <http://www.legislation.gov.uk/asp/2019/13/contents/enacted> (Accessed 07/08/20).

Paragraph 32 states that “the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making”. SPP directs decision makers as follows:

“proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising ...”.

Paragraph 33 adds:

“Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration. Decision-makers should also take into account any adverse impacts which would significantly and demonstrably outweigh the benefits when assessed against the wider policies in this SPP. The same principle should be applied where a development plan is more than five years old”.

The approach set out above, requires that in circumstances where the relevant policies are out of date, or where the Development Plan document is more than five years old, the presumption in favour of sustainable development is engaged. The HwLDP is more than five years old.

To support in achieving the outcome of making Scotland a low carbon place, the planning system should support the change to a low carbon economy, including deriving the equivalent of 100% of electricity demand from renewable sources by 2020. It should support the development of electricity generation from a diverse range of renewable sources. It should guide development to appropriate locations and advise on the issues that should be taken into account when specific proposals are being assessed.

Onshore wind is referred to specifically in paragraphs 161 to 166 (development planning considerations) and paragraphs 169 to 174 (development management considerations) of SPP within the ‘Low Carbon Place’ outcome. Development planning guidance for onshore wind includes reference to the need for planning authorities to set out in their development plans a Spatial Framework identifying those areas that are likely to be most appropriate for onshore wind farms. Table 1 in SPP provides guidance on how spatial frameworks should be set out. They should identify three types of areas including:

- Group 1: Areas where wind farms will not be acceptable (National Parks and National Scenic Areas);
- Group 2: Areas of significant protection (i.e. national and international designations, nationally important environmental interests, community separation for considering visual impact); and
- Group 3: Areas with potential for wind farm development (where wind farms are likely to be acceptable subject to consideration of details).

With reference to the Spatial Framework within the Council’s Onshore Wind Energy Supplementary Guidance (2016)<sup>13</sup>, most of the Site lies within Group 2 (and some in Group 3) by virtue of the ‘Carbon Rich Soils, Deep Peat and Priority Peatland Habitat’.

More generally, SPP advises that the siting and design of development should take account of local landscape character. Decisions should take account of potential effects on landscapes and the natural and water environment, including cumulative effects. Applicants should seek to minimise adverse impacts through careful planning and design. Planning permission should be refused where the nature or scale of a development would have an unacceptable impact on the natural environment.

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<sup>13</sup> The Highland Council (2016). Onshore wind energy: supplementary guidance. [Online]. Available at: [https://www.highland.gov.uk/downloads/file/18793/onshore\\_wind\\_energy\\_supplementary\\_guidance\\_november\\_2016](https://www.highland.gov.uk/downloads/file/18793/onshore_wind_energy_supplementary_guidance_november_2016) (Accessed 07/08/20).

Beyond the Spatial Framework for wind farms the following considerations, outlined in paragraph 169, should be taken into account (where applicable) when determining development proposals:

- Net economic impact;
- Scale of contribution to renewable energy generation targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts;
- Impact on communities and dwellings (including visual impact, residential amenity, noise and shadow flicker);
- Landscape and visual impacts (including wild land);
- Effect on natural heritage (including birds);
- Impacts on carbon rich soils (using carbon calculator);
- Impact on public access (including long distance walking and cycling routes and scenic routes);
- Impacts on the historic environment (including scheduled monuments, listed buildings and their setting);
- Impacts on tourism and recreation;
- Impacts on aviation and defence interests and seismological recording;
- Impacts on telecommunications and broadcasting installations;
- Impacts on transportation (road traffic and adjacent trunk roads);
- Effects on hydrology (water environment and flood risk);
- Opportunities for energy storage; and
- Conditions relating to decommissioning of development, including ancillary infrastructure and site restoration.

### 2.3.3 Planning Advice Notes and Specific Advice Sheets

Planning Advice Notes (PANs) and Specific Advice Sheets set out detailed advice from the Scottish Government in relation to a number of planning issues. Relevant PANs and Specific Advice Sheets relevant to the Development are summarised in Table 2.1 below.

**Table 2.1: Relevant PANs and Specific Advice Notes**

Title	Summary of Document
PAN 1/2013 Environmental Impact Assessment <sup>14</sup>	Provides information on the role local authorities and consultees play as part of the EIA process, and how the EIA can inform development management.
PAN 60 (2000) Planning for Natural Heritage <sup>15</sup>	Advises developers on the importance of discussing their proposals with the planning authority and NatureScot <sup>16</sup> and use of the EIA process to identify the environmental effects of development proposals and seek to prevent, reduce and offset any adverse effects in ecology and biodiversity.
PAN 61 (2001) Sustainable Urban Drainage Systems <sup>17</sup>	Good practice drainage guidance.

<sup>14</sup> Scottish Government (2013) PAN 1/2013: Environmental Impact Assessment [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-1-2013-environmental-impact-assessment/> (Accessed 07/08/20)

<sup>15</sup> Scottish Government (2000) Planning for Natural Heritage: PAN 60 [Online] Available at: <https://www2.gov.scot/Publications/2000/08/pan60-root/pan60> (Accessed 26/04/20)

<sup>16</sup> Scottish Natural Heritage (SNH) rebranded in August 2020 as NatureScot. Where relevant reference is still made to SNH within this EIA Report in respect of guidance which remains valid and is yet to be republished etc.

<sup>17</sup> Scottish Government (2001) PAN 61: Planning and Sustainable Urban Drainage [Online] Available at: <https://www2.gov.scot/Publications/2001/07/pan61> (Accessed 26/04/20)



Title	Summary of Document
PAN 68 (2003) Design Statements <sup>18</sup>	This PAN covers the importance of design statements, and provides flexible guidance on their preparation, structure, and content. The PAN also outlines the principles underpinning the production of design statements, as expected by the Scottish Government.
PAN 75 (2005) Planning for Transport <sup>19</sup>	The objective of PAN 75 is to integrate development plans and transport strategies to optimise opportunities for sustainable development and create successful transport outcomes.
PAN 3/2010 Community Engagement <sup>20</sup>	This document provides advice on how to engage with local communities through the planning process.
PAN 1/2011 Planning and Noise <sup>21</sup>	This PAN provides advice on the role of the planning system in helping to prevent and/ or mitigate any potential adverse effects of noise. It promotes the principles of good acoustic design and promotes a sensitive approach to the location of new development.
PAN 2/2011 Planning and Archaeology <sup>22</sup>	The PAN is intended to inform local authorities and other organisations of how to process any archaeological scope of works within the planning process.
Online Renewables Planning Advice - On Shore Wind Turbines (updated 2014) <sup>23</sup>	This Specific Advice Sheet provides an overview of the use of the carbon calculator in estimating the carbon savings resulting from wind farm developments.  NB: Please note that this Specific Advice Sheet pre-dates SPP, so the areas covered therein in relation to 'spatial framework', 'spatial planning' and 'areas of search' are no longer relevant.
PAN 51 Planning, Environmental Protection and Regulation (Revised 2006) <sup>24</sup>	Details the role of the planning system in relation to the environmental protection regimes.
Online Planning Advice on Flood Risk (2015) <sup>25</sup>	Provides advice on the role of the planning system and the assessment and management of flood risk.

<sup>18</sup> Scottish Government (2003) PAN 68: Design Statement [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-68-design-statements/> (Accessed 26/04/20)

<sup>19</sup> Scottish Government (2005) PAN 75: Planning for Transport [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-pan-75-planning-transport/> (Accessed 26/04/20)

<sup>20</sup> Scottish Government (2010) PAN 3/2010: Community Engagement [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-3-2010-community-engagement/> (Accessed 26/04/20)

<sup>21</sup> Scottish Government (2011) PAN 1/2011: Planning and Noise [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-1-2011-planning-noise/> (Accessed 26/04/20)

<sup>22</sup> Scottish Government (2011) PAN 2/2011: Planning and Archaeology [Online] Available at: <https://www.gov.scot/publications/pan-2-2011-planning-archaeology/> (Accessed 26/04/20)

<sup>23</sup> Scottish Government (2014) Onshore Wind Turbines: Planning Advice [Online] Available at: <https://www.gov.scot/publications/onshore-wind-turbines-planning-advice/> (Accessed 26/04/20)

<sup>24</sup> Scottish Government (2006) PAN 51: Planning, Environmental Protection and Regulation [Online] Available at: <https://www.gov.scot/publications/planning-advice-note-pan-51-revised-2006-planning-environmental-protection/> (Accessed 26/04/20)

<sup>25</sup> Scottish Government (2015) Flood Risk: Planning Advice [Online] Available at: <https://www.gov.scot/publications/flood-risk-planning-advice/> (Accessed 07/08/20).

Title	Summary of Document
Online Planning Guidance, COVID 19 Emergency and Pre-Application Consultation and Requirements for a Public Event (April 2020) <sup>26</sup>	Provides guidance on the effect of the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 which makes temporary suspension of public meetings / events and on alternative online consultation and expected practice.

## 2.4 The Development Plan and Relevant Policies

The statutory Development Plan covering the Site comprises the following:

- The Highland Wide Local Development Plan<sup>27</sup> (HwLDP) (2012);
- The Caithness and Sutherland Local Development Plan<sup>28</sup> (CaSPlan) (2018); and
- Relevant supplementary guidance, particularly the Onshore Wind Energy Supplementary Guidance (2016).

The Council has also progressed consultation on a new HwLDP. The consultation period ended on 24 December 2015 and was progressed by way of a Main Issues Report (MIR) which included a series of questions on the main issues affecting people across Highland. The Council suspended progress on a new HwLDP until there is clarity on a new development planning approach as a result of the Planning Act 2019.

Given the HwLDP is over 5 years old, the presumption in favour of development that contributes to sustainable development as set out in SPP (paragraph 33) is a significant material consideration. This is addressed and explained fully in the Planning Statement.

### 2.4.1 Caithness and Sutherland LDP

The Council adopted CaSPlan, on 31 August 2018. CaSPlan replaced the previous Sutherland Local Plan and Caithness Local Plan. Points of relevance within CaSPlan include:

- CaSPlan establishes a "Vision for Caithness and Sutherland in 2035" which states that the area is to have "a strong, diverse and sustainable economy characterised as being an internationally renowned centre for renewable energy...";
- Maximising opportunities arising from the energy sector, particularly within the Area for Energy Business Expansion in the north east of Caithness – the Development would fall within this area, however the intention for this area to be used for maximising opportunities for off offshore renewables and oil and gas, rather than a specific land allocation policy;
- Supporting and enabling a High Voltage Energy Transmission Network (as identified in NPF3), recognising the strategic need of the region;
- Paragraph 56 states that "investment in renewable energy generation in North Highland is not only helping to meet Council and national climate change targets but it has also delivered economic benefits for the area";
- Paragraph 72 recognises that renewables is a "key growth sector" for the Caithness economy; and

<sup>26</sup> Scottish Government (2020) COVID 19 Emergency and Pre-Application Guidance [Online] Available at: <https://www.gov.scot/publications/coronavirus-covid-19-planning-guidance-on-pre-application-consultations-for-public-events/> (Accessed 07/08/20).

<sup>27</sup> The Highland Council. (2012) Highland-wide Local Development Plan. [Online]. Available at: [https://www.highland.gov.uk/info/178/local\\_and\\_statutory\\_development\\_plans/199/highland-wide\\_local\\_development\\_plan](https://www.highland.gov.uk/info/178/local_and_statutory_development_plans/199/highland-wide_local_development_plan) (Accessed 07/08/20).

<sup>28</sup> The Highland Council. (2018). Caithness and Sutherland Local Development Plan (CaSPlan). [Online]. Available at: [https://www.highland.gov.uk/downloads/file/19712/casplan\\_adopted](https://www.highland.gov.uk/downloads/file/19712/casplan_adopted) (Accessed 07/08/20).

- Paragraph 85 recognises that “the area also has a substantial renewable energy resource, with many onshore wind and hydro energy developments well established and offshore and marine energy developments currently emerging.”

The CaSPlan’s Strategy and policies make a focused, emphasised reference to the renewable energy industry in terms of the growth opportunity it presents for the local and Highland economy. Further references in CaSPlan recognise the contribution the area can make towards meeting the aim of a ‘low carbon’ Highlands by 2025.

Whilst the most relevant development management policies remain in the HwLDP, there are certain strategic objectives within CaSPlan relating to the encouragement given to renewables, energy infrastructure, employment and economic growth and addressing climate change – all of which are relevant to and supportive of the Development, from a broad policy perspective.

#### **2.4.2 Development Plan Policies of Relevance**

The policies of most relevance in the HwLDP are set out below. Policy 67 is the lead policy. If there are tensions between policies, then policy 67 should prevail given it is specific to the land use proposed by the Development.

The policies of most relevance in the HwLDP are as follows:

- Policy 67 – Renewable Energy Developments;
- Policy 57 – Natural, Built, and Cultural Heritage;
- Policy 61 – Landscape;
- Policy 55 – Peat and Soils;
- Policy 58 – Protected Species;
- Policy 59 – Other Important Species; and
- Policy 60 – Other Important Habitats.

These most relevant policies are set out in full below.

Other relevant HwLDP policies which need to be taken into consideration include the following (it should be noted that these policies contain matters already covered by the comprehensive scope of Policy 67):

- Policy 28 – Sustainable Design;
- Policy 30 – Physical Constraints;
- Policy 31 – Developer Contributions;
- Policy 56 – Travel;
- Policy 63 – Water Environment;
- Policy 66 – Surface Water Drainage;
- Policy 69 – Electricity Transmission Infrastructure; and
- Policy 70 – Public Access.

##### **2.4.2.1 Policy 67 – ‘Renewable Energy Developments’ states:**

“Renewable energy development proposals should be well related to the source of the primary renewable resources that are needed for their operation. The Council will also consider:

- the contribution of the proposed development towards meeting renewable energy generation targets; and
- any positive or negative effects it is likely to have on the local and national economy;

and will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other



material considerations, including proposals able to demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities.

Subject to balancing with these considerations and taking into account any mitigation measures to be included, the Council will support proposals where it is satisfied that they are located, sited and designed such that they will not be significantly detrimental overall, either individually or cumulatively with other developments (see Glossary), having regard in particular to any significant effects on the following:

- natural, built and cultural heritage features;
- species and habitats;
- visual impact and impact on the landscape character of the surrounding area (the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations);
- amenity at sensitive locations, including residential properties, workplaces and recognised visitor sites (in or out with a settlement boundary);
- the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;
- ground water, surface water (including water supply), aquatic ecosystems and fisheries;
- the safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;
- other communications installations or the quality of radio or TV reception;
- the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;
- tourism and recreation interests; and
- land and water-based traffic and transport interests.

Proposals for the extension of existing renewable energy facilities will be assessed against the same criteria and material considerations as apply to proposals for new facilities.

In all cases, if consent is granted, the Council will approve appropriate conditions (along with a legal agreement/obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, as amended, where necessary), relating to the removal of the development and associated equipment and to the restoration of the site, whenever the consent expires, other than in circumstances where fresh consent has been secured to extend the life of the project, or the project ceases to operate for a specific period.

The Onshore Wind Energy Supplementary Guidance will replace parts of the Highland Renewable Energy Strategy. It will identify: areas to be afforded protection from wind farms; other areas with constraints; and broad areas of search for wind farms. It will set out criteria for the consideration of proposals. It will ensure that developers are aware of the key constraints to such development and encourage them to take those constraints into account at the outset of the preparation of proposals. It will seek to steer proposals, especially those for larger wind farms, away from the most constrained areas and ideally towards the least constrained areas and areas of particular opportunity. It will also set out criteria which will apply to the consideration of proposals irrespective of size and where they are located, enabling proposals to be considered on their merits. It will seek submission as part of the planning application of key information required for the assessment of proposals and provide certainty for all concerned about how applications will be considered by the Council."

#### 2.4.2.2 Policy 57 – ‘Natural, Built and Cultural Heritage’ states:

“All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, in the context of the policy framework detailed in Appendix 2. The following criteria will also apply:

1. For features of local/regional importance we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.

2. For features of national importance we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.

3. For features of international importance developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.

Note: Whilst Appendix 2 groups features under the headings international, national and local/regional importance, this does not suggest that the relevant policy framework will be any less rigorously applied. This policy should also be read in conjunction with the Proposal map.

The Council intends to adopt the Supplementary Guidance on Wild Areas in due course. The main principles of this guidance will be:

- to provide mapping of wild areas;
- to give advice on how best to accommodate change within wild areas whilst safeguarding their qualities;
- to give advice on what an unacceptable impact is; and
- to give guidance on how wild areas could be adversely affected by development close to but not within the wild area itself.

In due course the Council also intends to adopt the Supplementary Guidance on the Highland Historic Environment Strategy. The main principles of this guidance will ensure that:

- Future developments take account of the historic environment and that they are of a design and quality to enhance the historic environment bringing both economic and social benefits.
- It sets a proactive, consistent approach to the protection of the historic environment.”

#### 2.4.2.3 Policy 61 – 'Landscape' states:

"New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. This will include consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue. The Council would wish to encourage those undertaking development to include measures to enhance the landscape characteristics of the area. This will apply particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place. In the assessment of new developments, the Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance."

#### 2.4.2.4 Policy 55 – 'Peat and Soils' states:

"Development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils.

Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by social, environmental or economic benefits arising from the development proposal.

Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated.

New areas of commercial peat extraction will not be supported unless it can be shown that it is an area of degraded peatland which is clearly demonstrated to have been significantly damaged by human activity and has low conservation value and as a result restoration is not possible.

Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland."

#### 2.4.2.5 Policy 58 – 'Protected Species' states:

"Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, we will require a survey to be carried out to establish any such presence and if necessary a mitigation plan to avoid or minimise any impacts on the species, before determining the application.

Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species (see Glossary) will only be permitted where:

- There is no satisfactory alternative; and
- The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and
- The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species (see Glossary) will only be permitted where:

- There is no other satisfactory solution; and
- The development is required in the interests of public health or public safety.

This will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:

- Species listed in Annex 1 of the EC Birds Directive;
- Regularly occurring migratory species listed in Annex II of the Birds Directive;
- Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended; and
- Birds of conservation concern.

Development that is likely to have an adverse effect, individually and/or cumulatively (see glossary), on other protected animals and plants (see Glossary) will only be permitted where the development is required for preserving public health or public safety.

Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004.”

#### 2.4.2.6 *Policy 59 – ‘Other Important Species’ states:*

“The Council will have regard to the presence of and any adverse effects of development proposals, either individually and/or cumulatively, on the Other Important Species which are included in the lists below, if these are not already protected by other legislation or by nature conservation site designations:

- Species listed in Annexes II and V of the EC Habitats Directive;
- Priority species listed in the UK and Local Biodiversity Action Plans; and
- Species included on the Scottish Biodiversity List.”

#### 2.4.2.7 *Policy 60 – ‘Other Important Habitats and Article 10 Features’ states:*

“The Council will seek to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat “stepping stones” for the movement of wild fauna and flora (Article 10 Features). The Council will also seek to create new habitats which are supportive of this concept. The Council will have regard to the value of the following Other Important Habitats, where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and/or cumulatively:

- Habitats listed in Annex I of the EC Habitats Directive;
- Habitats of priority and protected bird species (see Glossary);
- Priority habitats listed in the UK and Local Biodiversity Action Plans; and
- Habitats included on the Scottish Biodiversity List.

The Council will use conditions and agreements to ensure that significant harm to the ecological function and integrity of Article 10 Features and Other Important Habitats is avoided. Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the Council will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation.”

## 2.5 Onshore Wind Supplementary Guidance

The Council adopted its Supplementary Guidance (SG)<sup>29</sup> on wind energy in November 2016 and this now forms part of the statutory Development Plan.

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<sup>29</sup> The Highland Council (2016) Onshore Wind Energy: Supplementary Guidance [Online] Available at: [https://www.highland.gov.uk/downloads/file/18793/onshore\\_wind\\_energy\\_supplementary\\_guidance\\_november\\_2016](https://www.highland.gov.uk/downloads/file/18793/onshore_wind_energy_supplementary_guidance_november_2016) (Accessed 07/08/20).

Section 1 'Introduction' states:

"The advice that follows provides a fuller interpretation of HwLDP policies as they relate to onshore wind energy development. The Council will balance these considerations with wider strategic and environmental and economic objectives including sustainable economic growth in the Highlands, and our contribution to renewable energy targets and tacking climate change...."

Section 2 of the SG includes a Spatial Framework, following the approach of Table 1 in SPP.

Section 4 of the SG sets out "*key development plan considerations*" and the topic headings broadly follow those as set out within policy 67 of the HwLDP. The topic headings, to which additional guidance is provided, broadly follow those as set out within HwLDP Policy 67 and are summarised as follows:

- Landscape and Visual Effects;
- Safety and Amenity at Sensitive Locations;
- Safety of Airport, Defence and Emergency Service Operations;
- Operational Efficiency of Other Communications;
- Operational Efficiency of Wind Energy Developments;
- The Natural and Historic Environment;
- The Water Environment;
- Peat;
- Trees and Woodland;
- Tourism and Recreation;
- Public Access;
- Traffic and Transport Interests;
- Electricity and Gas Infrastructure;
- Noise Assessment;
- Borrow Pits;
- Mitigation;
- Construction Environmental Management Plans;
- Restoration Bonds; and
- Repowering.

At paragraph 4.16, the SG sets out that "the following criteria set out key landscape and visual aspects that the Council will use as a framework and focus for assessing proposals, including discussions with applicants". The criteria together with the 'measures' for development are as follows:

**Table 2.2: Criteria & Framework of 'Landscape and Visual Aspects' in the Onshore Wind SG**

<b>Criterion 1: Relationship between Settlements/Key locations and wider landscape respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>• The extent to which the proposal contributes to perception of settlements or key locations being encircled by wind energy development.</li> <li>• Development should seek to achieve a threshold where: Turbines are not visually prominent in the majority of views within or from settlements/Key Locations or from the majority of its access routes.</li> </ul>
<b>Criterion 2: Key Gateway locations and routes are respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>• The extent to which the proposal reduces or detracts from the transitional experience of key Gateway Locations and routes.</li> <li>• Development should seek to achieve a threshold where: Wind Turbines or other infrastructure do not overwhelm or otherwise detract from landscape characteristics which contribute the distinctive transitional experience found at key gateway locations and routes.</li> </ul>

<b>Criterion 3: Valued natural and cultural landmarks are respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the proposal affects the fabric and setting of valued natural and cultural landmarks.</li> <li>Development should seek to achieve a threshold where: The development does not, by its presence, diminish the prominence of the landmark or disrupt its relationship to its setting.</li> </ul>
<b>Criterion 4: The amenity of key recreational routes and ways is respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the proposal affects the amenity of key recreational routes and ways (e.g. Core Paths, Munros and Corbetts, Long Distance Routes etc.)</li> <li>Development should seek to achieve a threshold where: Wind Turbines or other infrastructure do not overwhelm or otherwise significantly detract from the visual appeal of key routes and ways.</li> </ul>
<b>Criterion 5: The amenity of transport routes is respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the proposal affects the amenity of transport routes (tourist routes as well as rail, ferry routes and local road access).</li> <li>Development should seek to achieve a threshold where: Wind Turbines or other infrastructure do not overwhelm or otherwise significantly detract from the visual appeal of transport routes.</li> </ul>
<b>Criterion 6: The existing pattern of Wind Energy Development is respected</b>	
<b>Measure</b>	<p>The degree to which the proposal fits with the existing pattern of nearby wind energy development, considerations include:</p> <ul style="list-style-type: none"> <li>Turbine height and proportions,</li> <li>density and spacing of turbines within developments,</li> <li>density and spacing of developments,</li> <li>typical relationship of development to the landscape.</li> <li>previously instituted mitigation measures</li> <li>Planning Authority stated aims for development of area</li> </ul> <p>Development should seek to achieve a threshold where: The proposal contributes positively to existing pattern or objectives for development in the area.</p>
<b>Criterion 7: The need for separation between developments and/ or clusters is respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the proposal maintains or affects the spaces between existing developments and/ or clusters</li> <li>Development should seek to achieve a threshold where: The proposal maintains appropriate and effective separation between developments and/ or clusters</li> </ul>
<b>Criterion 8: The perception of landscape scale and distance is respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the proposal maintains or affects receptors' existing perception of landscape scale and distance.</li> <li>Development should seek to achieve a threshold where: The proposal maintains the apparent landscape scale and/or distance in the receptors' perception.</li> </ul>
<b>Criterion 9: Landscape setting of nearby wind energy developments is respected</b>	
<b>Measure</b>	<ul style="list-style-type: none"> <li>The extent to which the landscape setting of nearby wind energy developments is affected by the proposal.</li> <li>Development should seek to achieve a threshold where: The proposal relates well to the existing landscape setting and does not increase the perceived visual prominence of surrounding wind turbines.</li> </ul>
<b>Criterion 10: Distinctiveness of Landscape character is respected</b>	



<b>Measure</b>	<ul style="list-style-type: none"> <li>• The extent to which a proposal affects the distinction between neighbouring landscape character types, in areas where the variety of character is important to the appreciation of the landscape.</li> <li>• Development should seek to achieve a threshold where: Integrity and variety of Landscape Character Areas are maintained</li> </ul>
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The criteria are addressed in **Chapter 6: Landscape and Visual** of this EIA Report and also within the supporting Planning Statement.

Paragraph 4.17 adds that the criteria do not set absolute requirements, but rather seek to ensure developers are aware of key potential constraints to development. Following paragraph 4.17 there is a list of 10 criteria, together with associated thresholds and measures for development. An appraisal of how the Development relates to the criteria in the SG is contained within the Planning Statement.

The SG includes Addendum Supplementary Guidance 'Part 2B' which was adopted in December 2017 and provides landscape sensitivity appraisals for 'Black Isle, Surrounding Hills and Moray Firth Coast Caithness'. The Caithness appraisal is of relevance to the Development. The addendum to the guidance identifies that the Development is located within extensive Landscape Character Area (LCA) CT4: 'Central Caithness' and Landscape Character Type (LCT) 'Sweeping Moorland and Flows'.

Paragraph 5.4 adds that Applicants will be expected to "demonstrate how their proposals align with the conclusions of the assessments, and if they do not, will be expected to demonstrate why they are still appropriate developments". Paragraph 5.6 however states that it provides "general advice" and 5.7 makes it clear that: "finding the balance between the benefits of a particular scheme and the impacts it may present will be the subject of careful consideration on a case by case basis at the development management stage".

## 2.6 Conclusions

This Chapter has set out the legislative background, a summary of the renewable energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the Development. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report in order to ensure that it provides the appropriate information for the consideration of the planning application.

As noted, the policy appraisal for the Development is contained in a separate Planning Statement.

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