

Chapter 4: Legislative & Policy Framework

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4 Legislative & Policy Framework

4.1 Introduction

- 4.1.1 This chapter of the EIA Report describes the legislative and policy background relevant to the Proposed Development. It refers to energy and planning policy at a national and local level. 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 application.
- 4.1.2 This chapter does not include an assessment of the Proposed Development against planning policy; a separate Planning Statement has been prepared to support the application and should be referred to for a detailed planning policy appraisal.

4.2 The Statutory Framework

The Electricity Act 1989

- 4.2.1 The Proposed Development will have an installed capacity of over 50 Megawatts (MW). In Scotland, onshore renewable energy developments that have capacity to generate over 50 MW require consent from the Scottish Ministers under the Electricity Act 1989 (the Electricity Act). In such cases, the Planning Authority is a statutory consultee in the consenting process.
- 4.2.2 The provisions of Schedule 9 of the Electricity Act set out a number of features to which regard must be had by the Scottish Ministers and such features have been fully taken into account in the iterative design process and assessed in terms of the EIA process.
- 4.2.3 The Scottish Ministers will determine the application having considered the statutory duties in Schedules 8 and 9 of the Electricity Act, so far as relevant, and all relevant considerations or matters, one of which will be relevant aspects of the statutory Development Plan.
- 4.2.4 In an application under Section 36 of the Electricity Act, the Development Plan (as defined in section 24 of the Town and Country Planning (Scotland) Act 1997) does not have primacy in the decision-making process, but is still a material consideration. The provisions of Schedule 9 of the Electricity Act are relevant to the assessment of the Proposed Development.
- 4.2.5 Schedule 9, sub-paragraph 3(2), requires the Scottish Ministers, in considering proposals under section 36, to have regard to:

“(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and

(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of the sub-paragraph.”

- 4.2.6 The duties referred to in Schedule 9 sub-paragraph 3(1)(a) and (b) of the Electricity Act do not apply to the Applicant as the Applicant is not an electricity generation licence holder and holds no exemption to the requirement for such a licence, but the matters set out in sub paragraph 3(1)(a) to which the Scottish Ministers must have regard are:

“... the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest;”

- 4.2.7 The duty under sub-paragraph 3(1)(b) is to:

“...do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.”

- 4.2.8 At sub-paragraph 3(3), the Scottish Ministers [are required to...] *“avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.”*

The Town and Country Planning (Scotland) Act 1997

- 4.2.9 The principal planning statute in Scotland is the Town and Country Planning Act (Scotland) 1997 (the 1997 Act) as amended by the Planning etc (Scotland) Act 2019 (the 2019 Act).
- 4.2.10 Section 57(2) of the 1997 Act provides that:

“On granting a consent under section 36 or 37 of the Electricity Act 1989 in respect of any operation or change of use that constitutes development, the Scottish Ministers may direct that planning permission for

that development and any ancillary development shall be deemed to be granted, subject to any conditions (if any) as may be specified in the direction”.

4.2.11 Section 25 of the 1997 Act states that:

“Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”.

4.2.12 Section 57(2) of the 1997 Act makes no reference to the provisions of Section 25 which requires a determination to be made in accordance with the plan. The Courts have confirmed that Section 57(3) does not apply Section 25 to a decision to make a direction to grant deemed planning permission pursuant to Section 57(2)¹.

4.2.13 In recent years UK and Scottish Government policies have focused increasingly on concerns about climate change and the nature crisis. 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. In Scotland in particular, this is reflected in Policy 1 of National Planning Framework 4 (NPF4) which is entitled ‘Tackling the climate and nature crises’ and which requires that when considering all development proposals that significant weight is given to the global climate and nature crises.

4.2.14 Whilst the legislative framework for energy consents remains a reserved matter, the Scottish Government in response to climate change have set a clear strategic direction for the deployment of renewable energy through policy and additional legislative provisions. At the national level the Scottish Ministers have set a target to have a minimum installed capacity of 20 GW of onshore wind in Scotland by 2030.

4.2.15 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 targets can be achieved, most recently in the Clean Power 2030 Action Plan published in December 2024.

4.2.16 Onshore wind generation, located in Scotland, is identified as an important technology to achieve these various goals as set out in the Onshore Wind Policy Statement (2022) which clearly outlines the socio-economic and environmental benefits of onshore wind and its integral role in tackling climate change. Moreover, it states that “*deployment of onshore wind is mission critical for meeting our climate targets.*”

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

- The Scottish Energy Strategy (2017).
- The Scottish Government's declaration of a Climate Emergency (2019).
- The Scottish Climate Change Plan Update (2020).
- The Climate Change (Scotland) Act 2009 as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the legally binding net zero target for 2045.
- The Onshore Wind Policy Statement (OWPS) (2022).
- The Draft Energy Strategy and Just Transition Plan (2023).
- The Green Industrial Strategy (2024).

4.3 National Planning Framework 4

Introduction

4.3.1 National Planning Framework 4 (NPF4) was approved by the Scottish Parliament and adopted by the Scottish Ministers on 13 February 2023.

4.3.2 Section 13 of the 2019 Act amends Section 24 of the 1997 Act regarding the meaning of the statutory Development Plan, such that for the purposes of the 1997 Act, the Development Plan for an area is taken to consist of the provisions of:

- The National Planning Framework.
- Any strategic development plan.
- Any Local Development Plan (LDP).

¹ William Grant & Sons Distillers Limited v Scottish Ministers, Court of Session [2012] CSOH 98.

- 4.3.3 NPF4 therefore now forms part of the statutory Development Plan and should be afforded substantial weight. A key provision of the 2019 Act is that in the event of any incompatibility between the provisions of NPF4 and a provision of an LDP, then whichever of them is the later in date will prevail. That will include where a LDP is silent on an issue that is now provided for in NPF4.
- 4.3.4 As explained, for the purposes of Section 36 decision making, Section 25 of the 1997 Act is not engaged and so the Development Plan does not take primacy. NPF4 however is a significant material consideration in the overall decision-making process.

National Developments

- 4.3.5 NPF4 sets the approach to planning and development to help achieve a net zero, sustainable Scotland by 2045. It continues the planning policy approach of identifying 'national developments' which refers to the allocation of national development status to certain classes of development. There are three categories of national development: 'liveable places', 'productive places' and 'distinctive places'.
- 4.3.6 Page 97 of NPF4 sets out that 18 National Developments (ND) have been identified. These are described as: *"significant developments of national importance that will help to deliver the spatial strategy ... National development status does not grant planning permission for the development and all relevant consents are required"*.
- 4.3.7 It adds that:
- "Their designation means that the principle for development does not need to be agreed in later consenting processes, providing more certainty for communities, businesses and investors. ... In addition to the statement of need at Annex B, decision makers for applications for consent for national developments should take into account all relevant policies"*.
- 4.3.8 Annex B of NPF4 sets out the various NDs and its related Statements of Need. It explains that NDs are significant developments of national importance that will help to deliver the Spatial Strategy. It states (page 99) that:
- "The statements of need set out in this annex are a requirement of the Town and Country Planning (Scotland) Act 1997 and describe the development to be considered as a national development for consent handling purposes"*.

National Development 3 "Strategic Renewable Electricity Generation and Transmission Infrastructure"

- 4.3.9 Page 103 of NPF4 describes ND3 and it states:
- "This national development supports renewable electricity generation, repowering, and expansion of the electricity grid.*
- A large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets. Certain types of renewable electricity generation will also be required, which will include energy storage technology and capacity, to provide the vital services, including flexible response, that a zero carbon network will require. Generation is for domestic consumption as well as for export to the UK and beyond, with new capacity helping to decarbonise heat, transport and industrial energy demand. This has the potential to support jobs and business investment, with wider economic benefits.*
- The electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond. Delivery of this national development will be informed by market, policy and regulatory developments and decisions."*
- 4.3.10 The location for ND3 is set out as being all of Scotland and in terms of need it is described as:
- "Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas."*
- 4.3.11 Reference is made to the designation and classes of development which would qualify as ND3, and it states in this regard:
- "A development contributing to 'Strategic Renewable Electricity Generation and Transmission' in the location described, within one or more of the Classes of Development described below and that is of a scale or type that would otherwise have been classified as 'major' by 'The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009', is designated a national development:*
- (a) on and off-shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity;*

(b) new and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132kv or more; and

(c) new and/or upgraded Infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations."

The Proposed Development, having a capacity which exceeds the 50 MW threshold set for a ND and is classified as 'major' development by The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 means it would have national development status as per these provisions of NPF4. The Proposed Development is of national importance for the delivery of the national Spatial Strategy.

- 4.3.12 The Strategy requires a "*large and rapid increase*" in electricity generation from renewables and the National Spatial Strategy makes it clear (NPF4, page 6) that "*we must make significant progress*" by 2030.

National Planning Policy

- 4.3.13 Part 2 of NPF4 contains proposed new 'National Planning Policy'. The 'lead' policies of relevance to the Proposed Development are Policies 1 and 11.
- 4.3.14 Policy 1 entitled 'Tackling the climate and nature crises' states that: "*when considering all development proposals significant weight will be given to the global climate and nature crises*".
- 4.3.15 Policy 11 Energy has a stated intent: "*To encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisations and storage (CCUS)*".
- 4.3.16 The desired outcome of this policy is stated as an "*Expansion of renewable, low carbon and zero emissions technologies*".
- 4.3.17 LDPs are directed to seek to realise their area's full potential for electricity and heat from renewable, low carbon and zero emissions sources by identifying a range of opportunities for energy development.
- 4.3.18 **Policy 11, Energy** states:
- "a) development proposals for all forms of renewable, low carbon and zero emissions technologies will be supported these include:*

Wind farms including repowering, extending, expanding and extending the life of existing wind farms.

Enabling works such as grid transmission and distribution infrastructure;

Energy storage such as batter storage and pumped storage hydro;

Small scale renewable energy generation technology;

Solar arrays;

Proposals associated with negative emissions technologies and carbon capture; and

Proposals including co-location of these technologies.

b) development proposals for wind farms in National Park and National Scenic Areas will not be supported.

c) development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

d) development proposals that impact on international or national designations will be assessed in relation to Policy 4.

e) in addition, project design and mitigation will demonstrate how the following impacts are addressed:

i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;

- ii. *significant landscape and visual impacts, recognising that some impacts are to be expected from some forms of renewable energy. Where impacts are localised and /or appropriate design mitigation has been applied, they will generally be considered to be acceptable.*
- iii. *public access, including impact on long distance walking and cycling routes and scenic routes;*
- iv. *impacts on aviation and defence interests including seismological recording;*
- v. *impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*
- vi. *impacts on road traffic and on adjacent trunk roads, including during construction;*
- vii. *impacts on historic environment;*
- viii. *effects on hydrology, the water environment and flood risk;*
- ix. *biodiversity including impacts on birds;*
- x. *impacts on trees, woods and forests;*
- xi. *proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;*
- xii. *the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and*
- xiii. *cumulative impacts.*

In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

Grid capacity should not constrain renewable energy development, it is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.

f) consents for development proposals may be time limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity."

4.3.19 The other policies of most relevance in NPF4, are as follows:

- Policy 3 – Biodiversity.
- Policy 4 – Natural Places.
- Policy 5 – Soils.
- Policy 6 – Forestry, Woodland and trees.
- Policy 7 – Historic assets and places.

4.3.20 **Policy 3 – Biodiversity** seeks to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks with an outcome of ensuring biodiversity is enhanced and better connected. Policy 3 states:

"LDPs should protect, conserve, restore and enhance biodiversity in line with the mitigation hierarchy. They should also promote nature recovery and nature restoration across the development plan area, including by: facilitating the creation of nature networks and strengthening connections between them to support improved ecological connectivity; restoring degraded habitats or creating new habitats; and incorporating measures to increase biodiversity, including populations of priority species.

a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible.

b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably

better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:

- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;*
- ii. wherever feasible, nature-based solutions have been integrated and made best use of;*
- iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;*
- iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and*
- v. local community benefits of the biodiversity and/or nature networks have been considered.*

c) Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of (b) above, are excluded from this requirement.

d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration”.

4.3.21 Policy 4 – Natural Places seeks to protect, restore and enhance natural assets making best use of nature-based solutions and states:

“LDPs will identify and protect locally, regionally, nationally and internationally important natural assets, on land and along coasts. The spatial strategy should safeguard them and take into account the objectives and level of their protected status in allocating land for development. Spatial strategies should also better connect nature rich areas by establishing and growing nature networks to help protect and restore the biodiversity, ecosystems and natural processes in their area.

a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.

b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.

c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:

- i. The objectives of designation and the overall integrity of the areas will not be compromised; or*
- ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.*

d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:

- i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or*
- ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.*

e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.

f) Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application

g) Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal:

- i. will support meeting renewable energy targets; or,*
- ii. is for small scale development directly linked to a rural business or croft, or is required to support a fragile community in a rural area. All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration”.*

4.3.22 Policy 5 – Soils seeks to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development and states:

“LDPs should protect locally, regionally, nationally and internationally valued soils, including land of lesser quality that is culturally or locally important for primary use.

a) Development proposals will only be supported if they are designed and constructed:

i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and

ii. In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing.

b) Development proposals on prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, as identified by the LDP, will only be supported where it is for:

i. Essential infrastructure and there is a specific locational need and no other suitable site;

ii. Small-scale development directly linked to a rural business, farm or croft or for essential workers for the rural business to be able to live onsite;

iii. The development of production and processing facilities associated with the land produce where no other local site is suitable;

iv. The generation of energy from renewable sources or the extraction of minerals and there is secure provision for restoration; and

In all of the above exceptions, the layout and design of the proposal minimises the amount of protected land that is required.

c) Development proposals on peatland, carbon rich soils and priority peatland habitat will only be supported for:

i. Essential infrastructure and there is a specific locational need and no other suitable site;

ii. The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets;

iii. Small-scale development directly linked to a rural business, farm or croft;

iv. Supporting a fragile community in a rural or island area; or

v. Restoration of peatland habitats.

d) Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:

i. the baseline depth, habitat condition, quality and stability of carbon rich soils;

ii. the likely effects of the development on peatland, including on soil disturbance; and

iii. the likely net effects of the development on climate emissions and loss of carbon. This assessment should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice.

A peat management plan will be required to demonstrate that this approach has been followed, alongside other appropriate plans required for restoring and/ or enhancing the site into a functioning peatland system capable of achieving carbon sequestration.

e) Development proposals for new commercial peat extraction, including extensions to existing sites, will only be supported where:

i. the extracted peat is supporting the Scottish whisky industry;

ii. there is no reasonable substitute;

- ii. the area of extraction is the minimum necessary and the proposal retains an in-situ residual depth of part of at least 1 metre across the whole site, including drainage features;
- iv. the time period for extraction is the minimum necessary; and
- v. there is an agreed comprehensive site restoration plan which will progressively restore, over a reasonable timescale, the area of extraction to a functioning peatland system capable of achieving carbon sequestration”.

4.3.23 **Policy 6 – Forestry, Woodland and trees** seeks to protect and expand forests, woodland and trees and states:

“LDPs should identify and protect existing woodland and the potential for its enhancement or expansion to avoid habitat fragmentation and improve ecological connectivity, helping to support and expand nature networks. The spatial strategy should identify and set out proposals for forestry, woodlands and trees in the area, including their development, protection and enhancement, resilience to climate change, and the expansion of a range of types to provide multiple benefits. This will be supported and informed by an up to date Forestry and Woodland Strategy. Development proposals that enhance, expand and improve woodland and tree cover will be supported;

Development proposals will not be supported where they will result in:

Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;

Adverse impacts on native woodlands, hedgerow and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;

Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;

Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.

Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

Development proposals on site which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design”.

4.3.24 **Policy 7 - Historic assets and places** has a stated intent to protect and enhance historic assets and places. It states:

“a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within the Historic Environment Records.

d) Development proposals in or affecting Conservation Areas will only be supported where the character and appearance of the Conservation Area and its setting is preserved or enhanced.

h) Development proposals affecting Scheduled Monuments will only be supported where:

- i. *direct impacts on the Scheduled Monument are avoided;*
- ii. *significant adverse impacts on the integrity of the setting of a Scheduled Monument are avoided; or*
- iii. *exceptional circumstances have been demonstrated to justify the impact on a Scheduled Monument and its setting and impacts on the monument or its setting have been minimised.*

- i) *Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.*
- l) *Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.*
- o) *Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.*

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.”

4.4 National Planning Guidance

- 4.4.1 Planning Advice Notes (PANs) set out detailed advice from the Scottish Government in relation to a number of land use planning topics. Relevant PANs are summarised in Table 4.1 below.

Table 4.1 Relevant PANs

Title	Summary of Document
PAN 1/2013 Environmental Impact Assessment	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	Advises developers on the importance of discussing their proposals with the planning authority and Scottish Natural Heritage (SNH) (now NatureScot) 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	Good practice drainage guidance.
PAN 75 (2005) Planning for Transport	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 1/2011 Planning and Noise	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	The PAN is intended to inform local authorities and other organisations of how to process any archaeological scope of works within the planning process.
PAN 51 Planning, Environmental Protection and Regulation (Revised 2006)	Details the role of the planning system in relation to the environmental protection regimes.

4.5 The Local Development Plan

- 4.5.1 Other Development Plan documents comprise:

- The Highland Wide Local Development Plan (HwLDP) (April 2012).
- The Inner Moray Firth Local Development Plan (IMFLDP) (June 2024).
- Highland Statutorily Protected Species Supplementary Guidance (The Highland Council, 2013a).

4.5.2 Relevant supplementary guidance includes the Onshore Wind Energy Supplementary Guidance (OWESG) (2016) and Addendum Supplementary Guidance: Part 2b (2017).

4.5.3 There are no development management policies of relevance within the IMFLDP.

HwLDP Policies

4.5.4 Policy 67 is the lead policy for the consideration of renewable energy developments in the HwLDP.

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

- Policy 28 – Sustainable Design.
- Policy 55 – Peat and Soils.
- Policy 57 – Natural, Built, and Cultural Heritage.
- Policy 58 – Protected Species.
- Policy 59 – Other Important Species.
- Policy 60 – Other Important Habitats.
- Policy 61 – Landscape.
- Policy 63 – Water Environment.
- Policy 64 – Flood Risk.
- Policy 66 – Surface Water Drainage.
- Policy 67 – Renewable Energy Developments.
- Policy 72 – Pollution.
- Policy 73 – Air Quality.
- Policy 77 – Public Access.

4.6 Conclusions

4.6.1 This Chapter has set out the legislative framework, a summary of the national energy and climate change policy frameworks, and the national and local planning policies and guidance relevant to the consideration of the Proposed 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 application for consent.

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

4.7 References

The Climate Change (Emissions reduction targets) (Scotland) Act 2019. Available at <https://www.legislation.gov.uk/asp/2019/15/enacted>

Scottish Government (2023), The Draft Energy Strategy and Just Transition Plan. Available at Draft Energy Strategy and Just Transition Plan - gov.scot (www.gov.scot)

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Highland Council, The Inner Moray Firth LDP, Available at Inner Moray Firth Local Development Plan 2 (IMFLDP2) | Inner Moray Firth Local Development Plan | The Highland Council