Planning and Energy Policy Statement



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1. Introduction

1.1. Introduction

- 1.1.1. This Planning and Energy Policy Statement has been prepared by Savills UK Limited on behalf of Renewable Energy Systems (RES) (the Applicant). It supports an application to the Scottish Ministers under Section 36 (S36) of the Electricity Act 1989¹ (the Electricity Act) for a proposed development comprising the construction and operation of up to twenty-six (26) wind turbines each with a maximum tip height of up to 200 metres (m) above ground level (AGL), a battery energy storage system (BESS) rated at 100 MegaWatts (MW), temporary borrow pits, onsite access tracks (including watercourse crossings), habitat management and biodiversity enhancement measures and other associated infrastructure, to be known as Clune Wind Farm, and hereafter referred to as 'the Proposed Development'. The Proposed Development is located within the administrative area of The Highland Council (hereafter referred to as 'the Council').
- 1.1.2. The Proposed Development will have an installed capacity of more than 50 MW. A detailed description of the Proposed Development is set out in Chapter 3: 'Proposed Development Description' of the Environmental Impact Assessment Report (EIA Report) with a Proposed Development layout provided in Figure 1.3 of the EIA Report.
- 1.1.3. This Planning and Energy Policy Statement accompanies the EIA Report for the Proposed Development. It does not form part of the EIA Report, but draws upon its findings to inform conclusions on planning and energy policy matters. It also draws from the findings of the Socio-Economic and Community Impact Assessment, which accompanies the EIA Report and forms part of the application for consent as a standalone document.
- 1.1.4. As part of the S36 process, the Applicant is also seeking a Direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997² (the Planning Act), as amended, that deemed planning permission also be granted for the Proposed Development. Clune Wind Farm is proposed to have an operational life of up to 40 years from the date of final commissioning.
- 1.1.5. This Statement provides an assessment of the Proposed Development against relevant energy policy, national planning policy and local planning policy. There is no 'primacy' of the Development Plan in an application made under the Electricity Act, as would be the case for an application under the Planning Act as found in the case of William Grant & Sons Distillers Ltd v Scottish Ministers [2012] Court of Session Outer House 98 (paragraphs 17 and 18). Rather, weight can be attributed by the decision maker to all material considerations including the various levels of national and local energy and planning-related policy and guidance as deemed appropriate. These principles were reaffirmed by the Court of Session Outer House in the case of Wildcat Haven Community Interest Company v Scottish Ministers [2024] CSOH 10

¹ https://www.legislation.gov.uk/ukpga/1989/29/contents

² <u>https://www.legislation.gov.uk/ukpga/1997/8/contents</u>

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(paragraph 43) dated 8 February 2024 and by the subsequent Inner House judgment dated 15 November 2024 ([2024] CSOH 10).

1.2. Structure of the Statement

- 1.2.1. Following this introductory section, this Planning and Energy Policy Statement is structured as follows:-
 - Section 2 discusses the Electricity Act, specifically Schedule 9;
 - Section 3 describes the Site and the Proposed Development and summarises its key benefits;
 - Section 4 discusses energy legislation and policy matters and considers the Proposed Development with reference to relevant renewable energy generation and greenhouse gas reduction targets;
 - Section 5 assesses the Proposed Development against the relevant policies of the Development Plan including National Planning Framework 4; and
 - Section 6 weighs up the case for the Proposed Development providing concluding remarks on the overall acceptability of the Proposed Development.

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2. Electricity Act – Schedule 9

- 2.1.1. A decision on this S36 application must be made in accordance with the Electricity Act. Schedule 9 paragraph 3 to the Electricity Act imposes no duties on an Applicant other than a generating licence holder or a person authorised by an exemption to generate electricity. The Applicant is not a holder of a generating licence or an exemption in respect of the Proposed Development and the duties under paragraph 3 do not apply.
- 2.1.2. The Scottish Ministers as decision maker are required to have regard to the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9 (paragraph 3(2)(a)).
- 2.1.3. This interpretation of the law was confirmed in the opinion of Lord Ericht in the petition of North Lowther Energy Initiative Limited v Scottish Ministers [2021] Court of Session Outer House 104 (paragraph 18).
- 2.1.4. Notwithstanding, through the design evolution and the EIA process, the Applicant has sought to avoid significant environmental impacts arising from the Proposed Development and to mitigate those that have been identified. These details are set out in the various chapters forming the EIA Report that is submitted with the application to enable Scottish Ministers to comply with their duties under Schedule 9.

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3. The Proposed Development and Site

3.1. The Proposed Development

- 3.1.1. The Proposed Development comprises the construction, 40 year operation and subsequent decommissioning of up to 26 wind turbines, a BESS facility and associated infrastructure, with an overall generating capacity in excess of 50 MW.
- 3.1.2. A detailed description of the Proposed Development is set out in EIA Report Chapter 3 'Proposed Development Description' but in summary, it comprises the following key elements:-
 - Up to 26 wind turbines, each with a maximum tip height of 200 m AGL;
 - At each wind turbine, associated low to medium voltage transformers and related switchgear;
 - wind turbine foundations;
 - Hardstanding areas for crane erection at each wind turbine location;
 - a BESS rated at 100MW and associated compound;
 - a new Site entrance from the U2856;
 - 14 watercourse crossings would be required comprising 12 new watercourse crossings and two existing watercourse crossings to be upgraded;
 - borrow pit(s) (dependent on availability of stone within the Site);
 - Approximately 27.3 kilometres (km) of access tracks, comprising 20.8 km of new tracks and 6.5 km of existing tracks to be upgraded, passing places and turning heads;
 - a substation compound containing electrical infrastructure, control building, welfare facilities and a communications mast;
 - a network of buried electrical and communication cables; and
 - temporary construction, gatehouse and batching plant compounds.
- 3.1.3. In addition to the above, the Applicant is proposing areas of habitat management and biodiversity improvements, as set out in an Outline Habitat Management and Biodiversity Enhancement Plan (OHMBEP), submitted as Technical Appendix (TA) 7.5 and the accompanying Figure 7.5.4.
- 3.1.4. The main objective of the OHMBEP is to 'reverse biodiversity loss and deliver positive effects to habitat on the Proposed Development Site for described ecological receptors, particularly blanket bog habitats and natural regeneration of Caledonian Forest'. This objective is to be achieved through a programme of aims, summarised as follows:-
 - <u>Peatland Restoration (Onsite)</u> to stabilise and restore morphology of onsite peat soils;
 - <u>Peatland enhancement Plug planting (Onsite)</u> to create greater diversity of upland moorland habitats on Site, potentially attract a greater number of pollinator species, and provide support for a greater biomass of individuals;
 - Native woodland creation Tree planting (off site) to restore upland native woodland that was once widespread across the Highlands;
 - **Control of herbivores (Mountain Hare)** to maintain a sustainable population of mountain hare and to achieve an appropriate balance between mountain hare and their habitat creation;



- <u>Control of herbivores (deer)</u> to maintain a sustainable population of deer. To achieve an
 appropriate balance between the deer population and the condition of the onsite and offsite habitats
 considered in the OHBEMP; and
- <u>Control of predators</u> to reduce the population size of on-site predators to an appropriate level; to minimise the impact of predators on the breeding success of off-site waders and on-site upland breeding birds.
- 3.1.5. Further details on each of these aims, including justification and monitoring proposals is set out in TA7.5.
- 3.1.6. The proposed wind turbines will all have a maximum blade tip height of up to 200 m AGL. A rotor diameter of 162 m has been used for assessment purposes where necessary. . However, the final choice of turbine model and the specification of hub height and rotor diameter will be subject to a selection process (prior to construction) considering technical, environmental and commercial aspects.
- 3.1.7. To comply with Civil Aviation Authority (CAA) policy on the lighting of wind turbines at 150 m in height or more, medium intensity (2000 candela) visible aviation lighting is needed on ten of the wind turbines: T02, T05, T08, T10, T12, T15, T18, T19, T24 and T26. CAA approval for the reduced lighting strategy was received on 25 July 2024 and is included within TA 12.1 'Lighting Scheme'. The requirement for the installation of non-visible infra-red aviation lighting will be agreed with the Defence Infrastructure Organisation for the Ministry of Defence (MoD) low flying requirements, which can be controlled through a planning condition.
- 3.1.8. It is intended that the proposed wind turbine locations and all ancillary infrastructure will be subject to a micro-siting tolerance of 100 m in any direction, taking into consideration onsite constraints and the findings of detailed site investigation work to be carried out prior to construction.
- 3.1.9. Subject to detailed site investigations, it is expected that the turbines will be constructed on either gravity or piled foundations, as shown on EIA Report Figures 3.2(a) and 3.2(b). The detailed design, sizing and specification for each foundation will depend on the final turbine selected and the ground conditions encountered at each turbine location, which will be confirmed by detailed site investigations post-consent, in the pre-construction period.
- 3.1.10. Permanent crane hardstandings measuring approximately 55 m x 35 m will be constructed at each turbine location to facilitate the erection of the turbine components using mobiles cranes (EIA Report Figure 3.3). Additional temporary hardstanding areas will be constructed for the secondary crane, as shown on EIA Report Figure 3.3. Following turbine erection, temporary hardstandings would be reinstated but the main hardstandings will be left in-situ during the operational life of the Proposed Development to facilitate ongoing turbine maintenance.
- 3.1.11. The Proposed Development would most likely be connected to the national electricity grid network at the Tomatin substation, located approximately 4 km north-west of the Site. Works required to connect the Proposed Development to the national electricity grid network would the subject of a future consenting process by the Transmission Operator.
- 3.1.12. In order to minimise the amount of stone required to be imported, temporary borrow pits may be used. Four borrow pit search areas have been identified as shown on EIA Report Figure 1.3 with general arrangement



drawings for each shown on EIA Report Figures 3.14(a-d). It is anticipated that stone won from these borrow pits will be used to construct access tracks and hardstanding requirements.

- 3.1.13. To further minimise traffic movements associated with concrete delivery, an onsite concrete batching plant is proposed, located within the centre of the Site to the north-east of T18. The batching plant measures 100 m by 80 m with a typical arrangement shown on EIA Report Figure 3.15.
- 3.1.14. It is anticipated that the delivery of abnormal indivisible loads (AILs) to the Site will likely be from the Port of Inverness. AILs will leave the port along Stadium Road before travelling south along the A9 towards Aviemore. AIL access to the minor road leading to the Site junction will be taken from the A9 turning right onto the U2856 junction. Localised widening of the U2856 may be required to accommodate deliveries for wind turbine components and details would be agreed with Highland Council post submission. AIL traffic will cross the Highland Mainline railway before entering the Site by a new access junction. EIA Report Figure 3.6 shows the route from the Port of Inverness to the Site.
- 3.1.15. While the layout of the Proposed Development has been developed to minimise the number of watercourse crossings required, a total of 14 watercourse crossings would be required comprising 12 new watercourse crossings and two existing watercourse crossings to be upgraded. Locational details are provided in EIA Report Table 3.2 with more detail provided in TA9.3 'Schedule of Watercourse Crossings'. The exact specifications of watercourse crossings will be subject to detailed design prior to construction.
- 3.1.16. Embedded mitigation and habitat management and enhancement measures are integral to the Proposed Development. During construction, environmental protection measures will be controlled by, *inter alia*, a Construction Environmental Management Plan (CEMP), a Peat Management Plan (PMP) and various Species Protection Plans (SPPs). A suitably qualified Ecological Clerk of Works (ECoW) would be appointed to oversee the works and ensure compliance with agreed documents and working practices.
- 3.1.17. If consent is granted, habitat enhancement will be undertaken following construction. An OHBEMP has been prepared and is submitted as TA7.5. This outline document sets out a framework for enhancement of habitats within the Site and surrounding land to the south east which would be further refined in a Detailed HBEMP to be prepared post consent and in consultation with relevant stakeholders and landowners. The key aspects of the OHBEMP are summarised above.
- 3.1.18. The construction period for the Proposed Development would be approximately 23 months depending upon seasonal working and weather conditions. EIA Report Table 3.3 provides an indicative timetable for each phase of the construction works, with an associated likely sequencing of the works.
- 3.1.19. Normal hours of working during the construction period will be as follows:-
 - Monday to Saturday 0700-1900; and
 - No working on Sundays or public holidays without prior written approval from Highland Council.
- 3.1.20. No works, with the exception of turbine or transformer delivery, the completion of turbine erection or emergency work, will take place outside these hours, unless agreed in advance with The Highland Council. The requirement for out-of-hours work could arise, for example, from delivery and unloading of abnormal loads (usually undertaken at night/early morning to minimise disruption on the public road network and in agreement with consultees, such as Police Scotland) or health and safety requirements, or to ensure



optimal use is made of fair weather windows for the erection of turbine blades and the erection and dismantling of cranes.

3.1.21. The Applicant is committed to maximising the socio-economic benefits of the Proposed Development as discussed further in Section 3.3. Further information in relation to the socio-economic benefits of the Proposed Development are set out in the Socio-Economic and Community Impact Assessment.

3.2. Site Description

- 3.2.1. The centre point of the Site is at Ordnance Survey (OS) Grid Reference E 279591, N 823033. It covers an area of approximately 3,300 hectares (ha) of open moorland located approximately 5.5 km south of the settlement of Tomatin, to the west of the A9.
- 3.2.2. The Site is mainly used as a grouse moor, but also consists of smaller patches of grassland used by grazing livestock and a block of conifer plantation is located in the north-eastern corner of the Site. An area of deciduous woodland is located on the banks of the Allt Phris, located to the north east of the Site.
- 3.2.3. A number of watercourses traverse the Site with the River Findhorn forming the north-western edge of the Site boundary. The Site reaches a high point of 750 above ordnance datum (AOD) with elevation dropping away to the north east. The Site shares a boundary with the western edge of the Cairngorms National Park (CNP), as shown on EIA Report Figure 5.10b. This Figure shows that the Site is not located within any local or national landscape designations. Several such designations are located within the 35 km landscape and visual impact assessment (LVIA) Study Area for the Proposed Development, including:-
 - The Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) located approximately 5.2 km from the Site;
 - The Loch Ness and Duntelchaig SLA located approximately 13 km from the Site;
 - The Ben Alder, Laggan and Glen Banchor SLA located approximately 19 km from the Site;
 - The Cairngorm Mountains National Scenic Area (NSA) is located approximately 10.7 km to the southeast of the Site at is closest point; while the Deeside and Lochnagar NSA is located further afield in the same direction approximately 34.2 km at its closest; and
 - There are several Gardens and Designed Landscapes (GDL) within the vicinity of the Site, but none are located within 10km of the Site. The closest GDL is Aultmore located approximately 19.5 km to the west of the Site.
- 3.2.4. The Site is located wholly in the Rolling Uplands Inverness (221) Landscape Character Type (LCT). The LCTs within the 35 km LVIA Study Area are illustrated on EIA Report Figure 5.3a and detailed at EIA Report Chapter 5 'Landscape and Visual Impact Assessment' Table 5.3.
- 3.2.5. The location of Wild Land Areas is shown on EIA Report Figure 5.10c. This shows that the southern boundary of the Site overlaps with the boundary of the Monadhliath Wild Land Area 20 (WLA 20) but none of the proposed wind turbines or any associated infrastructure are located inside the WLA. Within the LVIA Study Area and located approximately 23 km to the south-east is the Cairngorms WLA (WLA15).
- 3.2.6. EIA Report Figures 7.1 and 8.1 show natural heritage designations relative to the Site. The Kinveachy Forest Site of Special Scientific Interest (SSSI) overlaps with the south eastern corner of the Site but no wind turbines are located within the SSSI and there will be no oversail of any habitats within the designation.

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- 3.2.7. No other natural heritage designations overlap with the Site but there are several other statutory designated sites with ecological and ornithological qualifying interests within 10 km of the Site, as summarised within EIA Report Tables 7.2 and 8.5. These are:-
 - The Kinveachy Forest Special Area of Conservation (SAC), Special Protection Area (SPA), and Important Bird Area (IBA);
 - Carn nan Tri-tighearnan SACand Site of Special Scientific Interest (SSSI);
 - Slochd SAC;
 - River Spey SAC;
 - Loch Vaa SSSI and SPA;
 - Craigellachie SSSI; and
 - Craigellachie National Nature Reserve (NNR).
- 3.2.8. EIA Report Figure 9.4 'Peatland Classification' shows that the Site comprises mainly Class 5 soils but with areas of Class 1 peatlands present towards the central and southern parts of the Site. Detailed habitat and peat surveys have been carried out to inform the detailed assessment on peatland. Full detail is provided within EIA Report Chapter 9 'Geology, Hydrology and Hydrogeology' and associated Figures/Technical Appendices.
- 3.2.9. There are a number of residential properties in the vicinity of the Site, most located to the north west in the River Findhorn valley as shown on EIA Report Figure 11.1. The nearest property to a wind turbine is Easter Strathnoon located 1,745m from turbine T24 as shown on EIA Report Figure 12.2.
- 3.2.10. There are a number of other wind farms within the vicinity of the Site, as summarised in EIA Report Table 5.8 and shown on EIA Report Figure 5.12. The closest operational wind farm to the Site is Farr Wind Farm, located approximately 6.4 km away to the west from the nearest Proposed Development turbines. The scoping stage Kyllachy and Highland Wind Farms are located to the north west and south respectively, at distances of 4.2 km and 5.6 km from the nearest Proposed Development turbines.

3.3. Benefits of the Proposed Development

- 3.3.1. In summary, the key benefits of the Proposed Development are as follows:-
 - The Proposed Development will help meet the Scottish Government's net zero greenhouse gas by 2045 emission target. Over the 40 years that it is expected to be generating carbon-free electricity, CO₂ emissions would be reduced (as a result of the Proposed Development) by 5,784,280 tonnes when compared to the current grid-mix of electricity;
 - The expected carbon payback period for the Proposed Development is 1.8 years when compared to grid mix electricity;
 - Significant enhancement measures, over and above those required to mitigate the effects of the Proposed Development are proposed as outlined in the OHBEMP which will be developed further post consent;
 - Since the start of the war in Ukraine and allied with the cost of living crisis, in part due to the significant increase in oil and gas prices, there is a renewed sense of urgency to expand the country's 'home grown' sources of energy to reduce reliance on imported supplies, as set out in the recent consultation on Clean Power 2030 which is discussed further in Section 4. The Proposed Development responds

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positively in this regard with a mix of renewable energy technologies incorporated and with a confirmed grid connection date of April 2030;

- Construction of the Proposed Development will generate a range of contract opportunities for local companies during the construction and operational phases as follows;
 - During the construction phase it is estimated that the Proposed Development could generate £54.9 million gross value added (GVA) and support 590 years of employment across Highland, with £104.7 million GVA and 1,190 years of employment across Scotland (including Highland);
 - The operational phase the Proposed Development will generate the following GVA and job years for each study area³:
 - National Level Scotland
 - > £4.9 million GVA each year; and
 - > Support 38 jobs across Scotland (including in the Highlands).
 - The Highlands
 - > £1.8 million GVA each year; and
 - > Support 11 jobs in the Highlands.
- Approximately £2.2 million in non-domestic rates each year helping to support local government services; and
- £0.9 million annually in community benefit funding will also be provided, equating to £37.4 million over the operational lifetime of the Proposed Development.
- As part of the community benefit offering, the Applicant is proposing that this funding could be used to
 reduce electricity bills of those living and working closest to the Proposed Development through its
 Local Electricity Discount Scheme (LEDS) which offers an annual discount to the electricity bills of
 properties closest to a participating renewable energy project, without the need to change energy
 provider. The Applicant has run this initiative on its other wind farm projects in Scotland; and
- The Applicant is open to discussing options for shared ownership in the Proposed Development as a means of supporting community wealth building by exploring shared ownership models with the local community, with a view to them acquiring a meaningful stake in the Proposed Development.

³ The regional socio-economic effects are inclusive of the local socio-economic benefits. The national socio-economic effects are inclusive of the regional and local socio-economic benefits.

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4. Energy Legislation and Policy Considerations

4.1. Introduction

4.1.1. This Section of the Planning and Energy Policy Statement provides commentary on energy legislation and policy considered to be of most relevance to the Proposed Development. This is not an exhaustive overview of all relevant policies and plans relevant to this subject area, and given the legislative basis and statutory nature of the Net-Zero targets (discussed further below) only the most salient pieces of legislation and policies are discussed.

4.2. The Legislative Context

UK Legislation

Climate Change Act 2008

4.2.1. The Climate Change Act 2008⁴ became law on 26 November 2008 and introduced a legally-binding target for the UK to reduce greenhouse gas (GHG) emissions by at least 80% by 2050, relative to 1990 levels. Efforts to reduce GHG emissions in Scotland contribute to achievement of UK wide targets, as well as meeting Scotland specific targets as discussed below.

The Climate Change Act 2008 (2050 Target Amendment) Order 2019

4.2.2. The UK Government amended the Climate Change Act 2008 in June 2019 to increase the GHG reduction targets for the UK, reflecting the recommendations set out in the Committee on Climate Change (CCC) Report from May 2019 'Net Zero - The UK's contribution to stopping global warming'⁵. The Climate Change Act 2008 (2050 Target Amendment) Order 2019⁶ amended the 2008 Act by passing into law the target for UK GHG emissions to be at least 100% lower than the 1990 baseline by 2050 (net zero by 2050), an increase on the previous target for an 80% reduction by the same date.

Energy Act 2023

- 4.2.3. The Energy Act 2023 received Royal Assent on 26 October 2023⁷. Originally introduced as the Energy Security Bill in 2022, it seeks to build on the commitment set out in the April 2022 British Energy Security Strategy⁸ to reduce the UK's dependence on volatile fossil fuel markets, by improving domestic energy production and make the UK more self-sufficient when it come to the energy it uses.
- 4.2.4. Following the introduction of the Act into law, the then Energy Security Secretary Claire Coutinho commented that 'The Energy Act is the largest piece of energy legislation in a generation. It will boost investment in clean energy technologies and support thousands of skilled jobs across the country. It lays the foundations for greater UK energy independence, making us more secure against tyrants like Putin,

⁴ https://www.legislation.gov.uk/ukpga/2008/27/contents

⁵ <u>https://www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/</u>

⁶ https://www.legislation.gov.uk/ukdsi/2019/9780111187654

⁷ <u>https://www.legislation.gov.uk/ukpga/2023/52/contents</u>

⁸ https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy



and helps us to power Britain from Britain'.

Scottish Legislation

The Climate Change (Scotland) Act 2009

- 4.2.5. The Climate Change (Scotland) Act 2009⁹ created the statutory framework for GHG emission reductions in Scotland by setting a target for net Scotlish emissions for the year 2050 to be at least 80% lower than the 1990 baseline level.
- 4.2.6. The 2009 Act also established the Public Bodies Climate Change Duties which came into force on 1 January 2011. It requires that Public Bodies, which includes the Scottish Ministers as decision makers, exercise their functions:
 - in a way best calculated to contribute to deliver the Act's emissions reduction targets;
 - in a way best calculated to deliver any statutory adaptation programme; and
 - in a way that it considers most sustainable.

Climate Change (Emissions Reduction Targets) (Scotland) Act (2019)

4.2.7. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019¹⁰ amends the Climate Change (Scotland) Act 2009, by introducing even more ambitious GHG reduction targets. It commits Scotland to becoming a net zero society by 2045 (five years earlier than the rest of the UK) and introduced interim GHG reduction targets, including a 75% reduction by 2030.

Climate Change (Emissions Reduction Targets) (Scotland) Act (2024)

4.2.8. The Climate Change (Emissions Reduction Targets) (Scotland) Act (2024)¹¹ received Royal Assent on 22 November 2024. This 2024 Act replaces the annual and interim GHG reduction targets set out in the 2009 Act with carbon budgets, covering 5-year periods between 2026 and 2045 setting the amount of GHG emissions allowed during each period.

4.3. Progress Towards Net Zero

- 4.3.1. In April 2024, the Scottish Government abandoned its target of achieving a 75% reduction in GHG emissions by 2030, recognising that the target is *'out of reach'*. The Scottish Government did however note its *'unwavering commitment'* to reaching net zero by 2045, a target that remains embedded in statute.
- 4.3.2. At the same time as announcing that the 2030 GHG emissions reduction target had been abandoned, the Scottish Government also confirmed that it would drop the legally binding annual targets on reducing emissions, to be replaced by the aforementioned 5-yearly carbon budgets which have yet to be set. For context, the most recent annual targets in the lead up to 2045 are set out in Table 1 below.

⁹ https://www.legislation.gov.uk/asp/2009/12/contents

¹⁰ <u>https://www.legislation.gov.uk/asp/2019/15</u>

¹¹ https://www.legislation.gov.uk/asp/2024/15/contents?section-1-3

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4.3.3. In a statement to the Scottish Parliament on 19 June 2024¹² the Net Zero and Energy Cabinet Secretary confirmed that GHG emissions reduced by 50% over the period 1990 to 2022, against a target of 53.8% - therefore the 2022 target was missed. It is understood that the CCC will advise the Scottish Government on its carbon budgets in May 2025¹³.

Year	GHG Reduction Targets (as % of 1990 baseline)	Year (continued)	GHG Reduction Targets (as % of 1990 baseline)
2020 (interim target)	48.5%	2033	79.5%
2021	51.1%	2034	81%
2022	53.8%	2035	82.5%
2023	56.4%	2036	84%
2024	59.1%	2037	85.5%
2025	61.7%	2038	87%
2026	64.4%	2039	88.5%
2027	67.0%	2040 (interim target)	90%
2028	69.7%	2041	92%
2029	72.3%	2042	94%
2030 (interim target)	75%	2043	96%
2031	76.5%	2044	98%
2032	78%	2045	100% (net zero emissions)

4.3.4. The June 2024 announcement to Parliament about missing the 2022 target and the earlier decision to abandon the 2030 interim target shows how much work still requires to be done to achieve the long-term goal of net zero GHG emissions by 2045. There is more to do in less time: GHG emissions must now fall at an even sharper rate than envisaged when the 2045 net zero target was first set. The Proposed Development can make a National Development (see later discussion on NPF4) level contribution to this goal and will make a significant and positive contribution to attainment of the 2045 target.

4.4. International

United Nations (UN) Emissions Gap Report 2024 – No more hot air ... please!

- 4.4.1. For more than a decade the UN Gap Reports have compared where GHG emissions are heading, against where they need to be, and highlights ways to close the gap. The latest Gap Report, *No more hot air … please!*, was published on 24 October 2024¹⁴.
- 4.4.2. The 2024 Gap Report notes in the Foreword that GHG emissions reached a new high in 2023. This context coupled with the promises made to date put us 'on track for best-case global warming of 2.6 degrees this century and necessitating future costly and large-scale removal of carbon dioxide from the atmosphere to bring down the overshoot.' It is outlined that the 'Increased deployment of solar photovoltaic technologies

¹²<u>https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/meeting-of-</u>parliament-19-06-2024?meeting=15945&iob=136097

¹³ <u>https://www.theccc.org.uk/news/coming-up/</u>

¹⁴ <u>https://www.unep.org/resources/emissions-gap-report-2024</u>

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and wind energy could deliver 27 per cent of the total emission reduction potential in 2030 and 38 per cent in 2035.'

4.4.3. The Report notes in the Executive Summary that:

'The magnitude of the challenge is indisputable. At the same time, there are abundant opportunities for accelerating mitigation action alongside achieving pressing development needs and Sustainable Development Goals. Technology developments, particularly in wind and solar energy, continue to exceed expectations, lowering deployment costs and driving their market expansion.'

4.4.4. As a result, the Report notes that unprecedented action is now needed by all countries and this *'will require* overcoming formidable policy, governance, institutional and technical barriers as well as an unprecedented increase in the support provided to developing countries along with a redesigning of the international financial architecture.'

4.5. UK Energy Policy

CCC - Progress in Reducing Emissions - 2024 Progress Report to Parliament

- 4.5.1. The 2024 Progress Report to the UK Parliament¹⁵ was published in July 2024 and considers the global picture with regards to emissions reductions and adaptation to climate change. It discusses the UK's role in a global context before discussing a range of sectors such as transport, building, manufacturing, electricity supply, fuel supply, aviation and shipping etc. Each sector is looked at in terms of emission trends and drivers, indicators of progress, next steps and major risks.
- 4.5.2. In the Executive Summary, it is outlined that the UK has 'a successful track record of emissions reductions'. However, 'despite some progress, the previous Government signalled a slowing of pace and reversed or delayed key policies'. The new Government needs to 'act fast' to ensure the UK remains on track to meet its current commitments.
- 4.5.3. The report notes that we've seen the wettest 18 months on record in England. The impacts on farmland have been extensive with areas submerged for extended periods, leading to the loss of crops and animals. Livelihoods have also been disrupted and lives lost in the UK and overseas as a direct consequence of climate impacts, which are becoming more severe.
- 4.5.4. The report sets out that the cost of key low-carbon technologies is continuing to fall, creating an opportunity for the UK to boost investment, reclaim global climate leadership and enhance energy security by accelerating take-up. British-based renewable energy is the cheapest and fastest way to reduce vulnerability to volatile global fossil fuel markets. The faster we get off fossil fuels, the more secure we become.
- 4.5.5. There is overarching support for the roll out of clean energy technology and due to the targets needing to be met, the Report states 'Annual offshore wind installations must increase by at least three times, <u>onshore</u> <u>wind installations will need to double</u> and solar installations must increase by five times' (emphasis added).
- 4.5.6. On Planning, a key priority area is to remove planning barriers for renewable energy development. In

¹⁵ <u>https://www.theccc.org.uk/wp-content/uploads/2024/07/Progress-in-reducing-emissions-2024-Report-to-Parliament-Web.pdf</u>



Scotland, NPF4 has set a positive policy framework to achieve this, which is discussed in Section 5.

4.5.7. In July 2024 the new UK Government published a 'Policy Statement on onshore wind'¹⁶, which noted its commitment to '*doubling onshore wind energy by 2030. That means immediately removing the de facto ban on onshore wind in England, in place since 2015*. It is recognised that this policy position did not apply in Scotland, but the swift publication of the July 2024 Policy Statement following the election of a new Government at Westminster highlights the UK Government's commitment to onshore wind.

The 29th UNFCCC conference of the parties (COP29) – Baku – November 2024

- 4.5.8. On 12 November 2024, at the 29th UNFCCC conference of the parties (COP29) in Baku, the UK Prime Minister announced the UK's 2035 Nationally Determined Contribution (NDC) under the Paris Agreement. This commits the UK to reducing economy-wide greenhouse gas emissions by at least 81% by 2035, compared to 1990 levels, excluding emissions from international aviation and shipping.
- 4.5.9. The 2035 NDC is based on advice from the independent CCC. It is a progression on the UK's previous NDC pledge to reduce emissions by at least 68% by 2030. It was informed by the outcomes of the Global Stocktake from COP28 and is aligned with limiting global warming to 1.5 °C. It is aligned with the level of ambition in Carbon Budget 6 (2033-37) on the pathway to net zero by 2050.
- 4.5.10. The headline target will be followed by submission of the detail underpinning the NDC known as Information to facilitate Clarity, Transparency and Understanding (ICTU) to the United Nations Framework Convention on Climate Change ahead of the February 2025 deadline. A copy of the ICTU will be laid in the Houses of Parliament.

Clean Power 2030 Action Plan; A new era of clean electricity

- 4.5.11. The Action Plan was published by the UK Government in December 2024¹⁷ following an earlier report by the National Energy System Operator (NESO) in 2024 to provide advice on achieving clean power for Great Britain by 2030. The NESO report¹⁸ considered a wide range of issues relevant to reaching clean power by 2030 such as the planning and consenting regimes, the roles that different technologies are to play in a future energy system, grid upgrade and connections, the costs and benefits of clean power and identified two primary pathways to clean power by 2030, namely 'New Dispatch' and 'Further Flex and Renewables'.
- 4.5.12. That report considers that it is possible to build, connect and operate a clean power system for Great Britain by 2030 while maintaining security of supply. The report notes on page 7 in the Executive Summary that 'there is no path to clean power without mass deployment of offshore wind, together with onshore wind and solar'. Onshore wind and solar are recognised as 'the cheapest clean power options available' (page 27), which can deploy at a faster rate than offshore wind. The pathways see a doubling of onshore wind capacity from 14 GigaWatts (GW) in 2023 to 27 GW by 2030. Grid expansion is acknowledged as being essential

¹⁶ <u>https://www.gov.uk/government/publications/policy-statement-on-onshore-wind/policy-statement-on-onshore-wind</u>

¹⁷ https://assets.publishing.service.gov.uk/media/677bc80399c93b7286a396d6/clean-power-2030-action-plan-main-report.pdf

¹⁸ https://www.neso.energy/document/346651/download



for clean power by 2030, without which it will not be possible to fully utilise renewables and gas will be needed instead.

- 4.5.13. The UK Government's Action Plan builds on the NESO report, setting out its view on a pathway to Clean Power by 2030, and the steps needed to get there. The Government's Action Plan notes on page 28 that 'all routes to a Clean Power system will require mass deployment of offshore wind, onshore wind and solar'.
- 4.5.14. Fundamental reform of the connections process is urgently needed to achieve Clean Power 2030 to ensure the electricity system meets longer-term strategic needs. Changes to the planning system are noted as being required to meet the 2030 target, with increased pace in the planning system seen as essential to support effective delivery of the connections queue and wider actions enabling Clean Power 2030. The Applicant has a confirmed grid connection date of 2030 meaning it is in a position to make a positive contribution to the 2030 Clean Power ambitions.

4.6. Scottish Energy Policy

Onshore Wind Policy Statement (OWPS) 2022

- 4.6.1. The Onshore Wind Policy Statement¹⁹ (OWPS) was published in December 2022 and clearly sets out that onshore wind will be a critical technology to help deliver the 2030 (now abandoned) and 2045 climate change targets.
- 4.6.2. The Ministerial Forward notes that 'we must accelerate our transition towards a net zero society'. It adds that 'Scotland has been a frontrunner in onshore wind and, while other renewable technologies are starting to reach commercial maturity, <u>continued deployment of onshore wind will be key to ensuring our 2030</u> <u>targets are met</u>' (emphasis added).
- 4.6.3. The OWPS quantifies the amount of new onshore wind that is needed in order to meet GHG reduction targets and notes in the Ministerial Foreword that there is an *'ambition of 20GW of onshore wind capacity in Scotland by 2030'* to encourage decarbonisation of the energy system. Paragraph 1.1.5 states that Scotland has 8.7GW of onshore wind as of June 2022 with an additional 11.3GW in the pipeline at various stages for the future.
- 4.6.4. Paragraph 8.4.1 states that onshore wind can also play a greater part in ensuring energy supply security, a key focus of the previously discussed Energy Act 2023.
- 4.6.5. Chapter 3 'Environmental Considerations: Achieving Balance and Maximising Benefits' references Scotland's Land Use Strategy and recognises that as the country moves towards a net zero economy, there will need to be a significant land use change, from current uses to forestry and peatland restoration and that this needs to happen alongside other essential activities, including onshore wind, while protecting and enhancing habitats.
- 4.6.6. Paragraph 3.5.6 recognises that as an *'essential part of our energy mix'*, onshore wind deployment will increase in the coming years, providing further opportunities for the sector to contribute significantly to biodiversity ambitions. In the commentary on peat and carbon-rich soils, the OWPS notes that reversing

¹⁹ <u>https://www.gov.scot/publications/onshore-wind-policy-statement-2022/</u>

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degradation of peat through peatland restoration is central to mitigating and adapting to the linked climate and nature crises. Paragraph 3.3.6 notes that in some cases it will be necessary to construct onshore wind farms on areas of peat, 'given the <u>established need for additional onshore wind turbines</u> to tackle climate change and to ensure long-term availability of cheap renewable energy' (emphasis added).

- 4.6.7. In Section 3.6, the OWPS discusses landscape and visual matters and links with NPF4 (discussed in Section 5 of this Statement). Paragraph 3.6.1 notes that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that <u>'this will change the landscape</u>' (no emphasis added). This very clear statement from the Scottish Government recognises that facilitating the route to net zero will result in noticeable changes to the landscape, and this is something as a society we will have to accept. This point is also recognised in Policy 11(e)(ii) of NPF4. Not all renewable energy projects will receive permission however, and the OPWS recognises in paragraph 3.6.1 that the aspiration is to ensure 'the right development happens in the right place'.
- 4.6.8. Importantly, the OWPS states in paragraph 3.6.2 that '<u>stronger weight</u>' (emphasis added) is now to be given to the contribution of a development to the climate emergency in the planning balance, as well as community benefits. If the legally binding climate change targets are to be met, the enhanced need case for more onshore wind to deliver the 2030 20GW ambition needs to be recognised by decision makers. For clarity, the Applicant has a grid connection date of April 2030.
- 4.6.9. Chapter 5 'Benefits to Local Communities and Financial Mechanisms' notes the Scottish Government's commitment to the principles of a just transition to a net zero economy, meaning that communities across Scotland feel the benefits of this transition. The Applicant is proposing a suite of packages aimed at maximising the socio-economic benefits, including the offer of community ownership, the use of community benefits funding to facilitate its LEDS programme and biodiversity improvements which will require the employment of specialist peat restoration contractors.
- 4.6.10. In the concluding chapter, the OWPS describes the deployment of onshore wind as 'mission critical' for meeting climate targets. There is a clear desire to see the deployment of greater volumes of onshore wind over the coming decade to deliver the ambition of a minimum installed capacity of 20GW by 2030. Critically, the OWPS does not just want developers to deliver onshore wind energy in isolation. Proposals need to maximise the economic, social and environmental benefits too, to help the just transition to a net zero society.

CCC – Progress in Reducing Emissions – 2023 Report to Parliament

- 4.6.11. The above 2023 Report to the Scottish Parliament was published in March 2024²⁰. One of the key messages of the report is that Scotland missed the 2021 annual target of a 51.1% reduction in GHG emissions which is the eighth target Scotland has missed within the last 12 years. Secondly, the report noted that the acceleration required in emissions reduction to meet the 2030 target is 'now beyond what is credible'. The report also noted that 'current overall policies and plans in Scotland fall far short of what is needed' to achieve the legal emissions reduction targets.
- 4.6.12. In April 2024, in response to the findings of the CCC report, the Scottish Government abandoned its target of achieving a 75% reduction in emissions by 2030, recognising that the target is '*out of reach*'. The Scottish

²⁰ <u>https://www.theccc.org.uk/publication/progress-in-reducing-emissions-in-scotland-2023-report-to-parliament/</u>

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Government did however note its '*unwavering commitment*' to reaching net zero by 2045, a target that remains embedded in statute.

Serving Scotland – Programme for Government 2024-2025

- 4.6.13. The Programme for Government was published in September 2024²¹ and therefore represents the most recent statement of the Scottish Government's priorities on a range of issues. While the Programme for Government is not an energy policy specific publication, it does set out important statements about how the Scottish Government intends to address various matters relating to the climate emergency, nature crisis and renewable energy, amongst other issues.
- 4.6.14. The First Minister's Foreword notes that the Programme for Government will focus on four key priorities with one being *'tackling the climate crisis emergency'*. Section 3 outlines:

'The twin crises of climate change and biodiversity loss represent the existential threat of our times, underlined by recent confirmation that the global temperature has pushed past the internationally agreed 1.5 degrees Celsius warming threshold for a 12-month period. We must reduce emissions and our vulnerability to the future impacts of climate change and restore our natural environment.'

- 4.6.15. This theme is revisited throughout the document and mirrors the foreword to NPF4 (discussed in Section 5) which puts the twin global climate and nature crisis at the heart of the future vision for Scotland.
- 4.6.16. It is clearly noted that 'our potential for renewable energy generation is one of our greatest environmental and economic opportunities'. It goes on to outline that in order to support a just transition to a green economy the Scottish Government will shortly publish the Energy Strategy and Just Transition Plan. As well as doubling the ambitions for renewable energy generation, this will set out actions to deliver a clean energy pipeline and its economic benefits.

Draft Energy Strategy and Just Transition Plan (2023)

- 4.6.17. The Scottish Government published the Draft Energy Strategy & Just Transition Plan²² (hereafter referred to as the Draft Strategy) for consultation purposes in January 2023. A finalised version is awaited and while the Draft version of the SES is likely to be amended following consideration of responses, the consultation draft provides a strong indication of the direction of travel with Scottish Government energy policy. Accordingly brief commentary is merited here on certain aspects of its content.
- 4.6.18. The Ministerial Foreword describes the 2020s as a 'decisive decade' when we must deliver an energy system that meets the challenge of becoming a net zero nation by 2045. It notes the need to reduce dependency on oil and gas, as a means of combating the climate crisis and reducing our exposure to global market volatility in the energy market. The Draft Strategy seeks to reduce energy costs in the long term and reduce the likelihood of future energy cost crises. It also seeks to achieve the transition to a net zero society

²¹<u>https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2024/09/programme-government-2024-25-serving-scotland/documents/programme-government-2024-25-serving-scotland/programme-government-2024-25-serving-scotland.pdf</u>

²² <u>https://www.gov.scot/publications/draft-energy-strategy-transition-plan/</u>



in a just manner, so that the employment and economic opportunities associated with it are fully realised.

4.6.19. The overall vision is that by 2045:-

'Scotland will have a flourishing, climate friendly energy system that delivers affordable, resilient and clean energy supplies for Scotland's households, communities and business. This will deliver maximum benefit for Scotland, enabling us to achieve our wider climate and environmental ambitions, drive the development of a wellbeing economy and deliver a just transition for our workers, businesses, communities and regions'.

- 4.6.20. A series of actions are listed on page 24 to achieve this vision, including the need to <u>'significantly scale up</u> <u>renewable energy production</u>, including on-and offshore wind power, renewable hydrogen, marine energy, solar and hydro' (emphasis added).
- 4.6.21. Meeting the anticipated increase in demand for domestic electricity forms a key component of the Draft Strategy, but exporting electricity generated in Scotland is recognised as an economic opportunity. In 'Delivering the Vision' on page 22, the Draft Strategy states that by 2030 'Scotland will be a renewable powerhouse, exporting renewable hydrogen and electricity to support decarbonisation in Europe as part of an integrated system with the rest of Europe'. This opportunity is illustrated in Figure 6 on page 19.
- 4.6.22. Section 3.1 notes that 'increasing levels of home-grown renewable supply will make energy more affordable and ensure it is always available when we need it'. The Draft Strategy is not technology specific and there are comments, aspirations and targets for different technology types. It is clear that the Draft Strategy sees onshore wind as playing a key role in meeting the target of an additional 20GW of renewable energy capacity by 2030. In this respect, onshore wind is expected to provide 12GW of this additional capacity and the Draft Strategy notes at paragraph 3.1.2 that 'taller and more efficient turbines can be deployed at both new developments and when considering the repowering of existing sites, providing significantly increased capacity, often without increasing the footprint of an existing site. There are also substantial opportunities associated with repowering onshore wind farms as they come to the end of their lives'.
- 4.6.23. Consistent with the OWPS, the Draft Strategy seeks to ensure that economic benefits and benefits to communities are maximised as part of the drive to deliver significant additional onshore wind capacity. This is reflected in the wording of NPF4 Policy 11(c).
- 4.6.24. The need to address the nature crisis as we deploy greater volumes of onshore wind is discussed on page 66, recognising that peatland impacts of onshore wind can be significant. As such, there remains a need to balance the benefits of onshore wind deployment with impacts on carbon rich habitats.
- 4.6.25. In Section 3.2 'Reducing Our Reliance on Other Energy Sources', the Draft Strategy notes that the Scottish Government wishes to ensure the fastest possible transition from dependence on a fossil fuel energy system to one that maximises the value we obtain from Scotland's rich and varied renewable energy resource. This section references NPF4 and states that the Scottish Government will encourage, promote and facilitate all forms of renewable energy development, both onshore and offshore.

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5. The Development Plan

5.1. Introduction

- 5.1.1. There is no statutory requirement to determine a S36 application in accordance with the Development Plan unless material considerations indicate otherwise, as is the case with planning applications. Section 25 of the Planning Act is not engaged but the Development Plan will plainly be an important material consideration in the determination of the application, and is considered further below.
- 5.1.2. The statutory Development Plan as it relates to this S36 application comprises the following documents:-
 - National Planning Framework 4²³ (NPF4) (2023);
 - Highland-wide Local Development Plan²⁴ (HwLDP) (2012); and
 - Highland Council Supplementary Planning Guidance.
- 5.1.3. With the exception of the HwLDP, there is no Local Development Plan coverage for the Site, with the Proposed Development falling outside the area covered by the Inner Moray Firth LDP (2024).
- 5.1.4. The Scottish Government's Chief Planner issued a letter on 8 February 2023²⁵ relating to 'Transitional Arrangements for National Planning Framework 4' to provide advice on NPF4 becoming part of the statutory Development Plan. The letter reiterates that, as per Section 13(2)(3) of the Planning (Scotland) Act 2019, in the event of any incompatibility (which is not defined) between a NPF4 provision and a LDP provision, whichever of them is later in date shall prevail. In the case of the Proposed Development therefore, in the event of any policy incompatibility, NPF4 policy prevails.
- 5.1.5. In a letter dated 27 June 2024²⁶, albeit focusing on housing delivery, the Chief Planner discussed the implementation of NPF4 and reinforced the position of the Scottish Ministers that *'policies in NPF4 should be <u>read and applied as a whole</u> and that <u>conflicts between policies are normal and to be expected'</u>. (emphasis added).*

5.2. National Planning Framework 4 (NPF4) (2023)

Introduction

- 5.2.1. NPF4 was adopted on 13 February 2023 and now comprises the national element of the statutory Development Plan. NPF4 sets out the long-term vision for development and investment across Scotland and replaces Scottish Planning Policy (SPP) and National Planning Framework 3 (NPF3) in their entirety.
- 5.2.2. NPF4 sets out a list of national planning policies to assess applications, alongside national developments and spatial priorities for different regions within Scotland. NPF4 is an Outcome focused document, with each of the 33 planning policies accompanied by statements on 'Policy Intent' and 'Policy Outcomes'. The aforementioned Chief Planner letter dated 27 June 2024, confirms that *'the sections on 'policy intent' within*

²³ <u>https://www.gov.scot/publications/national-planning-framework-4/</u>

²⁴ <u>https://www.highland.gov.uk/info/178/development_plans/199/highland-wide_local_development_plan</u>

²⁵ <u>https://www.gov.scot/publications/chief-planner-letter-transitional-arrangements-for-national-planning-framework-4/</u>

²⁶ <u>https://www.gov.scot/publications/planning-for-housing-chief-planner-letter-june-2024/</u>

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NPF4 are provided to help decision makers deliver on policy aspirations'.

- 5.2.3. NPF4 marks a significant change from the status of the now replaced NPF3 and SPP, which did not form part of the statutory Development Plan. Not only has the status of the document changed, but the wording of key national planning policies has materially altered too, as discussed below.
- 5.2.4. There are two central themes running through NPF4 namely addressing i) the climate emergency and ii) the nature crisis. These key themes are reflected in the detailed wording of many policies, as well as their stated Intent and Outcomes. As the Ministerial Foreword notes:-

'Putting the twin global climate and nature crises at the heart of our vision for a future Scotland will ensure the decisions we make today will be in the long-term interest of our country'.

- 5.2.5. The Ministerial Foreword also notes that delivering net zero GHG emissions is one of three 'strategic priorities' alongside addressing child poverty and delivering a wellbeing economy.
- 5.2.6. While not all renewable energy applications will be granted permission, and there is still a need for decision makers to apply the 'planning balance', it is clear that the introduction of NPF4 is having a material effect upon the weight that decision makers give to the global climate emergency and nature crisis. In two S36 wind farm cases, and following the introduction of NPF4, Reporters changed their initial recommendations to refuse permission to recommendations to approve. Those two schemes are:-
 - Clashindarroch II Wind Farm (Aberdeenshire); and
 - Shepherds Rig Wind Farm (Dumfries & Galloway).
- 5.2.7. In the case of Clashindarroch II, in the post NPF4 Supplementary Report to Ministers (DPEA Reference WIN-110-2, 3 March 2023), the Reporter concluded in paragraph 2.90 that:-

'I find the weight that should be given to the contribution these proposals make towards renewable energy generation and greenhouse gas emission targets is now greater and necessitates a change to my previous assessment of acceptable landscape and visual effects'.

- 5.2.8. A judicial review of the Clashindarroch II decision of the Scottish Ministers relating to consideration of impacts on wild cat was dismissed by the Court of Session in February 2024. That decision was upheld by the Inner House of the Court of Session in November 2024²⁷.
- 5.2.9. In the case of the Shepherds Rig Wind Farm, in that post NPF4 Supplementary Report to Ministers (DPEA Reference WIN-170-2005, 2 March 2023), the Reporter reached similar conclusions to the Clashindarroch II Reporter in paragraph 3.14:-

'... we recognise the urgent policy imperative in OWPS and NPF4 to deliver additional installed wind farm capacity. These recently published policy statements demonstrate a significant strengthening of policy

powerltd.pdf?fbclid=IwY2xjawGkVS5leHRuA2FlbQIxMAABHZn85wFB_P1ekYm3A28LIJZaZ8jfsCjtS86X6F8rmIc7-Q4YLQRJsizbDg_aem_gAsFzGkRmEt6vIo7ggidIg

²⁷ <u>https://www.scotcourts.gov.uk/media/1klkjsxd/2024csih39-petition-by-wildcat-haven-community-interest-company-against-the-scottish-ministers-and-vattenfall-wind-</u>

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support for renewable energy developments, to which the proposal would make an obvious contribution. In our original report, we found that the significant effects on the area's recreational resources should be given significant weight, to the extent that they outweighed the aims of delivering renewable energy. In the updated policy context, we find that the proposal's obvious contribution to renewable energy targets causes the benefits as a whole to now <u>clearly outweigh</u> the significant landscape and visual effects' (emphasis added).

5.2.10. The shift in the planning balance has been recognised in a number of other wind farm decisions. For example, in the Sanquhar II Wind Farm Supplementary Public Local Inquiry (PLI) Report (February 2023) (DPEA Reference WIN-170-2006), paragraph 4.5:

'Having reviewed the terms of NPF4 and the OWPS, I now consider that a <u>tangible shift in planning policy</u> has been made at the national level. In my view it is likely that this shift may be sufficient to result in some windfarm proposals, which would previously have been refused under the former policy regime, to potentially now be granted consent.' (emphasis added)

- 5.2.11. Not all post NPF4 wind farm applications have been granted permission, and Ministers have refused permission for consent at sites including Clauchrie Wind Farm and Kintradwell Wind Farm. For the reasons discussed more fully in the following paragraphs, it is considered that the planning balance in the case of the Proposed Development clearly falls on the side of granting consent. Not only will the Proposed Development contribute positively to the global climate emergency (and also benefits from National Development status), it will make a positive contribution to the nature crisis, through the implementation of a variety of biodiversity compensation and enhancement measures, further details of which are set out in the OHBEMP, EIA Report TA7.5. The offer of shared ownership in the Proposed Development alongside the prospect of LEDS are further supporting factors and will help contribute towards the community wealth building objectives of NPF4.
- 5.2.12. The positive contribution that the Proposed Development can make to addressing the twin nature and climate crises is set out in the following policy assessment. The commentary starts with Part 1 of NPF4, working through the document in chronological order, and considering the Proposed Development against specific planning policies and wider stated outcomes and spatial priorities.

NPF4 Part 1 – A National Spatial Strategy for Scotland 2045

- 5.2.13. Part 1 of NPF4 sets out the national spatial strategy and regional spatial priorities for different parts of Scotland. Six spatial principles are identified which will influence all plans and decisions as follows:-
 - Just Transition;
 - Conserving and Recycling Assets;
 - Local Living;
 - Compact Urban Growth;
 - Rebalanced Development; and
 - Rural Revitalisation.



- 5.2.14. Application of these spatial principles will support the planning and delivery of:-
 - Sustainable Places where we reduce emissions, restore and better connect biodiversity;
 - Liveable Places where we can all live better, healthier lives; and
 - Productive Places where we have a greener, fairer and more inclusive wellbeing economy.
- 5.2.15. The commentary in NPF4 on 'Sustainable Places' is the section of Part 1 most relevant to this application. Page 6 notes the legislative basis for Scotland's net zero GHG emissions target by 2045. As a headline objective, the commentary on page 7 states that 'Scotland's future places will be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring our environment'.
- 5.2.16. Page 7 states that 'every decision on our future development must contribute to make Scotland a more sustainable place' and there is encouragement for the expansion of renewable energy generation. To respond to the global biodiversity crisis, 'nature recovery must be at the heart of future places'.
- 5.2.17. In the 'Cross-Cutting Outcome and Policy Links' Box on page 8 'Reducing Greenhouse Gas Emissions', NPF4 states that:-

'The global climate emergency and the nature crisis have formed the foundations for the spatial strategy as a whole'.

- 5.2.18. In the 'Cross-Cutting Outcome and Policy Links' Box on page 9 'Improving Biodiversity', NPF4 notes that the nature crisis and the global climate emergency underpin the spatial strategy as a whole.
- 5.2.19. These Policy Link Boxes clarify how NPF4 will help achieve the stated outcomes through reference to relevant policies and summary commentary on each. Those NPF4 policies of most relevance to the Proposed Development are discussed in the section below on NPF4 Part 2.

NPF4 Part 2 - National Planning Policy

- 5.2.20. Part 2 of NPF4 sets out the national planning policies. There are 33 national planning policies in total, set out under the three headings of:-
 - Sustainable Places;
 - Liveable Places; and
 - Productive Places.
- 5.2.21. For each policy, NPF4 provides commentary on Policy Intent, Policy Outcomes and then discusses implications of the policy for Local Development Plans. Following the policy wording, NPF4 then sets out statements on Policy Impact and cross references to other Key Policy Connections.
- 5.2.22. Those policies considered to be of relevance to the Proposed Development are discussed in the following paragraphs, starting with Policy 11 'Energy', being the most relevant in this case. Thereafter, commentary on policies follows in numerical order.

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Policy 11: Energy

5.2.23. This policy is the most relevant to the Proposed Development. The Policy Intent is:

'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 utilisation and storage (CCUS)'.

- 5.2.24. The Policy Outcomes are the 'expansion of renewable, low-carbon and zero emissions technologies'.
- 5.2.25. To achieve these Outcomes, Policy 11 states in part (a) that 'development proposals for all forms of renewable, low-carbon and zero emissions technologies <u>will be supported</u>' (emphasis added). This includes, 'wind farms including repowering, extending, expanding and extending the life of existing wind farms' outwith National Parks and National Scenic Areas (parts (a)(i) and (b)).
- 5.2.26. While the Site is located close to the boundary of the Cairngorms National Park, it is located outside of the Park and no turbines are located inside the Park boundary. The Site is located over 10 km from the boundary of the Cairngorms Mountains NSA. There is therefore no in-principle policy position against the Proposed Development on account of its location. In-principle support can therefore be drawn from Policy 11 part (a). In this respect, NPF4 Part 3 states, 'where a policy states that development will be supported, it is in principle, and it is for the decision maker to take account of all other relevant policies'. It is also recognised that each application must be treated on its own merits, having regard in particular to the assessment criteria in part (e) of Policy 11.
- 5.2.27. These criteria are discussed below in Table 2, but what is important to highlight is that the final part of Policy 11(e) requires decision makers to give '*significant weight*' to the contribution that a proposal makes to '*renewable energy generation targets and on greenhouse gas emissions reduction targets*'.
- 5.2.28. Part (c) of Policy 11 deals with the socio-economic impacts of renewable energy proposals. It states that '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'.
- 5.2.29. The socio-economic benefits associated with the Proposed Development are set out in the standalone Socio-Economic and Community Impact Assessment.
- 5.2.30. The assessment focuses on evaluating whether the Proposed Development maximises net economic benefits under each of the following five Community Wealth Building (CWB) pillars:-
 - plural ownership of the economy;
 - ensuring financial power works for local places;
 - fair workforce opportunities and just labour markets;
 - progressive procurement of goods and services, and spending retained in the local economy; and
 - socially productive use of land and property.



- 5.2.31. The socio-economic structure of the Highlands and future demographic pressures highlight the need for the creation of job opportunities and the Proposed Development will be able to generate significant amounts of GVA and support many job years, as summarised in Section 3.3 of this Statement.
- 5.2.32. The Socio-Economic and Community Impact Assessment considers the potential benefits of other aspects of the Proposed Development and the extent to which these could contribute to the five CWB pillars. For example, the Applicant has partnered with Highland Tourism Community Interest Company (HTCIC), with the purpose of reinvesting profits from renewable projects, such as the Proposed Development, for the economic benefit of the region. Recognising the scale of the opportunity, the Applicant is keen to ensure that the tourism economy in the Highlands is enriching local communities, boosting the local economy and preserving its environmental assets.
- 5.2.33. An example of such a benefit could be to provide funding for additional car parking and camping spots to ease pressure from overcrowding, particularly along the North Coast 500 route. More directly associated with the Proposed Development, the Applicant intends to provide a limited number of car parking spaces at the Site entrance to provide the public with access to walking routes being promoted by local interest groups.
- 5.2.34. The Socio-Economic and Community Impact Assessment considers that the biodiversity enhancements which form an integral part of the Proposed Development could also have positive knock-on consequences for the local economy by helping to create employment opportunities for specialist peat restoration contractors and help sustain employment in private estates. Similar opportunities could arise from the work associated with the Applicant's proposals for supplementary tree planting adjacent to the Site.
- 5.2.35. The Proposed Development provides opportunities for the involvement of suppliers from across the Highlands and Scotland. The Applicant has committed to prioritising local companies in the provision of contracts during the development, construction, and operational phases. The range of activities that suppliers can potentially be involved in include research and development, design, project management, civil engineering, component fabrication and/or manufacture, installation and maintenance.
- 5.2.36. Whilst it is not always possible to obtain every aspect of the supply chain locally, there is significant experience of wind farm construction in the Highlands increasing the chances that economic benefits will be retained locally. Even if some specialist services and good needs to be sourced from outside the local area, the Socio-Economic and Community Impact Assessment considers that the volume of goods and services that could be secured from local firms can make a big difference.
- 5.2.37. While community benefit is not a material planning consideration, there will be local benefits associated with the community benefit proposals to be provided through the Proposed Development. In addition to the direct and indirect economic impacts generated throughout the construction and operational phases of the Proposed Development, the Applicant is also committed to £5,000/MW (wind capacity) of community benefit per annum, equating to approximately £37.4 million over the lifetime of the Proposed Development, depending upon the final choice of wind turbine. Some of this community benefit could be used to facilitate the Applicant's LEDS, which has been implemented elsewhere in Scotland. Further details of LEDS are set out in the Socio-Economic and Community Impact Assessment.
- 5.2.38. Overall, the Socio-Economic and Community Impact Assessment considers that the Applicant has



demonstrated a meaningful contribution to all five pillars of CWB and it is considered that the Applicant has done what it reasonably can at this stage (and as much as or more than other projects consented post NPF4 adoption) in the process to maximise the socio-economic benefits of the Proposed Development consistent with Policy 11 part (c). Further development of proposals outlined in the Socio-Economic and Community Impact Assessment would be explored post consent, and the Applicant is commitment to working closely with relevant stakeholders further should consent be granted.

- 5.2.39. Finally, over and above these socio-economic benefits, it is important to recognise the strategic importance of the Proposed Development (as a defined National Development) to the provision of a more secure supply of energy for the UK, which in itself will have important economic benefits for society by reducing our exposure to fluctuating energy supplies on the global market.
- 5.2.40. Part (d) of Policy 11 confirms that proposals that impact on international or national designations will be assessed in relation to Policy 4. Commentary on Policy 4 is set out below.
- 5.2.41. Part (e) of Policy 11 sets out a list of factors to be considered in the assessment of renewable energy and zero emissions proposals. Part (e) of Policy 11 requires applicants to demonstrate how various factors have been addressed through design and mitigation. The Proposed Development is assessed against these factors in Table 2 below.
- 5.2.42. In discussing the criteria in Policy 11(e), the Reporter in the Glendye Wind Farm report (DPEA Reference WIN-110-3, 2 May 2023) noted in paragraph 9.129 that:-

'We do not agree with the interpretation of some parties that all of the items listed must necessarily be fully mitigated or resolved. We agree with the applicant that this should form part of the decision-maker's process of weighing the planning balance'.

5.2.43. Ultimately, therefore, uncertainty over one element of Policy 11(e) being satisfactorily addressed, or other policies for that matter, does not mean a development is unacceptable. This would need to be considered as one of a range of issues that applies to the planning balance exercise. As confirmed by the Scottish Government's Chief Planner in a letter dated 27 June 2024, NPF4 needs to be read and applied as a whole.

Table 2: Com	mentary on NPI	F4 Policy 11	Part (e)
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Policy Criteria	Commentary
Policy 11(e)(i) Impacts on communities and individual dwellings, including	The effects of the Proposed Development on communities and individual dwellings are considered in EIA Report Chapters 5 'Landscape and Visual Impact Assessment' (LVIA); 11 'Noise and Vibration' and 12 'Aviation and Other Issues' and the associated Technical Appendices.
residential amenity, visual impact, noise	Visual Impact
and shadow flicker.	EIA Report TA5.2 is a Residential Visual Amenity Assessment (RVAA) for all properties within 2 km of the Proposed Development as shown on the accompanying Figure A5.2.1. The RVAA confirms that there are two residential properties within the 2 km study area, known as Banchoruan and Strathoon.
	The RVAA concludes that there would be no change in the view from Banchoruan and a low magnitude of change at Strathoon where there is visibility of the blades



Policy Criteria	Commentary
	and/or tips of four turbines only, as shown on the accompanying wirelines.
	The RVAA concludes that neither property is likely to experience a significant visual effect as a result of the Proposed Development and effects would not breach the Residential Visual Amenity Threshold. This falls well short of the level of effects that has been considered acceptable on other major wind farm projects in Highland e.g. the Strath Oykel project (ECU00003246) ²⁸ (consented January 2025) where there were significant residential visual amenity effects at ten residential properties.
	EIA Report Chapter 5 also considers potential visual effects upon settlements, with three taken forward for detailed assessment; specifically Tomatin, Carrbridge and Nethy Bridge. The assessment concludes as follows:-
	 Major (significant) effects are identified within parts of Tomatin but other parts of the settlement would be screened from the Proposed Development by landform, woodland and buildings and in these areas there would be no change in view. A night-time visualisation for this settlement has been produced from Viewpoint (VP) 7. Where visibility of wind turbine hubs is predicted across southern parts of the village a major and significant effect is predicted with 2000 candela (cd) lights, reducing to a moderate, but still significant, effect if lighting intensity were reduced to 200 cd; Moderate (but not significant) effects are predicted for Carrbridge, represented by VP14. Effects at other locations within the settlement are of a lower magnitude than this location and are also not significant. Again, woodland and forestry screens many view of the Proposed Development. No specific night time visualisation for this settlement was undertaken but drawing upon the effects of the daytime assessment at VP14, and noting the visibility of turbine hubs, effects are predicted for Nethy Bridge, represented by VP20. Effects within other parts of the settlement are of a lower magnitude than this location and are also not significant. No specific night time visualisation for the settlement are of a lower magnitude than this location and are also not significant. No specific night time visualisation for this settlement are of a lower magnitude than this location and are also not significant. No specific night time visualisation for this settlement are of a lower magnitude than this location and are also not significant. No specific night time visualisation for this settlement was undertaken but drawing upon the effects of the daytime assessment at VP20, and noting the visibility of turbine hubs, effects of both 2000cd and 200cd lighting are considered to be not significant.
	Noise and Vibration
	EIA Report Chapter 11 'Noise and Vibration' notes that emissions from construction activities would be temporary in nature, and only very rarely is a cause for concern in terms of the potential for disturbing the inhabitants of neighbouring residences.
	Noise associated with construction and decommissioning was considered with reference to BS 5228 and it was determined that onsite construction noise levels are highly unlikely to exceed typical limiting noise criteria at nearby properties although appropriate mitigation measures will be adopted as a matter of due course. The access route for the Proposed Development is expected to pass reasonably close to some dwellings and with some upgrade works to existing access tracks and local roads potentially occurring in close proximity to some

²⁸ https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00003246&T=6

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Policy Criteria	Commentary
	dwellings. It is considered that typical mitigation measures, including the use of 'best practicable means' would be incorporated into the construction practices for the Proposed Development with a view to reducing noise and vibration levels where possible and practical.
	The assessment in EIA Report Chapter 11 therefore focused on operational noise impacts. That assessment considered noise arising from operation of the wind turbines in line with ETSU-R-97 ²⁹ and associated Institute of Acoustics (IOA) Good Practice Guide (GPG).
	EIA Report Table 11.6 lists all the noise sensitive receptors (habitable properties) considered as part of the operational noise assessment, with locations shown on EIA Report Figure 11.1.
	The operational noise assessment for the wind turbines concludes that predicted noise levels are below noise limits derived in accordance with ETSU-R-97, at all properties and at all considered wind speeds when the Proposed Development is considered on its own. As such, no significant operational noise effects will arise.
	The cumulative operational noise assessment considered the Proposed Development alongside Dunmaglass Wind Farm, Glen Kyllachy Wind Farm and Farr Wind Farm in addition to Aberarder Wind Farm, which is currently under Construction. The assessment finds that cumulative predicted operational noise levels at all residential properties are also below both the daytime and night-time noise limits recommended by Highland Council at all wind speeds considered. No operational noise mitigation is required.
	EIA Report Table 11.16 confirms that there would be no significant construction, operational or decommissioning noise or vibration effects.
	Shadow Flicker
	Shadow Flicker is considered in EIA Report Chapter 12 'Aviation and Other Issues'. Only one residential property at Easter Strathnoon (reference H21) is located within, but at the edge of, the shadow flicker study area, as shown in EIA Report Figure 12.2.
	EIA Report Table 12.3 confirms that this property is not expected to experience any hours of shadow flicker exposure. No mitigation is required and the Proposed Development is expected to have no impact on amenity due to shadow flicker.
Policy 11(e)(ii) Significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of	This part of Policy 11 notes that proposals will generally be acceptable where significant landscape and visual effects are localised and/or appropriate design mitigation has been applied. The policy does not require that all landscape and visual effects need to be localised to be acceptable. Where appropriate design mitigation has been applied and effects extend beyond what may be considered localised, then these too will generally be found to be acceptable. There is no guidance as to what constitutes 'localised' in the context of this policy, and it will

²⁹ The Assessment and Rating of Noise from Wind Farms', The Working Group on Noise from Wind Turbines, ETSU Report for the DTI, ETSU-R-97, September 1996. Available at:

https://assets.publishing.service.gov.uk/media/5a798b42ed915d07d35b655a/ETSU_Full_copy__Searchable_.pdf



Policy Critoria	Commontany
ronowable operav	be for the decision maker to consider this on a case by case basis but further
Whore impacts are	commontany on this is set out in the later discussion following this Table 2
localized and/or	
appropriate design mitigation has been applied, they will generally be considered to be acceptable	Secondly, this part of Policy 11 makes it clear that where significant landscape and visual effects are localised and/or design mitigation has been applied, the expectation is that these effects will generally be considered acceptable. The corollary is that it would be unusual for such effects to be considered unacceptable.
	The nature of landscape and visual effects means that landscape and visual mitigation is embedded into the design of the Proposed Development. The design evolution is set out in EIA Report Chapter 2 'Site Description and Design Evolution' with further information provided in the Design and Access Masterplan. As all mitigation for landscape and visual effects is embedded within the final design for the Proposed Development, all effects identified in the LVIA are residual effects. The key stages in the design evolution process for the Proposed Development are set out in EIA Report Table 2.1, with accompanying images and commentary explaining key mitigation measures applied at each stage.
	Dealing with landscape designations and landscape character first, it is important to note that the Site itself is not subject to any national or local landscape designations intended to protect landscape quality or scenery, but it is located relatively close to some designated areas, as shown by EIA Report Figure 5.4. This includes the CNP to the immediate east.
	A preliminary assessment of potential impacts upon landscape designations was undertaken to decide which should be taken forward for detailed assessment. Details of this process are presented in EIA Report Chapter 5, which concluded that the following designations should be taken forward for detailed assessment in the EIA:-
	 Cairngorm National Park; and Drynachan, Lochindorb and Dava Moors SLA.
	As discussed more fully in the later commentary on NPF4 Policy 4, while there will be visibility of the Proposed Development from within these two designations and there will be some significant effects upon a small number of the Special Landscape Qualities (SLQs) of the CNP these are considered to be localised, and the objectives of the designation and the overall integrity of the CNP will not be compromised. Similarly, the Proposed Development would not have significant adverse effects on the integrity of the SLA or the qualities for which it has been designated.
	In terms of landscape character, EIA Report Chapter 5 notes that the following LCTs have the potential to undergo significant effects and were subject to detailed assessment in the LVIA:-
	 LCT 221 Rolling Uplands – Inverness; LCT 125 Rolling Uplands – Cairngorms; LCT 128 Forested Upland (Abernethy Forest and Slochd units); LCT 127 Upland Strath; LCT 126 Upland Glen – Cairngorms (Glenmore unit); and LCT 122 Mountain Massif – Cairngorms



Policy Criteria	Commentary
	The LVIA has identified that there is potential for significant effects to arise upon LCTs 221, 125, 128 and 127. Significant effects upon the landscape character of LCTs 126 and 122 were not identified.
	Where significant effects were identified across the four LCTs, the LVIA considers that these effects are localised, and largely contained to parts of the LCTs where the influence of wind farms is already a contributing factor to the landscape baseline.
	The LVIA considered visual effects from 25 VPs as set out in EIA Report Table 5.7. Similar to the approach with landscape designations and character, each VP was subject to an initial appraisal to determine whether it should be taken forward for detailed assessment, as summarised in EIA Report Table 5.7. That assessment concluded that receptors at 22 of the 25 VPs have potential to be significantly affected by the Proposed Development and were taken forward for further detailed assessment. VPs 13, 21 and 25 were discounted from detailed assessment due to either a lack of theoretical visibility or no potential for significant effects.
	Each VP was then subject to a detailed appraisal, with the results set out in Section 5.9 of EIA Report Chapter 5. Significant visual effects were found for 14 of the 22 VPs taken forward including significant night-time effects at four, as summarised below with the distance between the VP and the nearest turbine noted:-
	 VP1 – 2.6km, significant night time effects also; VP2 – 2.9km; VP3 – 3.3km; VP4 – 2.6km; VP6 – 4.8km; VP7 – 5.7km, significant night time effects also; VP8 – 5.5km; VP9 – 6.6km; VP10 – 7.8km; VP11 – 8.2km; VP12 – 8.3km, significant night time effects also; VP15 – 16.2km; VP17 – 19.5km, significant night time effects also; and VP18 – 17.4km.
	The assessment found that hill walkers from some areas would experience significant visual effects, as represented by certain VPs, e.g. VP8. While significant effects were identified for VP17 and VP18, these were borderline significant at a moderate level. Visual effects at the remaining VPs are assessed as not significant.
	The LVIA concludes that there will be significant effects upon users of the following routes:-
	 A9 – Overall, there would be extremely limited visibility of the Proposed Development from this route, primarily as a result of screening from woodland/forestry. Some significant effects upon localised sections of the route are predicted where the road passes over the River Dulnain bridge and the River Findhorn Crossing; and



Policy Criteria	Commentary
	 A938 – The LVIA considers that there would be extremely limited visibility of the Proposed Development from this route, primarily as a result of screening from woodland/forestry. There is one section where visibility may be experienced due to an absence of intervening forestry and this is located around Balnaan, situated approximately 2 km west of Dulnain Bridge. Along this 1 km section of road, intermittent oblique views towards the Proposed Development would be available intermittently, which are considered significant.
	Impacts upon WLAs are discussed under the commentary on Policy 4 and comments regarding impacts on recreational routes is discussed in (iii) below.
Policy 11(e)(iii) Public access, including impact on long distance walking and cycling routes and scenic	A preliminary assessment of the visibility of the Proposed Development from cycling and walking routes within the LVIA Study Area is set out in Section 5.5 and Table 5.5 of EIA Report Chapter 5. These and other visual receptors are shown on EIA Report Figures 5.11 a and b, with theoretical visibility of the Proposed Development.
routes.	Visibility of the Proposed Development from a route is generally not uniform along its entire length. This is because views of the surrounding landscape change as one moves along the route depending on the surrounding topography, buildings, structures, tree cover and vegetation along the route, as confirmed by the aforementioned two Figures.
	The LVIA concludes that there will be significant effects upon users of the following routes:-
	 National Cycle Route 7 – There are four sections of NCR7 between Carrbridge and Moy where theoretical visibility of the Proposed Development is predicted. The LVIA concludes that impacts will be at worst major and significant between Findhorn Bridge and Tomatin village, due to a combination of the factors that lead to the high magnitude of change on the views and the high sensitivity of the cyclists. A borderline significant visual effect would also be experienced from the section of the NCR7 between Slochd Mhor Lodge and the minor road's junction with the A9. From all other sections of NCR7 effects would be not significant. LBS114 (Sustrans Route 7) Core Path - The majority of this Core Path is situated in forestry, or is subject to enclosure from nearby forestry, which provides screening of the Proposed Development. There is one short stretch approximately 1.7km long, where unobstructed views of the Proposed Development would be experienced, represented by VP3. A significant effect is predicted for walkers and cyclists along this section of the route.
	The LVIA considers that these effects are localised, within the context of the overall routes. No other walking or cycling route would experience significant visual effects.
	One hill walk (Carn Dhubh 'Ic an Deòir) and one off-road cycle route (Clune Road to Insharn & Sluggan) would be affected by construction works, during which stretches may not be available for certain times for health and safety reasons, for example during upgrade works to the Carn Dhubh 'Ic an Deòir. Impacts upon these routes would be temporary in nature and measures would be introduced to manage the interface between walkers, cyclists, and construction vehicles. These measures would be agreed in advance through a Construction Traffic Management Plan (CTMP).

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Policy Critoria	Commentary
Policy 11(e)(iv) Impacts on aviation and defence interests including seismological recording.	EIA Report Chapter 12 'Aviation and Other Issues' considers impacts of the Proposed Development upon these interests. As that assessment confirms, engagement with aviation stakeholders has been undertaken through the design evolution phase including with the CAA who has agreed to a reduced visible aviation lighting agreement whereby 10 of the turbines require to be lit with visible lighting (2000 candela, reducing to 200 candela in good visibility), see TA 12.1.
	The following points are noted:-
	 The Proposed Development is 30 km from Inverness Airport and has the potential to impact upon its Instrument Flight Procedures (IFP); There are no NERL radars within 100 km of the Proposed Development. Analysis indicates no radar line of sight exists from the nearest National Air Traffic (En Route) Services Limited (NERL) radars at Allanshill; The Proposed Development is located within an area designated as a low priority military low flying area; and The Proposed Development is 63 km from RAF Lossiemouth and has the potential to impact upon its primary radar. Initial in-house analysis indicates no or minimal radar line of sight.
	The Applicant is in consultation with aviation stakeholders and subject to the receipt of their consultation responses to the application, further dialogue may be required to understand and agree the exact nature of mitigation required. The requirement for technical mitigation solutions can be controlled through planning conditions prior to the commencement of development.
Policy 11(e)(v) Impacts on	EIA Report Chapter 12 'Aviation and Other Issues' considers impacts of the Proposed Development upon these interests.
and broadcasting installations, particularly ensuring that transmission links are not compromised.	A summary of consultation with telecommunication link operators is set out in EIA Report Table 12.2, which confirms that no consultee has any concerns with the Proposed Development. Transmission links will not be compromised by the Proposed Development.
Policy 11(e)(vi)	EIA Report Chapter 10 'Traffic and Access' finds that maximum traffic movements associated with construction of the Proposed Development are predicted to occur
traffic and on adjacent trunk roads, including	in months 14 and 15 of the 23 month construction period. The daily traffic flows during these months at four survey locations are shown in EIA Report Table 10.9.
during construction.	These construction traffic movements were compared against the future baseline traffic (2028) to estimate the increase in traffic associated with this phase of the Proposed Development, set out in EIA Report Table 10.10.
	The total traffic movements are predicted to increase by more than 94% on the U2856, which is where the proposed Site access junction is located, and will be used by all construction traffic. On the rest of the study area, the highest total traffic increase is 1.34%, which occurs on the A9 to the north of its junction with the U2856 (see EIA Report Table 10.10).
	Table 10.10 also shows that the greatest increase in HGV traffic movements will occur on the U2856, where movements are estimated to increase by 130.94%. Whilst this increase could be considered high, it is generally caused by the relatively low HGV flows on the road at this location. To put the increase into



Policy Criteria	Commentary
	perspective, the U2856 will see an additional 70 HGV movements per day or six HGV movements per hour over the course of a typical 12-hour shift. This is not considered significant in terms of overall traffic flows.
	The results indicate there are no road capacity issues with the addition of construction traffic from the Proposed Development and that ample spare capacity exists within the local road network to accommodate all construction phase traffic.
	It is also relevant to note that the construction period is also temporary in nature and once complete all effects associated with traffic and transport will cease. Once operational, the level of traffic associated with the Proposed Development will be restricted to two to three vehicles per day for maintenance purposes.
	The assessment in EIA Report Chapter 10 also considers impacts of construction traffic upon road users, nearby residents, cyclists and core path users. This assessment considers potential effects arising from severance, driver delay, pedestrian delay, fear and intimidation etc. These effects are summarised in EIA Report Table 10.12 which suggests that the following receptors are likely to experience significant effects prior to mitigation:-
	 U2856 users; Core Path/Path Users; and National Cycle Network Users.
	Mitigation in the form of a CTMP is proposed and the assessment in EIA Report Chapter 10 concludes that following mitigation all identified potentially significant effects will reduce to non-significant levels, see EIA Report Table 10.13.
	No other onshore wind farm developments or other potentially significant traffic generating developments were identified that should be considered as part of any cumulative assessment of construction effects.
Policy 11(e)(vii) Impacts on historic environment.	The assessment of effects upon cultural heritage is contained within EIA Report Chapter 6 'Cultural Heritage', which considers potential direct and indirect physical impacts related to the construction and operational stages of the Proposed Development.
	TA6.2 sets out a screening exercise, which considers potential setting impacts upon nationally significant heritage assets (Scheduled Monuments and Grade A Listed Buildings), the purpose of which was to determine which assets should be scoped in or out of further assessment.
	Those designated heritage assets that were taken forward for detailed assessment for setting impacts are listed in EIA Report Table 6.7 and comprise six Scheduled Monuments. These six assets were subject to detailed assessment in EIA Report Chapter 6 which considered issues such as the asset's setting, the contribution of setting to significance, the relationship to the Proposed Development to the asset and an overall assessment of the effects of the Proposed Development upon the setting of the assets, noting whether identified effects are 'significant' in EIA terms and whether effects would affect the integrity of the setting of each monument.
	For five of the six Scheduled Monuments, the assessment concludes that effects would not be significant in EIA terms. A moderate and significant effect has been



Policy Criteria	Commentary				
	identified upon the setting of Woodend Cairn (SM11739). This effect is not, however, considered to have an adverse impact upon the integrity of the setting of this Scheduled Monument, and this is discussed further under the later commentary on NPF4 Policy 7 which deals specifically with setting issues under part (h).				
	Overall, the assessment in EIA Report Chapter 6 concludes that mitigation through design has ensured that any designated heritage assets within the Site boundary would not be directly impacted as a result of the Proposed Development. Where non-designated heritage assets would be or would have the potential to be impacted by the Proposed Development, further mitigation has been suggested. Direct residual effects are not considered significant.				
	The scope and nature of additional mitigation will be outlined in a written scheme of investigation (WSI) and agreed with the Council in advance of construction and can be controlled through planning condition.				
	Following implementation of the proposed programme of archaeological mitigation of construction phase impacts there will be no residual physical effects on cultural heritage.				
Policy 11(e)(viii) Effects on	These matters are addressed in EIA Report Chapter 9 'Geology, Hydrology, and Hydrogeology' and associated Technical Appendices.				
hydrology, the water environment and flood risk.	That chapter notes that the Site is not located in an area identified as being at risk from flooding. A detailed flood risk and drainage impact assessment was therefore scoped out of the assessment, but a simple screening of potential flooding sources is presented in the chapter (Table 9.8). Recognising that the Proposed Development has potential to alter surface water flow paths and increase flood risk to receptors downstream, the chapter identifies potential measures that would be adopted during construction to control the rate and quality of runoff. This can be secured through a CEMP, which can be secured through condition. An Outline CEMP is submitted as TA3.1.				
	The assessment in Chapter 9 concludes that with regards to flood risk, the Proposed Development is not at risk from any source. With mitigation in place, construction works will not give rise to a significant increase in flood risk as summarised in EIA Report Table 9.10.				
	Potential impacts upon private water supplies (PWS) were also considered in EIA Report Chapter 9, with further detail set out in TA9.4 'Private Water Supply Risk Assessment'. TA9.4 considered potential effects of the Proposed Development upon PWS sources within a study area extending to 500m from the Site. This study area and the PWS sources located within it is shown on Figure 9.4.1 within TA9.4. In total, there are eight PWS within the study area, further details of which are set out in Table 3.1 of TA9.4. That table confirms that:-				
	 two PWS sources (references PWS03 and PWS06) are potentially at risk from the Proposed Development, although one (PWS06) has not been confirmed as actually being serviced by a PWS; four PWS sources are not at risk from the Proposed Development; and two properties are confirmed to be on mains water supplies. 				
	TA9.4 recommends that the PWS source location is confirmed prior to construction works commencing. If the PWS source is confirmed to be at risk				



Policy Criteria	Commentary
	from the Proposed Development further controls would be required to ensure the source quality and quantity is not impaired. Baseline and confirmatory water quality monitoring should be undertaken to confirm the efficacy of such controls. These mitigation measures can be secured through an appropriately worded planning condition and with such measures in place EIA Report Chapter 9 concludes that residual effects upon PWS is not significant.
	Potential impacts upon Groundwater Dependent Terrestrial Ecosystems (GWDTE) were also considered in EIA Report Chapter 9. Potential impacts upon GWDTEs could arise from changes in or contamination of water supplies feeding the GWDTEs. Potential GWDTEs are described in EIA Report Table 9.6 and shown on EIA Report Figure 9.8. Following mitigation, the assessment concludes that potential impacts upon GWDTEs will not be significant.
	Potential impacts upon water dependent designated sites were also considered in EIA Report Chapter 9. The eastern extent of the Proposed Development is located within the River Dunlain surface water catchment which is hydraulically connected to the Kinveachy Forest SSSI, SAC and SPA and River Spey SAC. With the best practice construction techniques to protect the quality and quantity of surface water and groundwater receptors the assessment concludes that residual effects will be negligible and not significant.
	Subject to the development of detailed mitigation measures, for example though a detailed CEMP and adherence to the measures contained therein by the contractor, the assessment in EIA Report Chapter 9 concludes that no significant effects will arise upon the water environment, and there will be no increase in flood risk from the Proposed Development. Residual effects are summarised in EIA Report Table 9.10.
Policy 11(e)(ix) Biodiversity including impacts	Effects upon biodiversity and birds are considered in EIA Report Chapters 7 'Ecology' and 8 'Ornithology'.
on birds.	Ecology & Biodiversity
	In terms of ecology and biodiversity, EIA Report Chapter 7 considers potential impacts across the construction and operational phases upon important ecological features (IEF) (habitats, protected species and designated sites).
	There are nine sites designated for non-avian nature conservation interests within 10 km of the Site, listed in EIA Report Table 7.2 and shown on EIA Report Figure 7.1. As previously noted, the boundary of the Site does slightly overlap the Kinveachy Forest SSSI in the south-east. No turbines will be located in this area and there will be no oversail of any habitats within the designated site.
	There are no non-statutory designated sites of conservation interest within the Site or within 10 km of the Site. Habitats, designated sites and protected species that were taken forward for detailed assessment are listed in Section 7.6 of the EIA Report Chapter 7, with a summary of residual effects upon each (through the construction, operational and decommissioning phases of the Proposed Development) set out in EIA Report Table 7.10. As that Table confirms no significant residual effect upon any IEF is predicted across any phase of the Proposed Development, with the exception of a moderate scale effect during the construction phase upon the M19 habitat. The assessment calculates that a total of 116.49 ha of this habitat will be directly or indirectly impacted by construction works, giving rise to significant negative effects at a local level. The assessment



Daliau Onitania	O - management -
Policy Criteria	notes that the majority of the blanket bog on Site is unlikely to be considered of possible national interest. As such, it is considered that impacts of the construction activities can be successfully mitigated through adherence to the strategies outlined in the PMP (TA 9.2) and OHMBEP (TA 7.5), specifically with regards to peatland restoration, and given the degraded nature of some areas of blanket bog on Site. Confidence in this prediction is near certain.
	The aims of the OHMBEP for the Proposed Development have previously been set out in Section 3 of this Statement and reference is again made to Figure 7.5.4 of TA7.5 which shows the location and extent of proposed habitat enhancement measures including peatland restoration and areas of natural regeneration, supplemented in locations with tree planting.
	The extent to which these measures give rise to biodiversity enhancement is discussed further in response to NPF4 Policy 3.
	Ornithology
	EIA Report Chapter 8 provides an assessment of the potential effects upon important ornithological features (IOFs) in relation to the construction and operation of the Proposed Development, considering direct habitat loss, disturbance/displacement and collision mortality.
	The chapter confirms the presence of statutory designated nature conservation sites of ornithological importance within 10 km of the Proposed Development, as follows:-
	 Kinveachy Forest SPA/SSSI – located approximately 0.65 km to the south east of the Site; and Loch Vaa SPA.SSSI – located approximately 8.9 km to the south east of the Site.
	The locations of these designations are shown on EIA Report Figure 8.1, while further details about the qualifying interests are set out in Table 8.5 of EIA Report Chapter 8.
	EIA Report Table 8.18 provides a summary justification for why IOFs were or were not taken forward for detailed assessment. IOFs taken forward were:-
	 Kinveachy Forest SSSI; Curlew; Golden Eagle; Golden Plover; Greylag Goose; Merlin; Pink-footed Goose; Red Kite; Short-eared owl; and White-tailed eagle.
	EIA Report Table 8.31 provides a summary of the effects of the Proposed Development on these IOFs during the construction, operational and decommissioning phases and considering habitat loss, disturbance and collision risk. This concludes that with mitigation in place all effects upon all IOFs will not be significant

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Policy Criteria	Commentary
	The chapter concludes that the Proposed Development can proceed without having an adverse effect on the ornithological receptors on and around the Proposed Development.
	TA7.5 discusses potential benefits arising to ornithology from proposals set out in the OHMBEP. Section 4.11 of that document notes that the proposed peatland restoration measures will benefit breeding moorland birds such as red grouse, waders (lapwing, golden plover, curlew, snipe), skylark and meadow pipit through improvements in habitat quality. Reducing the numbers of legally controllable predators such as foxes, stoats, weasels and crows will also benefit these and other wader species in terms of increased breeding productivity both onsite and in the breeding grounds immediately to the north of the Proposed Development, along the River Findhorn.
	TA7.5 also notes that the planting of native Scots pine woodland has the potential to benefit regionally important bird species such as capercaillie, crested tit and Scottish crossbill. It is noted that capercaillie populations are in dramatic decline and at risk from extinction. NatureScot and the Cairngorms National Park Authority have established a Capercaillie Emergency Plan ³⁰ to avert their extinction and to establish a sustainable population. The planting of native Scots pine could link in with nearby tracts of native Caledonian forest, potentially providing connectivity with other populations of these species. TA7.5 considers that implementation of the final HMBEP will make a sizable contribution to the Capercaillie Emergency Plan's targets.
	Shadow Habitats Regulations Appraisal and Appropriate Assessment
	EIA Report Chapter 7 confirms that a shadow Habitats Regulation Appraisal (HRA) has been undertaken and is submitted as TA8.3. This shadow HRA considers the potential for Likely Significant Effects (LSEs) upon the following designations:-
	 Slochd SAC; Kinveachy Forest SAC; Kinveachy Forest SPA; River Spey SAC; and Carn nan Tri-tighearnan SAC.
	The potential for LSEs upon the qualifying features of each designation is considered in TA8.3. The assessment concludes that there are LSEs for some of the qualifying features of the Kinveachy Forest SAC and River Spey SAC, as summarised in Table 6 of the TA. No LSEs upon the qualifying features of the other designations were identified.
	Information to inform an Appropriate Assessment (to be undertaken by the Competent Authority) is presented in TA8.3 for both the Kinveachy Forest SAC and River Spey SAC. The purpose of this is to determine if there is a potential adverse impact on the SACs and, if so, whether such effects can be mitigated. Following consideration of mitigation measures and considering the conservation objectives for each of the qualifying features identified for Appropriate

³⁰ <u>https://cairngorms.co.uk/capercaillie-emergency-plan/</u>

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Policy Criteria	Commentary		
	Assessment, TA8.3 concludes that the Proposed Development can proceed without having an adverse impact on the integrity of both the Kinveachy Forest SAC and River Spey SAC. Tables 7 and 8 of TA8.3 provide commentary about the Proposed Development against each conservation objective.		
Policy 11(e)(x) Impacts on trees, woods and forests.	No large areas of forestry require to be felled to make way for the Proposed Development and no individual trees required to be felled either.		
	One of the aims of the OHMBEP is ' <i>To restore upland native woodland that was once widespread across the Highlands</i> '. TA7.5 notes that Native Caledonian pine woodlands have been greatly reduced across the Scottish Highlands, compared with their historic extent. Expansion through facilitating natural regeneration and supplementary planting will contribute to the long-term work of restoring and reconnecting fragments of native woodland across north Scotland. Trees will be planted strategically outwith the Site to promote natural regeneration of native woodland.		
Policy 11(e)(xi) Proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration.	These matters can be covered by planning conditions as deemed necessary and will be discussed post submission with the Council.		
Policy 11(e)(xii) The quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans.	This matter can be covered by planning conditions consistent with other projects across the country.		
Policy 11(e)(xiii) Cumulative impacts.	Each chapter of the EIA Report considers the potential for and significance of cumulative impacts associated with the Proposed Development. While each assessment adopted its own study area for the cumulative assessments, EIA Report Figure 5.12 shows the location and planning status of all wind farms within 35 km of the Proposed Development, listed also in EIA Report Table 5.8.		
	No potentially significant cumulative effects have been identified upon any topic area considered in the EIA Report other than in EIA Report Chapter 5: Landscape and Visual Assessment.		
	Recognising the different planning status of other wind farms in the vicinity of the Site, the assessment of cumulative effects in EIA Report Chapter 5 considers four scenarios:-		
	 Operational and under-construction scenario; Consented scenario; Application stage scenario; and Scoping stage scenario. 		

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Policy Criteria	Commentary
	For each landscape and visual receptor, the assessment considers the potential for and significance of cumulative effects. For most receptors no significant cumulative effects are identified, but some significant cumulative landscape and visual effects are identified including those upon landscape character, some of the VPs and some of the routes considered in the assessment. Significant cumulative effects are found at the following:-
	 Parts of the landscape character of the Rolling Uplands – Inverness LCT221 in all cumulative scenarios, the Rolling Uplands – Cairngorms LCT125 in the scoping cumulative scenario, and the Forested Upland Fringe LCT128 in the scoping cumulative scenario; Views experienced by road users from short sections of the U1116 (VP6) road in all cumulative scenarios.

- 5.2.44. As this commentary demonstrates, the Proposed Development will give rise to some significant environmental effects, including cumulative, that cannot be mitigated further. These relate mainly to landscape and visual matters.
- 5.2.45. As the LVIA in Chapter 5 of the EIA Report concludes, most significant landscape and visual effects are primarily localised. While there will be visibility of the Proposed Development from within the CNP and the Drynachan, Lochindorb and Dava Moors SLA and there will be some significant effects upon a small number of the SLQs of the CNP these are considered to be localised, and the objectives of the designation and the overall integrity of the CNP will not be compromised. Similarly, the Proposed Development would not have significant adverse effects on the integrity of the SLA or the qualities for which it has been designated.
- 5.2.46. NPF4 Policy 11 now explicitly recognises in national planning policy that significant landscape and visual impacts 'are to be expected for some forms of renewable energy'. Policy 11 also notes that proposals will generally be acceptable where significant landscape and visual impacts are localised and/or appropriate design mitigation has been applied.
- 5.2.47. The LVIA for the Proposed Development concludes that the significant landscape and visual effects of the Proposed Development are largely localised. In addition, design mitigation has been applied to mitigate the effects of the Proposed Development as summarised in EIA Report Chapter 2. This has had a positive effect in limiting the physical spread and significance of landscape and visual effects. As the assessment in EIA Report Chapter 5 concludes:-

'the effects of the Proposed Development on the landscape and visual resource of the great majority of the Study Area are likely to be not significant, which means that for the great majority of the Study Area, and the receptors that lie within it, the effect of the Proposed Development is not defining and the existing, baseline characteristics of the landscape and views will continue to prevail'.

5.2.48. There is no guidance on what defines 'localised' within the context of Policy 11(e)(ii), and this issue has been considered on a case by case basis in post NPF4 decisions. Significant visual effects have been identified as occurring out to a range of approximately 10 km from the nearest turbines but it is recognised that some borderline significant effects are identified further afield at elevated locations, such as VPs 17 and 18. Significant landscape character effects upon the assessed LCTs are also considered to be

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localised as summarised in EIA Report Table 5.14, generally extending out to a range of approximately 10 km, with more distant significant effects likely to be confined to some small areas of the surrounding landscape to the north-east of Tomatin and between Carrbridge and Dulnain Bridge.

- 5.2.49. There will be significant effects upon three of the 42 SLQs of CNP, as discussed more fully under NPF4 Policy 4, but these effects are also considered to be localised.
- 5.2.50. In considering these findings, it is noted that in the Scottish Ministers decision letter on Bunloinn Wind Farm (ECU00003304³¹) the landscape and visual effects for that scheme were considered to be localised with most occurring within 12 km of that scheme and none beyond 14.7 km. Scottish Ministers noted that no national or regional landscape designations would be significantly affected by that development and overall the landscape and visual effects were deemed to be acceptable.
- 5.2.51. While each scheme must be considered on its own merits taking account of site specific factors, it is relevant to note that the geographical extent of significant landscape and visual effects in the Bunloinn scheme is broadly similar to the Proposed Development, which also does not give rise to significant effects upon the integrity of any national landscape designation. The Scottish Ministers conclusions in relation to Bunloinn add weight to the conclusions of the LVIA about the localised nature of landscape and visual effects for the Proposed Development. It can also be noted that at Chleansaid Wind Farm (ECU00002031)³² significant landscape and visual effects were described by Scottish Ministers as '*relatively localised with the majority of significant effects occurring not more than 12 km from the proposed development*'.
- 5.2.52. Positive effects will arise as a result of the Applicant's proposed environmental enhancement activities, as discussed further below in relation to NPF4 Policy 3.
- 5.2.53. To add to this commentary, it is relevant to note that at the end of the part (e) assessment criteria after part (xiii), NPF4 Policy 11 states that:-

'In considering these impacts, <u>significant weight</u> will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets' (emphasis added).

- 5.2.54. Whereas previously it was down to the discretion of individual decision makers about what weight they should give to a particular matter, Policy 11 now explicitly states that as a matter of national planning policy, they must give <u>significant</u> weight to the renewable energy benefits of a scheme in the planning balance (this is also set out in Policy 1 which also addresses the nature crisis and is discussed below).
- 5.2.55. The strength of this policy has been demonstrated in the aforementioned Shepherds Rig and Clashindarroch II Wind Farm cases, where previous recommendations to refuse permission were amended to recommendations for approval, following the adoption of NPF4 and those Reporters giving 'significant weight' to the project benefits in the planning balance. The Reporter in the more recent Sanquhar II Wind Farm report described the introduction of NPF4 and the OWPS as a '*tangible shift in planning policy*' in paragraph 4.5.

³¹ <u>https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00003304</u>

³² https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00002031

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- 5.2.56. More recently at Strath Oykel Wind Farm, Scottish Ministers granted section 36 consent against a recommendation for refusal from the Reporters, concluding at paragraphs 100 and 101 of the decision notice: "The Scottish Ministers acknowledge that the proposed Development would result in some significant localised landscape impacts and significant visual impacts to within 10 kilometres of the proposed Development...The proposed Development would also however bring benefits, particularly in terms of its contribution to renewable energy and climate change targets as well as socio-economic benefits such as employment and associated business and supply chain opportunities...On balance, the Scottish Ministers find that the proposed Development is supported overall by NPF4 policies".
- 5.2.57. In considering Policy 11 overall, it is important to remember that the stated policy Outcome is:-

'Expansion of renewable, low-carbon and zero emissions technologies'.

5.2.58. Following the policy appraisal in Table 2 above, it is considered that the Proposed Development accords with the criteria of Policy 11 individually and when the policy is considered in the round.

Policy 1: Tackling the Climate and Nature Crises

5.2.59. Policy 1 states in full that:-

'When considering all development proposals significant weight will be given to the global climate and nature crises'.

- 5.2.60. The Policy Intent is to 'encourage, promote and facilitate development that addresses the global climate emergency and nature crises'. The Policy Outcomes are 'zero carbon, nature positive places'.
- 5.2.61. This policy applies to all forms of development and not just renewable energy proposals. The requirement to give *'significant weight'* to the global climate and nature crises in this overarching policy aligns with but goes further than Policy 11, which does not specifically mention the nature crisis.
- 5.2.62. The language of this overarching policy is very clear and shows the seriousness with which Ministers are treating these two fundamental issues. Combined with the Policy Intent and Policy Outcomes, there can be no doubt about what this policy is designed to achieve and what it requires of decision makers. It is clear that there is no longer any discretion about what weight should be given to these matters in the planning balance, and this marks a notable and significant shift (see earlier comments about the Sanquhar II Wind Farm report) in national planning policy which has been put into practice by Reporters and Ministers on recent wind farm applications.
- 5.2.63. For example, in their assessment of Policy 1 in the case of Glendye Wind Farm, the Reporters noted in paragraph 9.100 that:-

'there is a strong needs case for the ongoing delivery of renewable energy and we recognise that this is all the more essential given the Scottish Government's declaration of a Climate Emergency in 2019, and legally binding targets introduced in 2020 for net zero greenhouse gas emissions by 2045'.

5.2.64. In discussing NPF4 Policy 1 the Reporters continued in paragraph 9.109 stating that:-

'The national development status of the proposed development, which clearly identifies that the proposal is capable of providing strategic-scale renewable energy generation, leads us to conclude that its contribution



to the achievement of net zero must be given significant weight under the terms of the policy'.

5.2.65. The Proposed Development will generate approximately 187.2 MW of renewable electricity from the wind turbines supported by a BESS facility. It is a national scale development. Combined, these three elements will help meet the Scottish Government's net zero ambitions by 2045. The inclusion of a BESS will also help facilitate the creation of a more flexible energy system, helping the development of more 'home grown' energy and ultimately moving towards a more secure energy supply in the future. The importance of BESS to achieving net zero was set out by Scottish Ministers in their recent decision on the Alyth BESS development. In their decision letter dated 26 November 2024 (Ref: ECU00004631)³³, Scottish Ministers stated in paragraph 52 that:-

'battery energy storage makes an indirect but significant contribution to renewable energy generation targets and greenhouse gas emissions reduction targets, by increasing the productivity of renewable generators elsewhere on the grid. <u>This is a significant factor weighing in favour of the proposed</u> <u>Development</u>.' (emphasis added)

- 5.2.66. The Proposed Development is calculated to result in a saving of 144,607 tonnes of CO₂ per annum when compared to a grid mix and 296,200 tonnes of CO₂ when compared with a fossil fuel mix (expected scenario). Over the course of the 40-year operational life, and taking into account GHG emissions from wind farm manufacture, construction, decommissioning and improvement of the Site this equates to total emissions savings of 5,784,280 tonnes of CO₂ when replacing a grid mix, and 11,848,000 tonnes of CO₂ when replacing fossil fuel-mix electricity generation (expected scenario).
- 5.2.67. Biodiversity enhancements are an integral part of the Proposed Development, not an afterthought. The principles of the Applicant's biodiversity enhancements are set out in the OHMBEP (TA7.5) and are discussed below under the commentary on Policy 3. The dual benefits of the Proposed Development will ultimately make a positive contribution to the Policy Outcomes of Policy 1 which is to deliver 'Zero carbon, nature positive places'. These factors allow the Applicant to draw strong support from Policy 1 for the Proposed Development.

Policy 3: Biodiversity

- 5.2.68. The Intent of Policy 3 is 'to protect biodiversity, reverse biodiversity loss, deliver positive benefits from development and strengthen nature networks'. The Policy Outcomes are that 'biodiversity is enhanced and better connected including through strengthened nature networks and nature-based solutions'.
- 5.2.69. Policy 3 sets out a range of criteria that vary depending upon the scale and type of development proposed. Part (a) applies to all scales of development and states that proposals will contribute to the enhancement of biodiversity including, inter alia, restoring degraded habitats and building and strengthening nature networks and the connections between them. Part (b) relates to *'national or major development or for development that requires an Environmental Impact Assessment'*. This part of Policy 3 states that proposals will only be supported where they will conserve, restore and enhance biodiversity *'so that they are in a demonstrably better state than without intervention'*. Part (b) continues and sets five criteria that proposals will be expected to meet. These are discussed in Table 3 below.

³³ <u>https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00004631&T=6</u>

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5.2.70. Before commenting on Policy 3(b), it is worth noting that a consultation exercise by NatureScot on an adapted biodiversity metric suitable for use in supporting delivery of NPF4 Policy 3b ran earlier in 2024³⁴. At the time of writing in December 2024, there is no standard agreed Scottish metric for considering schemes against NPF4 Policy 3(b). Notwithstanding, the Applicant has undertaken Biodiversity Net Gain (BNG) calculations in support of the Proposed Development, set out in TA7.6. One of the objectives of the BNG calculations was:-

'To quantify the baseline biodiversity value of the Site and the measures required to achieve a potential minimum of 10% biodiversity net gain'.

5.2.71. The BNG calculations used the DEFRA Statutory Biodiversity Metric to calculate the overall net gain (or loss) achieved by the Proposed Development, the conclusions of which have been used in part to inform the commentary in Table 3. In considering the Proposed Development against Policy 3(b), regard has also been given to the OHMBEP in TA7.5. The OHMBEP is in draft format only at present and will be developed further in consultation with key stakeholders should consent be granted.

Table 3: Commentary on NPF4 Policy 3 Part (b)

Criteria	Commentary
Policy 3(b)(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'.	The EIA Report accompanying the application for the Proposed Development is based upon a thorough understanding of the Site and its ecological context, obtained through desk-based assessment, field work and consultation, as summarised in EIA Report Chapter 7, TA7.5 and TA7.6. The assessment of the impacts of the Proposed Development, mitigation measures and enhancement proposals have been informed by a significant understanding of the Site built up over extensive survey periods, consistent with this policy requirement.
Policy 3(b)(ii) 'Wherever feasible, nature-based solutions have been integrated and made best use of.'	NPF4 defines nature-based solutions as 'actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits'. The Proposed Development proposes a range of measures to deliver biodiversity enhancement which are set out in TA7.5. Measures proposed in the OHMBEP include peatland restoration, native woodland creation, targeted plug planting of suitable native species within blanket bog habitat, control of herbivores including deer and mountain hare and predator control and post construction monitoring surveys to monitor the effect of the Proposed Development on both habitats and species.
	These outline proposals will be subject to further detailed work and development, should consent be granted and can be secured through an appropriately worded planning condition. At this stage, it is considered that the measures outlined in the OHMBEP are consistent with the objectives of this criterion.

³⁴ <u>https://www.nature.scot/doc/biodiversity-metric-scotlands-planning-system-key-issues-consultation</u>



Criteria	Commentary
Policy 3(b)(iii) 'An assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements'.	The design of the Proposed Development has applied the mitigation hierarchy (NPF4 definition, page 153) and avoided features of biodiversity importance wherever possible. A summary of embedded mitigation measures, as relevant to ecology, is summarised in EIA Report Chapter 7, Section 7.7. Measures adopted included avoiding deep peat as much as possible, separation distances of 50 m between turbines and watercourse, a 50 m separation distance between turbines and woodland edges (as per current bat guidance), reusing existing access tracks as much as possible and minimising the requirement for watercourse crossings. Where significant effects were identified, mitigation and/or enhancement measures are identified which are detailed in the 'Mitigation' sections of EIA Report Chapters 7 and 8. Following implementation of these measures, both
	chapters conclude no significant residual effects will arise upon any receptor or designation.
Policy 3(b)(iv) 'Significant biodiversity enhancements are provided, in addition to any proposed mitigation	As noted in the commentary on 3(b)(ii) above, the OHMBEP in TA7.5 sets out the range of measures the Applicant proposes to undertake to deliver significant biodiversity enhancement and habitat creation (summarised in Section 3.1 of this Statement).
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'	The identified peatland restoration works cover a total area of approximately 390 ha (see also Policy 5 commentary for further detail); areas of natural regeneration extends to approximately 1,226 ha and areas of natural regeneration with supplementary tree planting extent to approximately a further 168 ha. These areas will be considered further post consent as part of the development of a detailed HMBEP. The peatland restoration works in the OHMBEP includes measures that are described as mitigation but also enhancement in NatureScot's Guidance ' <i>Advising on peatland, carbon-rich soils and priority peatland habitats in development management</i> ' (November 2023 ³⁵). A similar approach was adopted by the Reporter in the PLI Report at Garvary Wind Farm (ECU00003251) ³⁶ .
	The results of the BNG metric in TA7.6 show that enhancement works proposed by the Applicant will result in an increase in biodiversity units (BU) of 25.05%. The BNG metric does not include enhancement measures detailed in the TA7.5, as they include for the natural revegetation of woodland within upland heathland, which the metric does not allow for. The addition of off-site enhancements to habitats such as upland heathland mean the overall uplift comprises 1756.02 net BU change.
	The Proposed Development will result in the loss of 20.91 ha of irreplaceable habitats and it is recognised that a bespoke compensation scheme will require to be agreed with NatureScot and the Council for the loss of the irreplaceable habitat blanket bog and following the guidance set out in the DEFRA Statutory Biodiversity Metric ³⁷ .

³⁵ <u>https://www.nature.scot/doc/advising-peatland-carbon-rich-soils-and-priority-peatland-habitats-development-management</u>

³⁶ Paragraphs 249 – 253 of PLI Report, https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00003251

³⁷ https://assets.publishing.service.gov.uk/media/669e45fba3c2a28abb50d426/The_Statutory_Biodiversity_Metric_-

User_Guide 23.07.24 .pdf

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Criteria	Commentary
	As noted in the earlier commentary on NPF4 Policy 11, peatland restoration and tree planting measures set out in the OHMBEP will provide benefits for a range of bird species. In particular, TA7.5 considers that implementation of the final HMBEP will make a sizable contribution to the targets of the Capercaillie Emergency Plan which has been produced by NatureScot and the Cairngorms National Park Authority.
	Should consent be granted, the OHMBEP will be finalised in consultation with relevant stakeholders post consent and prior to the commencement of development, and will include a monitoring programme to assess the effectiveness of the agreed measures.
	The focus of the Applicant's enhancement measures has been on securing biodiversity and nature conservation benefits. One benefit of the proposed planting of native Scots pine woodland is that it could potentially link in with other existing areas of Caledonian forest providing the opportunity to create nature networks/corridors for regionally important bird species such as capercaillie, crested tit and Scottish crossbill.
Policy 3(b)(v) 'Local community benefits of the biodiversity and/or nature networks have been considered'.	Throughout the public consultation events, no specific queries or requests for enhanced access through the Site have been made or specific biodiversity improvement projects for the wider community. That is not to say that such projects could not come forward at some point in the future. Should consent be granted, the Applicant will work with local communities to ensure, for example, that the community benefit fund is used in a way that meets with local community expectations. This may involve further consideration of the biodiversity proposals.
	At this stage, it is worth noting that Applicant also intends to provide a limited number of car parking spaces at entrance of the Proposed Development to give the general public access to the unofficial walking routes currently being promoted by local interest groups.

5.2.72. Overall and based on the findings of the EIA Report, the Proposed Development is considered to align with the Outcomes of NPF4 Policy 3 and will result in significant net beneficial biodiversity effects, supported by the conclusions of the BNG calculations. It is important to emphasise that delivering biodiversity enhancements is a policy, rather than a legal requirement. It is notable also that even non-compliance with NPF4 Policy 3 is not necessarily a barrier to the grant of consent given the established need for low carbon technologies to mitigate climate change. The Devilla BESS S36 decision letter³⁸ (November 2023) notes at paragraph 63:

'Climate change will increase the risk of flooding and drought, impacting biodiversity - including not just the Devilla Forest but Scotland as a whole. Climate change is the single greatest threat to Scotland's habitats. The Scottish Ministers consider this justifies giving greater weight to NPP [sic] policies 1 and 11 than policy 3 when weighing up the support for the proposed Development'. Policy 4: Natural Places

5.2.73. This policy sets the basis for assessing applications that affect European natural heritage designations, such as SPAs, as well as proposals affecting National Parks and NSAs and also local level natural heritage

³⁸ <u>https://www.energyconsents.scot/ApplicationDetails.aspx?cr=ECU00003469&T=6</u>

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and landscape designations. The Policy Intent is to '*protect, restore and enhance natural assets making best use of nature-based solutions*'. There are two Policy Outcomes namely (i) '*natural places are protected and restored*' and (ii) '*natural assets are managed in a sustainable way that maintains and grows their essential benefits and services*'.

- 5.2.74. Part (a) states that proposals that have an 'unacceptable' impact on the natural environment by virtue of type, location and scale will not be supported. Parts (b), (c) and (d) relate to European, national and local level designations.
- 5.2.75. Potential impacts upon European natural heritage sites such as SPAs and SACs and national heritage sites such as SSSIs were considered in EIA Report Chapters 7 and 8, with prior commentary under NPF4 Policy 11.
- 5.2.76. EIA Report Chapter 7 confirms that a shadow HRA has been undertaken and is submitted as TA8.3. This shadow HRA considers the potential for LSEs upon the following designations:-
 - Slochd SAC;
 - Kinveachy Forest SAC;
 - Kinveachy Forest SPA;
 - River Spey SAC; and
 - Carn nan Tri-tighearnan SAC.
- 5.2.77. The assessment concludes that there are LSEs for some of the qualifying features of the Kinveachy Forest SAC and River Spey SAC. No LSEs upon the qualifying features of the other designations were identified.
- 5.2.78. Subsequently presented information in TA8.3 to inform an Appropriate Assessment for both the Kinveachy Forest SAC and River Spey SAC concludes that the Proposed Development can proceed without having an adverse impact on the integrity of both the Kinveachy Forest SAC and River Spey SAC.
- 5.2.79. The Kinveachy Forest SSSI was considered as an IOF in the assessment in EIA Report Chapter 7 which found no significant effects upon this national designation.
- 5.2.80. On the basis of these findings it is concluded that the Proposed Development complies with Policy 4(b) and (c) as it relates to SPAs, SACs, Ramsar sites and SSSIs.
- 5.2.81. Part (c) also relates to national level landscape designations, specifically National Parks and NSAs. The policy states that proposals will only be supported where the objectives of the designation and overall integrity of the area will not be compromised, or where any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.
- 5.2.82. The Site is not located within a National Park or NSA, but is located to the west of the CNP boundary (See EIA Report Figures 5.10a and b). As EIA Report Chapter 5 confirms this is the only national landscape designation taken forward for detailed assessment. Through the request for a Scoping Opinion, it was agreed that a detailed assessment of the effects of the Proposed Development on NSAs would not be required. This is due to the low level of visibility predicted and the large separation distance between the Proposed Development and the Deeside and Lochnagar NSA. Due to the location of the Cairngorm Mountains NSA within the CNP, NatureScot considered that the NSA SLQs are subsumed within the CNP



SLQs, and they should therefore be assessed as part of the detailed assessment of effects on the SLQs of the CNP. NSAs were therefore discounted from further assessment in the LVIA.

- 5.2.83. The LVIA in EIA Report Chapter 5 includes an assessment of the effects on the Proposed Development on the SLQs of the CNP, set out in Table 5.10. That assessment found that of the 42 SLQs, ten have the potential to be affected by the Proposed Development, namely:
 - SLQ2: Vastness of space, scale and height;
 - SLQ3: Strong juxtaposition of contrasting landscapes;
 - SLQ4: A landscape of layers, from inhabited strath to remote, uninhabited upland;
 - SLQ6: Landscapes both cultural and natural;
 - SLQ10: The surrounding hills;
 - SLQ24: Dominance of natural landforms;
 - SLQ28: Wildness;
 - SLQ29: Layers of receding ridge lines;
 - SLQ30: Grand panoramas and framed views; and
 - SLQ32: Dark skies.
- 5.2.84. Further assessment of these SLQs found that the Proposed Development would have a significant effect upon three SLQs, specifically SLQs 29, 30 and 32. With specific regards to Policy 4, the assessment considers that the 'objectives of designation and the overall integrity of the areas [the CNP] will not be compromised' by the Proposed Development, for the reasons described below:-
 - The Proposed Development lies outwith the CNP and will have no direct effects on its physical attributes, so that all effects would be perceived. This ensures that SLQs that are dependent upon physical attributes of CNP- of which there are a number - will not be affected by the Proposed Development;
 - The Proposed Development will be seen in a part of the setting to the CNP that is already affected by a number of baseline wind farms, ensuring that the Proposed Development will not introduce a new characteristic external influence on CNP;
 - The Zone of Theoretical Visibility (ZTV) indicates that theoretical visibility of the Proposed Development from the CNP is restricted to very limited, and generally peripheral areas, with the majority of the CNP having no visibility of the Proposed Development. This ensures that effects will be contained and, as a result, very extensive areas will remain unaffected; and
 - The assessment of effects has indicated that significant effects will arise on three SLQs, with all other SLQs not experiencing significant effects. In relative terms, this represents a very limited effect.
- 5.2.85. Drawing upon these findings the Proposed Development is consistent with the requirements of Part (c)(i) of Policy 4 which is to ensure that *'the objectives of designation and integrity of the areas will not be compromised'*.
- 5.2.86. Overall, in accordance with the foregoing findings, there is no conflict with Policy 4(b) and (c) as regards international or national natural heritage or landscape designations.
- 5.2.87. In addition and looking at Part (ii) of the Policy, it is considered that the renewable energy benefits of the Proposed Development (which benefits from National Development status) clearly outweigh the identified



effects upon the three CNP SLQs, and there is no conflict with this part of Policy 4 either.

- 5.2.88. Part (d) deals with local landscape areas. This part of Policy 4 sets two considerations for decision makers when assessing proposals that affect local landscape designations. The policy states that such proposals will only be supported where:-
 - 'Development will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified; or (underlining added)
 - 'Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits <u>of at least local importance</u>' (underlining added).
- 5.2.89. The Site is not located within a local landscape designation, but there are several SLAs within the LVIA Study Area, as shown on EIA Report Figure 5.10a. Due to the very limited theoretical visibility of the Proposed Development across most SLAs, it was agreed through Scoping that the detailed assessment of the effects of the Proposed Development would be limited to the Drynachan, Lochindorb and Dava Moors SLA only, located approximately 5.2 km from the Site.
- 5.2.90. The assessment in EIA Report Chapter 5 presents a preliminary appraisal of the likely effects of the Proposed Development upon the special qualities of the SLA as summarised in EIA Report Table 5.11. That assessment concluded that only one of the six special qualities has potential to be significantly affected by the Proposed Development, namely:-
 - 'Expansive views and broad panoramas across open, rolling moorland and vast skies instil a boundless sense of scale and space, enhanced by the consistency of moorland cover and landform character'.
- 5.2.91. Further consideration of this special quality in the LVIA concludes that there are likely to be effects of various levels across the SLA. The magnitude of change would vary between no change across the majority of the interior of the SLA to negligible to low across its edges. Overall, the assessment concludes that effects on this single special quality would not be significant.
- 5.2.92. The assessment also considers that the Proposed Development would not have '...significant adverse effects on the integrity of the area or the qualities for which it [the Drynachan, Lochindorb and Dava Moors SLA] has been identified'. On the basis of these findings, it is considered that the Proposed Development can be positively considered against Policy 4(d)(i). If these conclusions are not accepted, the wording of Policy 4(d)(ii) allows decision makers to still approve developments which may have a significant effect on the integrity of a local landscape designation where these effects are clearly outweighed by social, environmental or economic benefits of at least <u>local importance</u>.
- 5.2.93. In this instance, it is considered that the benefits of the Proposed Development are considered to outweigh any adverse effects upon the SLA and that these benefits are demonstrably of at least local importance. The fact that the Proposed Development falls into the category of National Development 3 'Strategic Renewable Electricity Generation and Transmission Infrastructure' in NPF4 supports this position. In the case of the Glendye Wind Farm, the Reporters considered this issue in relation to impacts upon an Aberdeenshire local landscape designation. In assessing that proposal against this part of Policy 4(b), the Reporters noted in paragraph 10.7 of their report that:-

'We are of the view that this national development status logically offers benefits of more than local

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importance'.

- 5.2.94. This supports the assessment above against NPF4 Policy 4(d)(ii).
- 5.2.95. Part (f) relates to protected species and states that 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. As demonstrated in EIA Report Chapters 7 and 8, no significant adverse effects are identified on any protected species and the Proposed Development complies with Part (f) of Policy 4.
- 5.2.96. Policy 4(g) states that proposals that support meeting renewable energy targets are one of the few potentially acceptable uses in a wild land area (WLA). Part of the Site boundary overlaps with the Monadhliath WLA20 as shown in EIA Report Figure 5.4. No turbines or associated infrastructure are located within the WLA, with the closest being approximately 0.1km from the WLA boundary.
- 5.2.97. As part of the design evolution process wind turbines were removed from within this WLA and it was subsequently agreed with NatureScot that a Wild Land Assessment would not be required for any WLA. Overall, the LVIA concludes that no WLA would be significantly affected by the Proposed Development.
- 5.2.98. Considering these factors, it is considered that the Proposed Development can be positively assessed against NPF4 Policy 4(g).

Policy 5: Soils

- 5.2.99. The Policy Intent is to 'protect carbon-rich soils, restore peatlands and minimise disturbance to soils from *development*'. One of the Policy Outcomes seeks that 'valued soils are protected and restored'.
- 5.2.100. Part (a) notes that proposals should be designed in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils. Part (c)(ii) notes that proposals for the generation of energy from renewable sources that optimise the contribution of the area to GHG emission reduction targets are one of the identified land uses potentially permitted on areas of peatland, carbon-rich soils and priority peatland.
- 5.2.101. Part (d) sets out a requirement for a detailed site specific assessment to help understand the presence of peatland, carbon-rich soils or priority peatland on site and to enable the likely effects of a development proposal on these resources to be considered. It continues and states that this should inform careful project design and that impacts should first be avoided and then minimised through best practice. The requirement for a peat management plan is also noted and this is submitted as TA9.2.
- 5.2.102. Policy 5(d)(i) requires applicants to establish the baseline depth, habitat condition, quality and stability of carbon rich soils. In this regard, to inform the design process the Applicant undertook extensive surveys across the Site (including Peatland Condition Assessment), the results of which are set out in EIA Report Chapter 9 and TA9.2. The majority of the Site is located within Class 5 peatland whereby no peatland habitats may be recorded. Areas of Class 1 peatland and a very small area of Class 2 peatland are recorded within the eastern and southern extent of the Site, see EIA Report Figure 9.4. Class 1 and 2 peatland is potentially nationally important carbon-rich soil, deep peat, and priority peatland habitat of potential high conservation value.



- 5.2.103. The potential presence of peat within the Site formed a key consideration in the design of the Proposed Development. Informed by the extensive programme of peat probing undertaken across the Site, typically the design has avoided areas of deeper peat (>1 m) and where possible limited development to areas of peat less than 1 m or where peat is absent. Where peat is encountered during construction, it can be readily managed and accommodated within the Site without significant environmental impacts. No surplus peat will be generated, and the volumes of peat / peaty soil generated from the proposed excavations will be used to reinstate track verges, turbine bases, crane hardstandings and restoration of onsite borrow pits.
- 5.2.104. Table C in TA9.2 provides an overview of the peat balance assessment. This shows that the total volume of peat predicted to be excavated of 226,841m³, does not exceed the intended total peat reuse volume of 249,824m³, therefore no excess peat is required to be disposed off-site as a consequence of the Proposed Development. Table D of TA9.2 provides a summary of the potential re-use of excavated material within the Site during reinstatement works.
- 5.2.105. The Site-specific Peat Landslide Hazard Risk Assessment (PLHRA) (TA9.1) confirms that there are very few areas of peat instability risk across the Proposed Development and the assessment concluded that, with the employment of appropriate mitigation measures, all of the areas of peat instability can be considered as an insignificant risk.
- 5.2.106. As a result of mitigation by design and following the adoption of further good practice measures, to be developed in a CEMP and HMBEP post consent, EIA Report Chapter 9 concludes that no significant residual effects on soils and peat will arise.
- 5.2.107. With regard to Policy 5 (d)(iii), EIA Report Chapter 12 and the associated TA12.2 'Carbon Calculator' provides an assessment on the likely effects of the Proposed Development on climate emissions and loss of carbon, with the carbon payback period summarised in EIA Report Table 12.4, abbreviated below as Table 5.

	Carbon payback time (years)			
	Expected value	Minimum value	Maximum value	
Grid mix electricity generation	1.8	0.1	2.7	
Fossil fuel mix electricity generation	0.9	0.05	0.3	

Table 5 - Estimated Carbon Payback Period

- 5.2.108. TA12.2 provides details of the estimated CO₂ losses, savings and gain associated with the Proposed Development over the construction and operational periods. That assessment concludes that the Proposed Development will result in a reduction in emissions from the electricity grid of around 296,200 tonnes of CO₂ per year, compared to electricity generated from a fossil fuel mix. Over the 40 year operational life of the Proposed Development, this would equate to savings of 11,848,000 tonnes of CO₂ compared to electricity generated from a substantial and national level positive contribution to efforts to tackle the climate emergency and reach net zero by 2045.
- 5.2.109. Overall, the Applicant's approach to Site design, combined with the implementation of mitigation measures during the construction and decommissioning phases, means that the Proposed Development can be positively considered against the Outcomes of Policy 5.



Policy 6: Forestry, Woodland and Trees

- 5.2.110. The Intent of Policy 6 is to 'protect and expand forests, woodland and trees'. One of the Policy Outcomes is 'Existing woodland and trees are protected, and cover is expanded'.
- 5.2.111. No woodland requires to be felled to construct the Proposed Development. As part of the Applicant's biodiversity enhancement proposals, significant tree planting is proposed. The intended locations of this tree planting is shown on Figure 7.5.4 of TA7.5 and extend to a combined area of approximately 168 ha across two areas of planting.
- 5.2.112. The planting of woodland within these areas will lead to an increase in woodland within the wider estate of the Proposed Development and contribute to a key policy Outcome of expanding woodland cover.

Policy 7: Historic Assets and Places

- 5.2.113. This policy sets out the framework for assessing the impact of development proposals on a wide range of cultural heritage receptors. The Intent is 'to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places'. Policy Outcomes include that 'the historic environment is valued, protected, and enhanced, supporting the transition to net zero and ensuring assets are resilient to current and future impacts of climate change'.
- 5.2.114. As required by part (a), an historic environment assessment has been undertaken and the conclusions are presented in EIA Report Chapter 6 'Cultural Heritage' and accompanying Technical Appendices.
- 5.2.115. As discussed in the earlier commentary on NPF4 Policy 11(e), the assessment in EIA Report Chapter 6 concludes that mitigation through design has ensured that any designated heritage assets within the Site boundary would not be directly impacted as a result of the Proposed Development. Where non-designated heritage assets would be or would have the potential to be impacted by the Proposed Development, further mitigation has been suggested. Direct residual effects are not considered significant.
- 5.2.116. In terms of impacts upon the setting of Scheduled Monuments, a moderate and significant effect has been identified upon the setting of Woodend Cairn (SM11739). Part (h)(ii) of Policy 7 is therefore relevant and this states that 'Development proposals affecting scheduled monuments will only be supported where (ii) significant adverse impacts on the integrity of the setting of a scheduled monument are avoided'.
- 5.2.117. While the effect on the setting of this Carin is considered to be significant in EIA terms, the assessment in EIA Report Chapter 6 concludes that the Proposed Development would not impact the integrity of the setting of the asset for the purposes of the test under Policy 7(h)(ii).
- 5.2.118. The assessment notes that many contributing factors to the setting of this Scheduled Monument would be retained such as the ability to understand and experience the placement of the asset along the watercourses and valleys that the cairn overlooks, as well as its contemporaneous assets to which it relates both in the wider valley and in close proximity. Whilst the Proposed Development would impact on the ability to appreciate the connection between the cairn and its placement above the River Findhorn, the valley and the nearby contemporary assets, the introduction of the Proposed Development into the environment would not impact the ability to understand and experience the connection between the asset and the aspects of



its setting which contribute to its significance.

- 5.2.119. Furthermore, the ability to understand, appreciate and experience the cairn whilst moving through the valley would remain intact. As such, the impact of the Proposed Development is not anticipated to be so significant to adversely affect the integrity of the setting of Woodend Cairn.
- 5.2.120. Policy 7(i) seeks to protect Gardens and Designed Landscapes to ensure that their cultural significance is protected, preserved or enhanced. The policy notes that development will not be supported where it would significantly impact on important views to, from and within the site, or its setting. Through Scoping, it was agreed that a detailed assessment of the effects of the Proposed Development in the LVIA would be limited to Aultmore GDL, located approximately 19.5 km from the Site. The LVIA in EIA Report Chapter 5 notes that significant effects are unlikely to arise on the Aultmore GDL, due to its distance from the Site and its wooded setting. It was not therefore included as a landscape receptor in the assessment and it is noted that Historic Environment Scotland did not request an assessment of the Aultmore GDL at the Scoping stage.
- 5.2.121. Given these conclusions, there are no conflicts with NPF4 Policy 7 in respect of any cultural heritage receptors.

Policy 23: Health and Safety

- 5.2.122. The Intent of Policy 23 is 'to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing'. There are three Policy Outcomes including that 'safe places protect human health and the environment'.
- 5.2.123. Part (d) confirms that 'development proposals that are likely to have significant adverse effects on air quality will not be supported', while part (e) states that 'development proposals that are likely to raise unacceptable noise issues will not be supported'.
- 5.2.124. As set out in response to Policy 11(e)(i), EIA Report Table 11.3 provides a summary of noise and vibration effects during the construction and operational phases of the Proposed Development. No significant effects arising from noise or vibration through the construction and operational phases of the Proposed Development were identified, and operational noise effects would comply with the relevant limits set by ETSU-R-97.
- 5.2.125. With regards to air quality, the Applicant is committed to adopting good practice measures during construction and will implement these through a CEMP, thereby controlling and reducing any effects that these activities may have on health. The CEMP will also set out a range of measures that the Applicant's contractor will adopt on Site during construction to avoid wider environmental impacts, for example through waste storage and collection, water management, pollution prevention and incidence response measures. An Outline CEMP is submitted as EIA Report TA 3.1 and provides an overview of the types of issues that will be covered in a detailed CEMP.
- 5.2.126. With regards to the BESS, a Fire Risk Assessment is submitted as TA3.5. This sets out a range of factors that govern the design of the BESS, such as equipment spacing, protection systems, access for emergency services etc. TA3.5 notes that during the preliminary BESS design, efforts have been made to mitigate, minimise, and prevent any fire hazard on Site by incorporating specific design factors. During detailed



design and following battery product selection, a project specific fire risk appraisal will be used to verify the strategy presented in TA3.5 and an emergency response plan will be developed through liaison with the local fire service. These details can be controlled through planning condition.

5.2.127. Given the above comments and findings of the detailed noise and vibration assessment, no unacceptable noise or health and safety issues will arise from the Proposed Development, consistent with Policy 23.

Policy 25: Community Wealth Building

- 5.2.128. The Intent of Policy 25 seeks 'To encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels'. Policy Outcomes include 'support local employment and supply chains' and 'support community ownership and management of buildings and land'.
- 5.2.129. Part (a) of the Policy states that proposals that contribute to local or regional community wealth building strategies will be supported and part (b) states that development proposals linked to community ownership of land and buildings will be supported.
- 5.2.130. As already discussed in relation to Policy 11 (c), the Proposed Development will give rise to local economic benefits during the construction and operational periods. The Applicant is committed to contributing to a community benefit fund (equivalent to £5,000 per MW of wind generation per year during the operational period). Should consent be granted, the Applicant will work with local communities to discuss how the fund could be distributed and used.
- 5.2.131. One option is that this community benefit funding could be used to reduce electricity bills of those living and working closest to the Proposed Development through the Applicant's Local Electricity Discount Scheme³⁹ (LEDS) which offers an annual discount to the electricity bills of properties closest to a participating renewable energy project, without the need to change energy provider. The Applicant has run this initiative on its other wind farm projects in Scotland.
- 5.2.132. The Applicant is open to discussing options for shared ownership in the Proposed Development as a means of supporting community wealth building by exploring shared ownership models with the local community, with a view to them acquiring a meaningful stake in the Proposed Development. Other benefits associated with the Proposed Development are set out in detail in the Socio-Economic and Community Impact Assessment, which concludes that the Applicant has demonstrated a meaningful contribution to all five pillars of CWB (see paragraph 5.2.30 of this Statement).

NPF4 Part 3 - Annex A 'Outcomes'

- 5.2.133. Part 3, Annex A confirms that NPF4 is required by law to contribute to six Outcomes. These Outcomes are set out in Section 3 of the Town and Country Planning (Scotland) Act 1997 (as amended), having been amended by Section 2 of the Planning (Scotland) Act 2019. The six Outcomes are:-
 - (a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,

³⁹ https://localenergy.scot/casestudy/local-electricity-discount-schemes-leds/

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- (b) improving the health and wellbeing of people living in Scotland,
- (c) increasing the population of rural areas of Scotland,
- (d) improving equality and eliminating discrimination,
- (e) meeting any targets relating to the reduction of emissions of GHGs, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and
- (f) securing positive effects for biodiversity.
- 5.2.134. The Proposed Development can contribute positively to Outcomes (e) and (f) through the generation of a significant amount of renewable electricity while delivering biodiversity improvements, with details set out in the OHMBEP. The Proposed Development will help deliver wider targets for lower GHG emissions, more renewable electricity generation and more secure energy supplies. These are material factors in support of the case for granting consent.

NPF4 Part 3 - Annex B 'National Developments Statements of Need'

- 5.2.135. This part of NPF4 identifies eighteen national developments which are described as *'significant developments of national importance that will help to deliver our spatial strategy'*.
- 5.2.136. Of relevance to the Proposed Development is National Development 3 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. NPF4 confirms that this class of national development 'supports renewable electricity generation, repowering, and expansion of the electricity grid'. It incorporates three types of development, including 'on and off shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity'. The Proposed Development therefore falls within National Development 3.
- 5.2.137. Within the commentary under National Development 3, NPF4 states that 'a large and rapid increase in electricity generation from renewable sources will be <u>essential</u> for Scotland to meet its net zero emissions targets'. Under the commentary on 'Need', NPF4 states that 'additional electricity generation from renewables and electricity transmission capacity <u>of scale</u> is fundamental to achieving a net zero economy...' (emphasis added).
- 5.2.138. NPF4 also confirms that proposals within this national development category will *'improve security of supply'* (page 7). While not every national development will be granted permission, the fact that the Proposed Development falls within this category is significant in the evolution of national planning policy. This class of national development did not feature in NPF3. Its inclusion in NPF4 is a clear sign that the Scottish Government clearly identifies this type and scale of development as being 'of national importance' and necessary to help deliver the national spatial strategy (NPF4, page 97).
- 5.2.139. The national development status of the Proposed Development must be accorded considerable weight in consideration of the application, as has been applied in some recent cases where Reporters and Scottish Ministers have recognised the importance of National Development 3 to achievement of the legally binding net zero targets. These cases include the aforementioned Glendye Wind Farm and also Shepherds Rig Wind Farm. In the Reporter's Supplementary Report into this latter project, the Reporters stated in paragraph 3.13 that:-

'delivery of renewable energy, a national development, would clearly be a significant benefit, and one which

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gains significant weight from NPF4 policy 1 in relation to the climate crisis'.

5.2.140. The National Development status of the Proposed Development should be afforded a similar amount of weight in the final planning balance.

NPF4 Part 3 – Annex C 'Spatial Planning Priorities'

- 5.2.141. The National Spatial Strategy is supported by commentary on five Regional Spatial Strategies, each of which will contribute in different ways to achievement of the National Spatial Strategy.
- 5.2.142. The Highland area falls within the 'North' Regional Area and NPF4 states that this part of Scotland can continue to make a strong contribution towards meeting our ambition for a net zero and nature positive country. Page 125 of NPF4 recognises that a programme of investment in, inter alia, peatland restoration will play a key role in reducing our national emissions and supporting biodiversity. On the same page it is noted that as renewable energy technologies continue to develop, storage and other forms of generation will grow. This is reflected in the composition of the Proposed Development which includes a BESS facility alongside the wind turbines.
- 5.2.143. One of the priorities for the North Regional Area identified on page 26 of NPF4 is to 'Protect environmental assets and stimulate investment in natural and engineered solutions to climate change and nature restoration, whilst decarbonising transport and building resilient connections.' The Proposed Development can assist in achieving these regional objectives, while making a positive contribution to wider national efforts to combat the climate emergency and nature crisis.

5.3. Highland-wide Local Development Plan (HwLDP) (2012)

- 5.3.1. This section of the Planning Statement considers those HwLDP policies of most relevance to the Proposed Development. Section 24(3) of the Planning Act states that in the event of any incompatibility (which is not defined in legislation) between a NPF4 provision and a LDP provision, whichever of them is later in date shall prevail. The HwLDP is now over 12 years old, having been adopted in 2012. In the case of the Proposed Development therefore, in the event of any policy incompatibility, NPF4 carries greater weight in the planning balance as it is the more recent document.
- 5.3.2. While there are clearly differences in language between NPF4 policies and those of the HwLDP, they are not incompatible. Incompatibility does, however, arise regarding references to the Spatial Framework for Onshore Wind Farms in Highland Council Wind Energy Guidance (see Section 5.4 below) and NPF4. NPF4 no longer continues with the Spatial Framework approach for onshore wind farms and an assessment of the Proposed Development should not seek to apply the Spatial Framework as this is no longer supported by national planning policy. This approach was adopted by the Reporter in the Meall Buidhe Wind Farm appeal in paragraph 85 of that June 2023 appeal decision, reference PPA-270-2277⁴⁰.
- 5.3.3. Inevitability there is some overlap between the aims and objectives of some HwLDP policies and the previously discussed NPF4 policies. To avoid unnecessary duplication, where HwLDP policies raise

⁴⁰ <u>https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=122688</u>



matters already discussed in relation to NPF4, cross reference will be made to the previous national policy appraisal.

- 5.3.4. HwLDP Policy 67 'Renewable Energy Developments' 'is the 'lead' policy for the assessment of onshore wind farm, solar and battery storage proposals. It is acknowledged that the Proposed Development requires to be assessed 'in the round' against all policies in the HwLDP, however Policy 67 is the key topic specific policy against which to assess the Proposed Development, noting also its criteria are wide ranging. Notwithstanding, other LDP policies are also briefly referenced.
- 5.3.5. Policy 67 contains a number of criteria to assess renewable energy applications and duplicates many of the aims and objectives of other planning policies within the HwLDP. As the Reporters report into the Limekiln Wind Farm from October 2018 (WIN-270-8⁴¹) notes in paragraph 9.37:

'Policy 67 can be relied upon almost exclusively given it provides the Council's adopted position specifically in respect of renewable energy development. Compliance or otherwise with policy 67 largely dictates the degree of compliance against the relevant provisions of other polices, but to take those other policies in isolation would run the risk of applying their requirements out of context'.

- 5.3.6. The HwLDP policies most relevant to the Proposed Development are addressed below. These policies are:
 - Policy 67 Renewable Energy Developments;
 - Policy 28 Sustainable Design;
 - Policy 29 Design Quality and Placemaking;
 - Policy 36 Development in the Wider Countryside;
 - Policy 55 Peat and Soils;
 - Policy 56 Travel;
 - Policy 57 Natural, Built and Cultural Heritage;
 - Policy 58 Protected Species;
 - Policy 61 Landscape;
 - Policy 63 Water Environment; and
 - Policy 64 Flood Risk.

Policy 67 'Renewable Energy Developments'

- 5.3.7. At its core, Policy 67 supports renewable energy developments where a range of locational and environmental criteria can be met. It states that renewable energy proposals should be well related to the source of the primary renewable resources needed for their operation.
- 5.3.8. The Policy further states that the Council will take account of the contribution proposals make towards meeting renewable energy generation targets and any positive or negative effects they are likely to have on the local and national economy. Proposals will be assessed against other relevant development plan policies as well as other material considerations. These policy criteria seek to ensure that a proposal is located, sited and designed such that they will not be significantly detrimental overall, individually or cumulatively with other developments having regard to specified criteria listed on page 123 within the

⁴¹ <u>https://www.energyconsents.scot/ApplicationDetails.aspx?cr=EC00005269&T=6</u>



HwLDP.

- 5.3.9. The bulleted criteria set out on page 123 largely reflect those set out in NPF4 Policy 11(e). The Proposed Development's compliance with NPF4 Policy 11(e) is discussed in Table 2 and is not repeated here. That assessment demonstrates that the majority of significant residual landscape and visual effects are localised, and while there will be some effects upon a small number of the SLQs of the CNP the 'objectives of designation and the overall integrity of the areas [the CNP] will not be compromised' by the Proposed Development. There will be an impact upon one of the special qualities of the Drynachan, Lochindorb and Dava Moors SLA but this is not significant and would not affect the integrity of the SLA.
- 5.3.10. A significant effect upon the setting of one Scheduled Monument is identified but this is not considered to affect the integrity of the setting of the Monument for the reasons discussed in relation to NPF4 Policy 7. There are no significant residual adverse impacts upon any environmental designations (SSSI, SPAs etc) or protected species that cannot be overcome through further mitigation. Peatland restoration and tree planting form integral and significant components of the Proposed Development and ensure that benefits go beyond just renewable energy generation, and will help address the nature crisis too. There will be no significant residual effects upon aviation interests subject to further technical mitigation, no shadow flicker effects, and operational noise effects can operate within the limits set out in ETSU-R-97.
- 5.3.11. Unsurprisingly for a commercial scale wind farm, some significant landscape and visual effects will arise that are not capable of mitigation. The LVIA in EIA Report Chapter 5 identified significant landscape and visual effects upon the following receptors:-
 - Landscape character effects within the Site itself and LCTs 221, 125, 128 and 127 generally extending out to a range of approximately 10 km, with more distant significant effects likely to be confined to some small areas of the surrounding landscape to the north-east of Tomatin and between Carrbridge and Dulnain Bridge;
 - Significant visual effects were found for 14 of the 22 VPs taken forward including significant night-time effects at four VPs. Three initially selected VPs were not taken forward for detailed assessment due to either a lack of theoretical visibility or no potential for significant effects;
 - Significant visual effects along localised stretches of the A9 and A938 as well as NCN7 and the LBS114 (Sustrans Route 7) Core Path; and
 - Views experienced by hill walkers from some areas represented by certain VPs, e.g. VP8.
- 5.3.12. The key test set by Policy 67 is whether having considered all material factors, a proposal is considered to be 'significantly detrimental overall', individually and cumulatively. In considering this key question, the following factors require to be considered:
 - The positive assessment against the NPF4 Policy 11 (e) criteria, which largely reflect the Policy 67 criteria;
 - The Proposed Development will play an important role in helping to achieve net zero targets by 2045 as well as the move to a more flexible and resilient energy system which will increasingly be dominated by renewable energy technologies over the coming years, by incorporating a BESS alongside the wind turbines,



- The Proposed Development will help contribute to more secure energy supplies by increasing the proportion of 'home grown' electricity, reducing our reliance on imported fuels and through the BESS having the ability to store electricity at time when generation is high, but demand is low;
- The Proposed Development is calculated to result in a saving of approximately 296,200 tonnes of CO₂ per year when compared to a fossil fuel mix (expected scenario). Over the course of the 40-year operational life, this equates to total emissions savings of 11,848,000 tonnes of CO₂ when replacing a fossil fuel mix. These are significant environmental benefits of the Proposed Development;
- No national natural heritage, cultural heritage or landscape designations will experience significant adverse effects (that will affect their integrity or the integrity of their settings);
- There will be no significant effects upon any protected species following mitigation;
- There will be no significant adverse effects upon the amenity of any individual residential properties during the operational phase as a result of noise, shadow flicker or visual amenity;
- The Proposed Development will deliver habitat enhancement and biodiversity improvements resulting in an increase in biodiversity units of 25.05%, but the loss of 20.91 ha of irreplaceable habitats;
- Identified significant cumulative effects are restricted to landscape and visual effects only. No significant cumulative effects would arise upon other receptors, as discussed in the previous commentary on NPF4 Policy 11(e)(xiii); and
- There is now a requirement under NPF4 Policy 11 to give 'significant weight' to the contribution a
 proposal makes to addressing the climate emergency and nature crisis. This is not specified in HwLDP
 Policy 67, but it is a fundamental element of NPF4 Policies 1 and 11 and must affect the planning
 balance in this case.
- 5.3.13. In light of these factors, identified environmental impacts are not considered unusual for a development of this nature. Significant landscape and visual effects in particular are to be expected for a wind farm, as noted by the Reporter in the recent Wull Muir Wind Farm decision from January 2025 (DPEA Reference PPA-140-2104⁴²), where it was noted in paragraph 68 that:-

'In my view, due to the height of wind turbines and their moving blades, onshore windfarms are a form of renewable energy development that will inevitably have some significant landscape and visual impact'.

5.3.14. The Proposed Development will contribute in excess of 50 MW of clean renewable energy to Scotland's net zero ambitions, and with a confirmed grid connection of April 2030 the Proposed Development can play an important role in contributing to the objectives of Clean Power 2030. The BESS will add flexibility and resilience necessary to maintain secure and reliable supplies of energy. It will contribute to local community wealth building and the corresponding identified environmental impacts are not considered to be 'significantly detrimental overall'. As such, the Proposed Development is considered to comply with HwLDP Policy 67.

Other HwLDP Policies

5.3.15. This section considers other relevant HwLDP policies. It should be noted however that the topic areas are already largely contained within the 'lead' energy policy (Policy 67) and so only brief commentary is

⁴² <u>https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=125403</u>

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provided on the following:

Policy 28 – Sustainable Design and Policy 29 – Design Quality and Placemaking

- 5.3.16. Policies 28 and 29 set out the requirement for all development to be designed in the context of sustainable development and climate change whilst making a positive contribution to the architectural and visual quality of the place in which it is located. The policies sets out various principles relating to, inter alia, the use and management of land; protection of both natural (landscapes, habitats and species) and built/cultural resources; preservation of air and water quality; and, minimisation of waste.
- 5.3.17. All development proposals must demonstrate compatibility with the Council's Sustainable Design Guide: Supplementary Guidance, which requires that all developments should:
 - conserve and enhance the character of the Highland area; use resources efficiently;
 - minimise the environmental impact of development; and
 - enhance the viability of Highland communities.
- 5.3.18. The design evolution process for the Proposed Development is addressed in EIA Report Chapter 2 and the benefits of embedded mitigation, in a design sense, are discussed in the LVIA in EIA Report Chapter 5 and the Design and Access Masterplan. A variety of landscape and visual mitigation measures have been incorporated through the iterative design of the Proposed Development in order to prevent, reduce or offset potential landscape and visual effects. Key considerations included paying careful attention to visibility from within the CNP (having regard to its SLQs), the adjacent WLA20 and removing turbines from this area, minimising the requirement for visible aviation lighting and considering cumulative effects.
- 5.3.19. Design mitigation has taken account of other factors too, such as avoiding deep peat, ensuring appropriate buffers between watercourse etc. Further mitigation can be applied through the construction process to ensure that these works will not give rise to significant environmental effects, e.g. through pollution control and drainage measures to avoid accidental spillages, maintain water quality etc. Details of construction techniques and site management practices will be developed through a CEMP should consent be granted.
- 5.3.20. The Proposed Development will help to enhance the viability of Highland communities by providing direct economic opportunities during the construction phase particularly but also during the operational phase with opportunities arising for community ownership, LEDS and potentially other initiatives that the Applicant would be happy to discuss further with local communities. Overall, the Applicant's considered approach to iterative and careful Site design is consistent with Policies 28 and 29.

Policy 36 – Development in the Wider Countryside

5.3.21. Policy 36 supports the development of rural areas to help maintain population, infrastructure and services. Proposals in the Wider Countryside Area are to meet criteria set out on pages 87 and 88 of the HwLDP to ensure they do not compromise the qualities of the countryside. The policy notes that proposals for renewable energy should be assessed against Policy 67 'Renewable Energy Development'. The above appraisal against that Policy shows the Proposed Development will not be 'significantly detrimental overall' and it therefore complies with Policy 67.

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Policy 55 – Peat and Soils

- 5.3.22. Policy 55 requires that development proposals demonstrate how they have avoided the unnecessary disturbance, degradation or erosion of peat and soils. It states that unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by the social, environmental or economic benefits of the development.
- 5.3.23. As discussed in relation to NPF4 Policy 5, the potential presence of peat within the Site formed a key consideration in the design of the Proposed Development. The final design has avoided areas of deeper peat and where possible limited development to where peat is absent. Table C in TA9.2 provides an overview of the peat balance assessment. This shows that the total volume of peat predicted to be excavated of 226,841m³, does not exceed the intended total peat reuse volume of 249,824m³, therefore no excess peat is required to be disposed off-site as a consequence of the Proposed Development. Table D of TA9.2 provides a summary of the potential re-use of excavated material within the Site during reinstatement works.
- 5.3.24. In addition to achieving a balance between peat excavation and re-use, a total of 390 ha of peatland onsite has been identified as potentially suitable for restoration as compensation and enhancement as shown on Figure 7.5.4 within TA7.5. These areas will be considered further post consent and refined as part of a detailed HMBEP.
- 5.3.25. Avoiding disturbance of peat has been a key design objective and the Applicant has avoided the 'unnecessary' disturbance of peat and soils through the design evolution process, such that no excess peat is required to be disposed off-site following construction, as set out in TA9.2. The level of peat disturbance is not considered to be 'unacceptable' and there are significant opportunities for peatland restoration across the Site. Given these factors and noting also the National Development status of the Proposed Development in NPF4, there is no conflict with Policy 55.

Policy 56 – Travel

- 5.3.26. Development proposals that involve travel generation must include sufficient information with the application to enable the Council to consider any likely on-and off-site transport implications of a proposed development.
- 5.3.27. EIA Report Chapter 10 'Traffic and Access' considers the impacts of the Proposed Development during the construction and operational phases, recognising that most traffic generation will arise during the construction phase with only negligible amounts of traffic generated during the operational phase.
- 5.3.28. The results indicate there are no road capacity issues with the addition of construction traffic from the Proposed Development and that ample spare capacity exists within the local road network to accommodate all construction phase traffic. With the introduction of mitigation measures there will be no significant residual effect upon other road users, cyclists etc as a result of increased traffic movements. These mitigation measures would typically be developed further through a CTMP, which can be controlled through planning condition.
- 5.3.29. It is therefore concluded that the Proposed Development is in line with Policy 56.

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Policy 57 – Natural, Built and Cultural Heritage

- 5.3.30. Policy 57 'Natural, Built and Cultural Heritage' sets a hierarchy of policy considerations for proposals depending upon whether they have impacts upon features, or their settings, of local/regional, national or international importance. The scale of protection provided by the policy is reflective of whether the asset is of local/regional, national or international importance.
- 5.3.31. As already discussed in relation to NPF4 Policies 4 and 11, there will be no significant effects upon the integrity of any international or national natural heritage or landscape designations (SAC, SSSI, Ramsar, CNP etc) as a result of the construction or operation of the Proposed Development.
- 5.3.32. Potentially significant impacts upon a small number of the SLQs of the CNP were identified in the LVIA, but these would not affect the integrity of the designation. Similarly, potential effects upon the single special quality of the Drynachan, Lochindorb and Dava Moors SLA would not affect its integrity.
- 5.3.33. The Shadow HRA (TA8.3) confirmed that where LSEs were identified for the Kinveachy Forest SAC and River Spey SAC, these would not lead to an adverse impact on the integrity of either designation, following the implementation of mitigation measures and considering the conservation objectives for each designation.
- 5.3.34. With regard to cultural heritage, the single significant effect (in EIA terms) upon the setting of one Scheduled Monument is not judged to affect the integrity of the setting of this asset, for the reasons discussed previously in relation to NPF4 Policy 7. Potential direct impacts on known or unknown archaeological remains with the Site are considered unlikely but mitigation in the form of an archaeological watching brief is proposed, to be agreed through a WSI.
- 5.3.35. While Policy 57 refers to impacts upon wild land, the national policy picture with regards to renewable energy development in wild land areas has altered between when the HwLDP was adopted in 2012 and now, through the adoption of NPF4 in 2023. The relevance of Policy 57 to wild land issues was considered by the Reporters into the Limekiln Wind Farm (WIN-270-8) report from October 2018, where they noted in paragraph 9.37 that:-

'although the HwLDP is more than five years old, we do not find the relevant provisions of the plan to be out of date, with the exception of its references to wild land in policy 57, which we find should be disregarded'.

- 5.3.36. Those comments were made in the context of the national planning policy prevalent at the time, namely NPF3 and SPP, both of which have been superseded by NPF4. The Site boundary partially overlaps with WLA20 but no turbines or infrastructure are located in this WLA and in agreement with NatureScot a wild land assessment was not considered necessary. Impacts upon wild land areas are discussed in relation to NPF4 Policy 4(g).
- 5.3.37. Taking all of the above into account, the Proposed Development complies with Policy 57.

Policy 58 – Protected Species

5.3.38. Policy 58 sets out the Council's approach to the protection of species that may be affected by a

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development proposal. The policy effectively provides a 'catch all' approach to protecting species of varying levels of importance, to ensure an adequate degree of protection through the planning process. The policy reflects the hierarchical approach to protecting species and sets out the circumstances where development may be permitted, even where an adverse effect is identified.

5.3.39. As discussed previously in the assessment against NPF4 Policies 3 and 11, following mitigation the Proposed Development will not give rise to any significant effects upon protected species including the qualifying interests for the Kinveachy Forest SAC and River Spey SAC. There are no conflicts with Policy 58

Policy 61 – Landscape

- 5.3.40. Policy 61 states that proposals should be designed to reflect the characteristics and special qualities recognised in the Landscape Character Assessment of the area in which they are proposed. The Council will consider the appropriateness of the scale, form, pattern and construction materials and the cumulative impacts of the development.
- 5.3.41. The LVIA in EIA Report Chapter 5 considered the impact of the Proposed Development upon landscape character by assessing impacts upon the Site, as well as LCTs. The LVIA has identified that there is potential for significant effects to arise upon LCTs 221, 125, 128 and 127. Where significant effects were identified across the four LCTs, the LVIA considers that these effects are localised, and largely contained to parts of the LCTs where the influence of wind farms is already a contributing factor to the landscape baseline.
- 5.3.42. As already noted, decision makers have recognised the inevitability that wind farms will give rise to some significant landscape and visual effects. The OWPS also recognises that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that *'this will change the landscape'*.
- 5.3.43. In considering the acceptability of these landscape character effects, and landscape and visual effects more generally, it is important to note that since the HwLDP was adopted, the need for more renewable energy and the increased urgency of addressing the climate emergency means that there needs to be a greater acceptance of the inevitability of landscape and visual effects associated with the roll out of further renewable energy development. In a number of cases these effects will be significant in EIA terms (as recognised by NPF4 Policy 11) but what has changed is the point at which such effects become unacceptable. This is well summarised in the Reporter's Supplementary Report into the Shepherds Rig Wind Farm, where in paragraph 3.4 the Reporter concluded:-

'National policy has a clear expectation that more renewable energy proposal may be granted consent, focusing down on a tighter set of circumstances under which proposals would not be supported'.

5.3.44. In this case, the landscape effects that are identified in the LVIA are considered to be acceptable in the context of Policy 61.

Policy 63 – Water Environment

5.3.45. This policy states that the Council will support proposals for developments that do not compromise the



objectives of the Water Framework Directive (WFD), which is aimed at the protection and improvement of Scotland's water environment.

- 5.3.46. Potential effects of the Proposed Development upon the water environment are considered in EIA Report Chapter 9 'Geology, Hydrogeology and Hydrology. The greatest potential for effects upon the water environment are likely to occur during the construction phase and could potentially arise from sedimentation or pollution of the water environment from surface run-off, compaction of soils, peat landslide hazard, etc.
- 5.3.47. The assessment in EIA Report Chapter 9 confirms that with the implementation of mitigation measures, to be included in a detailed CEMP, effects on the water environment will not be significant, as summarised in Table 9.10. The Proposed Development therefore complies with Policy 63

Policy 64 – Flood Risk

- 5.3.48. This policy states that development proposals should avoid areas susceptible to flooding and promote sustainable flood management. As noted in the earlier discussion on NPF4 Policy 11, the Site is not located in an area identified as being at risk from flooding. A detailed flood risk and drainage impact assessment was therefore scoped out of the assessment, but a simple screening of potential flooding sources is presented in EIA Report Chapter 9 (Table 9.8). Recognising that the Proposed Development has potential to alter surface water flow paths and increase flood risk to receptors downstream, the chapter identifies potential measures that would be adopted during construction to control the rate and quality of runoff. This will be delivered through a CEMP, which can be secured through a condition. An Outline CEMP is submitted as TA3.1.
- 5.3.49. Overall, EIA Report Chapter 9 concludes that the site is not at risk of flooding from any sources and with mitigation in place, construction works will not give rise to a significant increase in flood risk. There are no conflicts with Policy 64.

5.4. Highland Council Supplementary Planning Policy Guidance

The Onshore Wind Energy Supplementary Guidance (2016) (OWESG)

- 5.4.1. The OWESG has been adopted by the Council as part of the HwLDP. It pre-dates adoption of NPF4 and therefore it includes an Onshore Wind Spatial Framework Map on page 13, as was required at the time by SPP. That Framework indicates Group 1, Group 2 and Group 3 areas for wind farm development, as follows:
 - Group 1: Areas where wind farms will not be acceptable;
 - Group 2: Areas of significant protection; and
 - Group 3: Areas with potential for wind farm development.
- 5.4.2. It is important to note that NPF4 no longer continues with the Spatial Framework approach for onshore wind farms. While there is reference to the Spatial Framework in the OWESG, an assessment of the Proposed Development should not seek to apply the Spatial Framework as this is no longer supported by national planning policy, as confirmed by the earlier commentary on the Meall Buidhe Wind Farm.
- 5.4.3. Other aspects of the OWESG remain relevant and TA5.3 considers the Proposed Development against the



ten landscape and visual criteria set out in the OWESG, as follows:

- (1) Relationship between Settlements/Key locations and wider landscape respected;
- (2) Key Gateway locations and routes are respected;
- (3) Valued natural and cultural landmarks are respected;
- (4) The amenity of key recreational routes and ways is respected;
- (5) The amenity of transport routes is respected;
- (6) The existing pattern of Wind Energy Development is respected;
- (7) The need for separation between developments and/ or clusters is respected;
- (8) The perception of landscape scale and distance is respected;
- (9) Landscape setting of nearby wind energy developments is respected; and
- (10) Distinctiveness of Landscape character is respected.
- 5.4.4. The OWESG states that 'the criteria do not set absolute requirements but seek to ensure that developers are aware of key constraints to development'. As such, they should not be regarded as development management tests that must be complied with in order to establish the acceptability of a development in landscape and visual terms.
- 5.4.5. Table 5.3-1 of TA5.3 responds to each of these ten criteria concluding that the Proposed Development responds effectively to the ten landscape and visual criteria by minimising landscape and visual effects upon the relevant receptors. Where the Proposed Development conflicts with the criteria, these breaches of the threshold are contained to receptors contained with a localised areas surrounding the Site.

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6. Overall Conclusions

- 6.1.1. Schedule 9 of the Electricity Act refers to the requirement for Scottish Ministers to 'have regard to the desirability' of preserving natural beauty, of conserving flora, fauna, etc. when determining S36 applications. Scottish Ministers have no duty to ensure these environmental qualities are preserved, but to have regard to the desirability of doing so. Schedule 9 does not, therefore, set strict development management tests.
- 6.1.2. As an application under the Electricity Act, the Development Plan does not have primacy in this case. The Development Plan, including NPF4 as a recent expression of Scottish Government policy, is however an important material consideration.
- 6.1.3. In arriving at conclusions on the Proposed Development overall, Scottish Ministers can give weight to a range of matters, not least national planning policy set out in NPF4, and the extent to which the Proposed Development aligns with the objectives of the OWPS 2022; the socio-economic benefits of the Proposed Development; the biodiversity enhancement proposals; and the contribution that it will make towards attaining GHG reduction and renewable energy generation targets.
- 6.1.4. The Scottish Government has legislated to achieve net zero GHG emissions by 2045. To achieve these legally binding targets will require a significant change in the way we generate electricity. While a range of renewable energy technologies will play an important part in achieving these targets, the OWPS describes the deployment of onshore wind as *'mission critical for meeting our climate targets'*. Sitting alongside the wind turbines, the Proposed Development also incorporates a BESS.
- 6.1.5. NPF4 is an Outcome focused document with central objectives being addressing the climate emergency and nature crisis. This is reflected in overarching objectives, national planning policies and some national development classes. The Proposed Development can help deliver positive benefits on both these fronts, while providing the UK with more secure energy supplies.
- 6.1.6. The 26 wind turbines of the Proposed Development could generate approximately 187MW of renewable electricity based upon a candidate turbine, supported by a BESS rated at 100MW. The Proposed Development is a national development scale project in NPF4 which can bring about positive environmental and socio-economic benefits for the local area as well as Scotland as a whole, making a positive contribution to the net zero target by 2045. The Applicant has a confirmed grid offer of April 2030, meaning that renewable energy generated by the Proposed Development will contribute to wider Government efforts to ensure the UK generates enough clean power to meet our total annual electricity demand by this date.
- 6.1.7. The Proposed Development incorporates significant and integral proposals for biodiversity improvements across the Site and adjoining areas that will go beyond compensating for the adverse effects of the Proposed Development, and will lead to enhancement. The OHMBEP has identified an area of approximately 390 ha of potentially suitable land for peatland restoration complemented by approximately 168 ha of supplementary tree planting and approximately 1,226 ha of land deemed as suitable for natural woodland regeneration. Land management practices to control herbivores and predators are also proposed. The BNG calculations undertaken for the Proposed Development conclude that the Proposed Development will result in an increase in biodiversity units of 25.05%, a demonstrable improvement over the current baseline. There are potential benefits to regionally important bird species too, through the Applicant's proposed peatland restoration and woodland planting measures including scope to make a

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sizable contribution to the objectives of the Capercaillie Emergency Plan produced by NatureScot and the Cairngorms National Park Authority. The Proposed Development will lead to the loss of 20.91 ha of irreplaceable habitats. However a bespoke compensation scheme will be agreed with NatureScot and the Council, and following the guidance set out in the DEFRA Statutory Biodiversity Metric.

- 6.1.8. The Proposed Development is located close to but outside of the CNP boundary and the northern boundary of WLA20. No wind turbines or infrastructure would be located within either area.
- 6.1.9. There will be visibility from within the CNP and significant effects have been limited to only 3 of the 42 CNP SLQs. These effects will not adversely affect the integrity of the CNP or the objectives of its designation. Identified impacts upon one special quality of the Drynachan, Lochindorb and Dava Moors Special Landscape Area would not affect the integrity of that local designation nor the qualities for which it has been identified.
- 6.1.10. Visibility from settlements is limited and although there are recognised significant visual effects from within parts of Tomatin other parts of the settlement would be screened from the Proposed Development by landform, woodland and buildings and in these areas there would be no change in view. Moderate, but not significant, visual effects would be experienced from within the settlements of Carrbridge and Nethy Bridge. No individual residential property would experience a significant visual effect as a result of the Proposed Development and identified effects would not breach the Residential Visual Amenity Threshold.
- 6.1.11. The assessments presented in the EIA Report also concludes that there will be no significant residual effects on any property on account of noise or shadow flicker during the construction or operational phases.
- 6.1.12. There will be no significant residual effects upon protected species; no significant residual effects upon any natural heritage designations or their qualifying species (including the qualifying interests for the Kinveachy Forest SAC and River Spey SAC) and no significant residual effects upon hydrological interests. The disturbance of peat has been minimised through a careful and iterative design process resulting in a balance between peat excavated and that re-used within the Site for restoration purposes. No peat needs to be exported off Site. In addition, the Applicant has identified areas totalling approximately 390 ha which are potentially suitable for restoration as compensation and enhancement, complemented by approximately 168 ha of supplementary tree planting in addition to approximately 1,226 ha of land being deemed as suitable for natural woodland regeneration.
- 6.1.13. The Applicant's suite of socio-economic benefits including direct and indirect economic benefits will contribute to the five CWB pillars. The Applicant is keen to discuss shared ownership opportunities with the community and the community benefit fund could be used to fund the Applicant's local electricity discount scheme (LEDS) to help reduce electricity bills of properties closest to the Site.
- 6.1.14. NPF4 Policies 1 and 11 require decision makers to give 'significant weight' to the extent to which a Proposed Development contributes to the climate emergency and nature crisis. For the reasons already discussed, the Proposed Development will make a positive contribution to both these national initiatives and this provides significant support in policy terms.
- 6.1.15. NPF4 states on page 98 that '*The policies should be read as a whole*'. This is reiterated in the Chief Planner's letters from 8 February 2023 and again in the 22 November 2023 Chief Planners letter, which

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noted that 'There remains a need to weigh up all relevant policies and factors in applying planning judgement....'

- 6.1.16. Looking at NPF4 as a whole, and particularly the key twin objectives of tackling the climate emergency and the nature crisis, a reasonable assessment of the Proposed Development concludes that it does accord with the document as a whole and can contribute positively to the Intent and Outcomes of key policies, including community wealth building objectives.
- 6.1.17. The primary HwLDP policy of relevance is Policy 67. That policy clearly recognises that renewable energy developments can give rise to significant environmental effects. As such, the key test in assessing the extent of compliance with the policy is to ascertain whether a proposal is 'significantly detrimental overall'. Inbuilt into the policy is the need to have regard to the extent to which the proposal contributes to renewable energy targets, the location of the site relative to the primary source of energy and the extent of any positive or negative effects on the local and national economy.
- 6.1.18. The appraisal against HwLDP Policy 67 has demonstrated that significant environmental effects have been kept to a minimum by careful application of the mitigation hierarchy across all technical and environmental disciplines, such that significant environmental effects are few in number and generally localised in nature. Demonstrable and measurable environmental benefits will arise through measures set out in the OHMBEP; there will be positive socio-economic effects; and the inclusion of a BESS facility within the Proposed Development will contribute to a more flexible and robust energy system for the UK, with wider benefits for security of future energy supplies.
- 6.1.19. When these benefits are taken into account, it is considered that the Proposed Development can be positively assessed against HwLDP Policy 67, and other relevant HwLDP policies. Where significant adverse effects are identified, these are few in number, localised in nature and are outweighed by the benefits of the Proposed Development. Overall, therefore it is considered that the HwLDP is supportive of the Proposed Development.
- 6.1.20. Taking account of these various matters it is considered that the Proposed Development is the <u>right</u> <u>development in the right place</u> and it is therefore respectfully requested that S36 consent and deemed planning permission is granted

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