Chapter 5 Legislative and Policy Context

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List of Abbreviations

Abbreviation	Description
CCC	Committee on Climate Change
CCP	Climate Change Plan
CfD	Contracts for Difference
CGS	Clean Growth Strategy
COP	Conference of Parties
EGPS	Electricity Generation Policy Statement
EIA	Environmental Impact Assessment
EIAR	Environmental Impact Assessment Report
GW	Gigawatt
HwLDP	Highland Wide Local Development Plan
IMFLDP	Inner Moray Firth Local Development Plan
IPCC	Intergovernmental Panel on Climate Change
LDP	Local Development Plan
MIR	Main Issues Report
MW	Megawatts
NPF	National Planning Framework
OWPS	Onshore Wind Policy Statement
OWESG	Onshore Wind Energy Supplementary Guidance
PANs	Planning Advice Notes
SES	Scottish Energy Strategy
SLA	Special Landscape Area
SPP	Scottish Planning Policy
THC	The Highland Council
UKRES	The UK Renewable Energy Strategy

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5. Legislative and Policy Context

5.1 Introduction

5.1.1 This chapter provides the legislative and policy context relevant to the Proposed Development. The approach focuses on key climate change and renewable energy policies and legislation, as well as national and local planning policy.

5.1.2 A detailed examination of how the Proposed Development responds to legislation and policy is provided in the Planning Statement which is submitted separately as part of the application for consent under Section 36 (s36) of the *Electricity Act 1989*.

5.2 Legislation

The Electricity Act

5.2.1 Section 36 of the *Electricity Act 1989* ('the Electricity Act') provides that a generating station with a capacity in excess of 50 megawatts (MW) shall not be constructed, extended or operated except in accordance with a consent granted by the Scottish Ministers.

5.2.2 *Paragraph 3(2)* of *Schedule 9* of the Act requires the Scottish Ministers, in considering any relevant proposals for which their consent is required under s36, to have regard to:

- the desirability of the matters mentioned in *paragraph 3(1)(a)* of the *Schedule*; and,
- the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph 3(1)(a).

5.2.3 The matters mentioned in *paragraph 3(1)(a)* are: the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historical or archaeological interest. These matters have been taken account of through the EIA process.

5.2.4 The duty under *paragraph 3(1)(b)* requires the person who formulated the proposals, if they are a licence holder or a person authorised by an exemption to generate, distribute, supply or participate in the transmission of electricity, to do what he reasonably can to mitigate any effect that the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. As the applicant for consent in this case is not a licence holder and does not benefit from a licence exemption, the duty under paragraph 3(1)(b) does not apply in this case.

The Town and Country Planning Act

5.2.5 *Section 57(2)* of the *Town and Country Planning (Scotland) Act 1997* ('the Planning Act') (as amended), states that Scottish Ministers can, on granting s36 consent, give a direction for planning permission to be deemed granted (subject to any conditions specified in the direction).

5.2.6 Due to the regulatory consenting process for s36 applications, the *Planning Act* is not fully engaged beyond *Section 57(2)* and therefore primacy is not given to, for example, the *Local Development Plan (LDP)*. Nevertheless, the LDP is a material consideration in the decision-making process and as such should inform the Environmental Impact Assessment (EIA) process.

5.2.7 Note The statutory development plan comprises the following documents:

- *The Highland Wide Local Development Plan* (HwLDP) (adopted 5 April 2012);

- *Inner Moray Firth Local Development Plan* (IMFLDP) (adopted July 2015); and,
- Relevant supplementary guidance, particularly the *Onshore Wind Energy Supplementary Guidance* (2016).

The Climate Change (Scotland) Act

5.2.8 Following the *Climate Change Act 2008* and the *Climate Change (Scotland) Act 2009* which introduced legally binding targets to reduce the UK and Scotland's net greenhouse gas emissions respectively, the *Climate Change (Emissions Reduction Targets) (Scotland) Act 2019* received Royal Ascent on 31 October 2019 and became an Act of parliament. The Act requires that "*Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline (the target is known as the 'net-zero emissions target')*."

5.2.9 The target year is 2045 and the Act also sets out challenging interim minimum targets. It requires that:

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

(a) 2020 is at least 56% lower than the baseline,

(b) 2030 is at least 75% lower than the baseline, and

(c) 2040 is at least 90% lower than the baseline."

5.3 Energy and Climate Change Policy

Relevant International Agreements and Obligations

The Conference of Parties (COP) 21 UN Paris Agreement (2015)

5.3.1 The *Paris Agreement* (12 December 2015) sets out (page 2) "*with serious concern*" the need to hold the increase in global average temperature to "*well below 2°C*" above pre-industrial levels and to pursue "*efforts to limit the temperature increase to 1.5°C*". In order to achieve this long-term temperature target, the Agreement states "*parties aim to reach global peaking of greenhouse gas emissions as soon as possible*". The document also includes a ratcheting mechanism on climate action, with countries having to communicate nationally determined contributions to reducing global emissions. The first global "stocktake" is to take place in 2023 and will follow every five years thereafter.

The Conference of Parties (COP) 26 Glasgow Climate Pact (2021)

5.3.2 COP 26 took place in Glasgow in November 2021 and concluded with every Party, representing almost 200 countries, agreeing the Glasgow Climate Pact which seeks to drive action on climate change across the following key themes:

- Mitigation - reducing emissions;
- Adaptation - helping those already impacted by climate change;
- Finance - enabling countries to deliver on their climate goals; and,
- Collaboration - working together to deliver even greater action.

5.3.3 Critically, the Glasgow Climate Pact finalised the 'Paris Rulebook' which fully operationalises the Paris Agreement originally agreed in 2015 and discussed above. The Paris Rulebook sets out the detailed rules and systems to underpin the delivery of the Paris Agreement in order to meet the aspiration to limit future temperature increases to 1.5°C. According to President Alok Sharma (MP) The Glasgow Climate Pact has "*kept 1.5 degrees alive. But, it's pulse is weak and it will only survive if we keep our promises and translate commitments into rapid action*".

5.3.4 For the first time, COP also agreed a position on phasing down unabated coal power, in turn promoting the further development of clean energy.

5.3.5 The outcomes of COP 26 therefore reflect the national policy position discussed below in that immediate and robust action is required in order to meet the global climate emergency.

Intergovernmental Panel on Climate Change (IPCC) (2016 and 2021)

5.3.6 In April 2016, the Intergovernmental Panel on Climate Change (IPPC) published a '*Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways'* (SR1.5) in response to an invitation contained in the UN Paris Agreement.

5.3.7 The report concludes that human-induced warming reached approximately 1°C above pre-industrial levels in 2017 and at the present rate, global temperatures would reach 1.5°C around 2040. Actions are recommended to reduce emissions are referenced throughout the *SR1.5* Report and these include, for example, phasing out coal in the energy sector and increasing the amount of energy produced from renewable sources.

5.3.8 The most recent IPCC Assessment Report AR6 was published in August 2021. Its unequivocal conclusion is that human influence has warmed the planet and widespread and rapid changes in the atmosphere, ocean, cryosphere and biosphere have occurred. In his statement on the issue of AR6, the UN Secretary General stated that:

"*We need immediate action on energy. Without deep carbon pollution cuts now, the 1.5º C goal will fall quickly out of reach. This report must sound a death knell for coal and fossil fuels before they destroy our planet. There must be no new coal plants built after 2021. OECD countries (of which the UK is one) must phase out existing coal by 2030, with all others following suit by 2040. Countries should also end all new fossil fuel exploration and production, and shift fossil fuel subsidies into renewable energy. By 2030, solar and wind capacity should quadruple, and renewable energy investments should triple to maintain a net-zero trajectory by mid-century*"

Relevant United Kingdom Polices and Strategies

5.3.9 Although the overarching position in the UK is that energy policy is not a devolved matter, major policy documents such as the *UK Renewable Energy Roadmap* have embraced actions across the UK as a whole. Such documents have also made clear that the devolved administrations play an important role in the attainment of overall UK and European targets for renewable electricity. While some of the devolved administrations do not have the core competencies over energy policy, it has not prevented them issuing a range of policy statements and 'Routemaps' for renewable energy and the low carbon agenda for their own territory.

5.3.10 The following UK-wide energy strategy and policy driver documents are of relevance:

The UK Renewable Energy Strategy (UKRES) (2009)

5.3.11 This sets out the means by which the UK can meet the legally binding target of 15 % of energy consumption from renewable sources by 2020[1]. It presents a 'lead scenario' that more than 30 % of electricity should be generated from renewables by 2020[2].

The UK Renewables Energy Roadmap Updates (2012 and 2013)

5.3.12 The *UK Renewable Energy Roadmap Update* of 2012 emphasised that there was an urgent need for new large-scale renewable energy projects to ensure the 2020 targets were met, as

[1] Renewable energy accounted for 11% of UK energy consumption in 2018 (Source: DECC, Digest of UK Energy Statistics (DUKES) July 2019).

[2] The contribution of all renewables to UK electricity generation was 33% in 2018, (*Ibid*). In 2000 renewable generation was 2.6%.

well as wider decarbonisation ambitions (*para 2.5*). It also made it clear that the central ranges of renewable deployment as set out in the *Roadmap* of 2011 "*did not represent technology specific targets or the level of our ambition*". Specifically (*para 2.10*) it made clear that the reference in the *Roadmap 2011* of potentially having in place 13 Giga Watts (GW) of onshore wind capacity by 2020 did not represent a technology specific target.

5.3.13 On 6 November 2013 the former Coalition Government published an update to the *UK Renewable Energy Roadmap*. Onshore wind is referred to on *page 44* and *paragraph 114* states that "*onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy*".

The UK Clean Growth Strategy (2017)

5.3.14 The UK Government published the *Clean Growth Strategy 'Leading the Way to a Low Carbon Future*' in October 2017. The Clean Growth Strategy (CGS) defines 'clean growth' as "*growing our national income while cutting greenhouse gas emissions. Achieving clean growth, while ensuring an affordable energy supply for businesses and consumers, is at the heart of the UK's Industrial Strategy*". The introduction refers to the *2015 Paris Agreement* and states that the actions and investments that will be needed to meet the Paris commitments will ensure the shift to clean growth will be at the forefront of policy decisions made by Government in coming decades.

Committee on Climate Change (CCC) Report (2019) and Associate Progress Reporting (2020)

5.3.15 The Committee on Climate Change (CCC) published its landmark report entitled '*Net Zero – UK's Contribution to Stopping Global Warming*' in May 2019. The report responds to requests from the Governments of the UK, Wales and Scotland, asking the CCC to reassess the UK's long-term carbon emissions targets.

5.3.16 The CCC's *Progress Report* to the UK Parliament of June 2020 assesses progress in reducing UK emissions over the past year. The Report states that "*progress remains significantly off track in adaptation to build climate resilience*" and "*overall the Government has only fully achieved two milestones out of 31 set out in 2019 Progress Report*". The Report also refers to new challenges set by COVID-19 and states "*our recovery from it will reshape how we tackle the climate crisis. Choices in the coming months must steer a recovery that drives vital new economic activity, accelerates our transition to Net Zero and strengthens our resilience to the impacts of climate change*".

5.3.17 The CCC published its '*Reducing emission in Scotland - 2020 Progress Report to Parliament*' in October 2020. The report shows that Scotland's greenhouse gas emissions fell by 31 % from 2008 to 2018. This was primarily due to action to reduce emissions in the power sector, where Scottish renewable electricity generation has tripled, and fossil-fuelled generation has fallen by more than 70 % in the last decade. However, greenhouse gas emissions increased by 2 % in 2018, compared to a reduction of 3 % in 2017. The report highlights priority areas for the Scottish Government in terms of emissions reductions, one of which included the delivery of an updated *Climate Change Plan*, which was published in December 2020 and is discussed further throughout this chapter.

The UK Government's Energy White Paper: Powering our Net Zero Future (2020)

5.3.18 In November 2020, the UK Government published its '*Ten Point Plan for a Green Industrial Revolution'*, which the Prime Minister has said will allow the UK to forge ahead with eradicating its contribution to climate change by 2050, particularly crucial in the run up to the COP26 climate summit in Glasgow in 2021.

5.3.19 The publication of the 10 Point Plan was followed by the '*Energy White Paper: Powering our net zero future*' in December 2020. In it, the UK Government highlights the intention to continue to hold regular Contracts for Difference (CfD) auction rounds every two years to bring forward a range of low-cost renewable technologies, with the next auction in late 2021 open to onshore wind. While a key focus on investment for the UK Government is in offshore wind it states at *page 45* that "*Onshore wind…will be key building blocks of the future generation mix…We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios*."

Relevant Scottish Government Policies and Strategies

The 2020 Routemap for Renewable Energy in Scotland (2011) including updates in 2013 and 2015

5.3.20 The Scottish Government published *the 2020 Routemap* in July 2011. The Executive Summary states that the Government is aiming to make Scotland "*the renewables powerhouse of Europe*".

5.3.21 *Chapter 1* states that the renewables target of 100% equates to the equivalent of approximately 16 GW of installed capacity and to meet the target will *"demand a significant and sustained improvement over the deployment levels seen historically"* (*page 26*).

5.3.22 The *Routemap* also provided an increase in the Scottish Government's overall renewable energy target to 30 % by 2020.

5.3.23 *Chapter 3* provides a specific routemap for 'Onshore Wind' and is entitled '*Sectoral Routemaps'*. The introduction of *Chapter 3* notes that *"The Government is committed to the continued expansion of portfolio of onshore windfarms to help meet renewables targets … Onshore wind turbines can make a very large contribution to the progress to Scotland's renewable electricity target, and help establish Scotland's reputation as rapidly becoming the green powerhouse of Europe thanks to its underlying political commitment to make it happen*" (*page 66*).

5.3.24 A *Routemap Update* was published in December 2013. The Ministerial Forward states that "*Renewable energy is a central element of a strategy for a successful Scotland. Scotland's vast renewable energy resources create major job and investment opportunities and – as part of wider common balanced energy mix – will deliver secure, low carbon and cost-effective energy supplies*" (*page 3*).

5.3.25 A further *Routemap Update* was published on 17 September 2015. The report provides statistics on deployment of renewables and provides sectoral updates. *Page 13* states that "*onshore wind has a pivotal role in delivering our 2020 renewables targets…*".

The Electricity Generation Policy Statement (2013)

5.3.26 The Scottish Government published the *Electricity Generation Policy Statement* (EGPS) on 28 June 2013. The EGPS examines the way Scotland generates electricity and considers the changes necessary to meet the various targets in the sector set by Government. *Paragraph 2* states that the report is built upon a sustainable, low carbon vision of Scotland's energy future and it identifies *"the need for a rapid expansion of renewable electricity across Scotland…".*

5.3.27 *Paragraph 8* states that the report will assist the Scottish Government to comply with further statutory requirements under the *Climate Change Scotland Act 2009*. It also reiterates in *paragraph 9* that the Government is committed to securing the transition to a low carbon economy, which is one of the six 'strategic priorities' laid out in the Government's *Economic Strategy*.

5.3.28 *Page 11* of the report explains that the UK target is to produce 15 % of all energy from renewable sources and an estimated 30 % of electricity from renewable sources by 2020 and that this *"will require connection to Scotland's vast energy resource and we will continue to work to connect Scotland to an ever more integrated UK and EU market".*

5.3.29 The report cross refers to *the 2020 Routemap* for renewable energy in Scotland. *Paragraph 32* reiterates the EU context and states that Scotland has the potential to make a *"major contribution to the EU's overall renewables target".*

The Scottish Energy Strategy (2017) and associated Position Statement of 2021

5.3.30 The Scottish Energy Strategy (SES) sets a 2050 vision for energy in Scotland as "*a flourishing, competitive local and national energy sector, delivering secure, affordable, clean energy for Scotland's households, communities and businesses*". The vision is guided by three core principles namely:

- A whole system view;
- An inclusive energy transition; and,
- A smarter local energy model.

5.3.31 The 2050 vision is expressed around six priorities including "*Renewable and low carbon solutions".* Confirming that the Scottish Government will *"continue to champion and explore the potential of Scotland's huge renewable energy resource, and its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets.*"

5.3.32 The strategy also contains new whole system targets for 2030 as follows:-

- The equivalent of 50 % of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources; and,
- An increase by 30 % in the productivity of energy use across the Scottish economy.

5.3.33 The longer-term target is further articulated on *page 34* where is it stated: "*Scotland's long-term climate change targets will require the near complete decarbonisation of our energy system by 2050, with renewable energy meeting a significant share of our needs*".

5.3.34 The SES refers to "*Renewable and Low Carbon Solutions*" as a strategic priority (*page 41*) and states "*we will continue to champion and explore the potential of Scotland's huge renewable energy resource, its ability to meet our local and national heat, transport and electricity needs – helping to achieve our ambitious emissions reduction targets*".

5.3.35 Onshore wind is identified as a key technology and the SES states "*we will push for UK wide policy support for onshore wind, and take action of our own to prioritise and deliver a route to market – combined with a land use planning approach which continues to support development while protecting our landscapes*".

5.3.36 The Government has highlighted the importance of the need for onshore wind to have a route to market and the importance of this consideration is clearly emphasised in the final SES.

5.3.37 The SES goes on to set out what is termed the "*Opportunity*" for onshore wind and there is explicit recognition that onshore wind is amongst the lowest cost forms of power generation of any kind which will allow it to contribute to one of the six priorities, which is "*to protect consumers from excessive or avoidable costs*" (*Page 8*). It is also recognised as "*a vital component of the huge industrial opportunity that renewables creates for Scotland*". Reference is made to the employment levels and economic activity derived from onshore wind and the SES sets out that the Government is "*determined to build on these strengths*".

5.3.38 The SES sets out the Government's clear position on onshore wind namely:

> "*our energy and climate change goals mean that onshore wind must continue to play a vital role in Scotland's future – helping to decarbonise our electricity, heat and transport systems, boosting our economy, and meeting local and national demand."*
>
> "*That means continuing to support development in the right places…all based on an appropriate, case by case assessment of their effects and impacts and it means developers and communities working together and continuing to strike the right balance between environmental impacts, local support, benefits, and – where possible economic benefits driving from community ownership*".

5.3.39 The SES adds:

> "*this can be done in a way which is compatible with Scotland's magnificent landscapes, including our areas of wild land. This means that the relevant planning and consenting processes will remain vitally important. A major review of the Scottish planning system is well underway, and will continue as now to fully reflect the important role of renewable energy and energy infrastructure, in the right places*".

5.3.40 The SES goes on to cross refer to further detail in relation to onshore wind as contained within the *Onshore Wind Policy Statement* (OWPS) which was published alongside the SES and is discussed further below.

5.3.41 In 2021, the Scottish Government published '*Scotland's Energy Strategy Position Statement'* which provides an overview of key priorities for the short to medium-term and establishes a framework to continue to deliver the three key principles established in the *Energy Strategy* (a whole-system view, an inclusive energy transition and a smarter local energy model).

5.3.42 With respect to onshore wind, the Minister for Energy makes it clear through the Position Statement that "*The potential remains for much more renewable capacity and development across Scotland".* Further, *page 22* states that "*the continued growth of Scotland's renewable energy industry is fundamental to enabling us to achieve our ambition of creating sustainable jobs as we transition to net zero. The Scottish Government is committed to supporting the increase of onshore wind in the right places to help meet the target of Net Zero*".

The Onshore Wind Policy Statement (OWPS) (2017)

5.3.43 The Scottish Government's OWPS sets out the up-to-date national policy position in relation to onshore wind. The Ministerial Foreword sets out that "*there is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally create for Scotland*".

5.3.44 It adds "*our energy and climate change goals mean that onshore wind will continue to play a vital role in Scotland's future – helping to substantively decarbonise our electricity supplies, heat and transport systems, thereby boosting our economy.*"

5.3.45 *Chapter 1* is entitled 'Route to Market' and it sets out (*paragraph 2*) that onshore wind, as a mature and established technology, is now amongst the lowest cost forms of generating electricity, renewable or otherwise. It adds "*we expect onshore wind to remain at the heart of a clean, reliable and low carbon energy future in Scotland*".

5.3.46 Establishing a route to market is essential to enable wider deployment and an increased contribution from onshore wind. In a subsidy free context, it will be the larger scale developments that can capture a good wind resource and which have cost effective grid connection arrangements which will make a valuable early contribution to targets.

5.3.47 *Paragraph 3* continues: "*In order for onshore wind to play its vital role in meeting Scotland's energy needs, and a material role in growing our economy, its contribution must continue to grow. Onshore wind generation will remain crucial in terms of our goals for a decarbonised*

energy system, helping to meet the greater demand from our heat and transport sectors, as well as making further progress towards the ambitious renewable targets which the Scottish Government has set".

5.3.48 *Paragraph 4* of *Chapter 1* states that given the recognised contribution that onshore is expected to make to Scotland's future energy and renewable targets "*this means that Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated*".

5.3.49 *Paragraph 8* of *Chapter 1* emphasises the industrial opportunity presented by a growing onshore wind sector and it states that "*the extent to which we can continue to capture these benefits, remains a top priority for Scottish Ministers*".

5.3.50 Importantly, and given the recognition that onshore wind is amongst the lowest cost forms of generating electricity, *paragraph 13* makes it clear that the Government's position is that they wish to "*ensure that consumers are able to benefit from the low cost contribution onshore wind can make to a decarbonised energy future – but at no additional cost to their energy bills*".

5.3.51 One of the key questions posed in the draft OWPS was whether the matter of efficiency should be a material consideration in the s.36 application process. The Government decided not to pursue this matter but at *paragraph 32* sets out "*they continue to invite applications to explain clearly how environmental impacts have been balanced against energy yield during design iteration, and reported as part of the information provided in support of applications*".

5.3.52 *Paragraph 23* states that the Scottish Ministers "*acknowledge that onshore wind technology and equipment manufacturers in the market are moving towards larger and more powerful (i.e. higher capacity) turbines and that these by necessity – will mean taller towers and blade tip heights*".

5.3.53 *Chapter 3* of the OWPS addresses '*a strategic approach to development'* and states that whilst this was a key matter posed in the draft OWPS in terms of whether a new strategic approach to wind farm site development should be taken in Scotland, Scottish Ministers have taken the view that the current system described in the consultation as "*business as usual*" continues to represent an effective and efficient process for considering applications for developments in excess of 50 MW.

Onshore Wind Policy Statement (OWPS) Refresh 2021: Consultative Draft (October 2021)

5.3.54 In August 2021, the Bute House Agreement, a draft policy programme, was agreed between the Scottish Government and the Scottish Green Party Parliamentary Group. It focuses on areas of mutual interest to improve the way Scotland is governed and create a stable platform to meet the challenges Scotland faces. It details collaboration on the climate emergency, economic recovery, the natural environment, and energy amongst others. It states: "*While electricity has already been largely decarbonised, our plans will see a significant increase in electricity demand for heating and transport. To accommodate this, we will support the continued and accelerated deployment of renewable energy. To maximise the economic benefits of the transition, and to create quality green jobs, we will do more to support the growth of the supply chain and invest in the infrastructure we need*."

5.3.55 The shared programme includes an ambition to deliver, subject to consultation, between 8 and 12 gigawatts of additional installed onshore wind by 2030.

5.3.56 Further to the Bute House Agreement, the Onshore Wind Policy Statement Refresh 2021 seeks views on the Scottish Government's ambition to secure an additional 8-12 GW (i.e. beyond the 11-16GW of renewable capacity to 2032 recognised in the CCP Update) of installed onshore

wind capacity by 2030, how to tackle the barriers to deployment, and how to secure maximum economic benefit from these developments.

5.3.57 The document re-emphasises the Scottish Government's strong support for onshore wind and belief in its effectiveness but re-iterates (paragraph 1.2.2) that "*we must now go further and faster than before*".

The Climate Change Plan (2018) and Associated Update: Securing a Green Recovery on a Path to Net Zero (2020)

5.3.58 In February 2018, the Scottish Government published the '*Climate Change Plan: The Third Report on Policies and Proposals: 2018- 2032*'. Through this, the Scottish Government recognised that "*climate change is one of the greatest global threats we face. Scotland must play its part to achieve the ambitions set out in the Paris Agreement, which mandates concerted, global action to deal with the threat.*"

5.3.59 The Climate Change Plan (CCP) Update *(Securing a Green Recovery on a Path to Net Zero)* published in December 2020 ('the 2020 Update') reframes the 2018 Climate Change Plan and sets new ambitious targets to Scotland's contribution to climate change to 2045, reflecting the requirements of the *Climate Change (Emissions Reduction Targets) (Scotland) Act 2019*. The CCP now demonstrates not only the Scottish Government's pathway to meeting Scotland's emissions reduction targets over the period to 2032, but also a strategic route to a green recovery from COVID-19. The 2020 Update notes that many elements of the 2018 Plan still stand and that the 2020 Update should be read alongside the CCP.

5.3.60 In delivering the Green Recovery the 2020 Update acknowledges the need for increased investment in renewable energy, particularly onshore and offshore wind. The update also highlights the importance of harnessing Scotland's potential in making the most of the vast wind and marine resources which are available.

5.3.61 At *page 25* of the CCP, the contribution of onshore wind to electricity generation is recognised alongside its role in driving innovation, stating that "*in 2016, 42.9 % of our electricity was generated by renewables, predominantly onshore wind. The expansion in onshore wind is comparable to the rollout of hydro power in the post-war period, which transformed for the better the lives of so many. This growth continues to drive innovation and adaptation in the management and control of power on the grid. This innovation, both technological and regulatory, will play a crucial role in accommodating the continuing growth of embedded generation, and a wider transformation in how we use the grid to heat and cool our buildings and power our transport systems.*"

5.3.62 The 2020 Update highlights that Scotland is widely recognised as a world leader in renewable energy, with an abundance of renewable resources, and the targets and achievements reflect that. The Update notes that more than 83 % of the electricity generated in Scotland during 2018 came from renewable or low carbon sources.

Energy Efficiency Scotland: Route Map (2018)

5.3.63 The Scottish Government's Energy Efficiency Route Map reflects a desire to remove poor energy efficiency as a driver of fuel poverty and a constraint to meeting climate change targets. It aims to make it easier to heat Scotland's most vulnerable households, transforming buildings to be warmer, greener and more efficient, setting out a long-term plan to achieve the necessary efficiency targets by 2040.

5.3.64 Page 22 of the Route Map highlights the multiple benefits the energy efficiency programme is seeking to achieve, by stating that "*Investment in improving the energy efficiency and decarbonising the heat of Scotland's buildings will:*

- *Put more money in people's pockets by helping to keep bills affordable – supporting our ambitions to eradicate fuel poverty;*
- *Improve business competitiveness by making sure every pound spent on energy is maximised in productivity.*
- *Substantially reduce greenhouse gas emissions contributing to meeting our ambitious climate change targets".*

5.3.65 It is inferred that renewable technology has a role to play in meeting the objectives of the Route Map and this is re-enforced by the Highland Council's response to the EIA scoping request (ref:21/00666/SCOP) (April 2021) which states that "*the application should include a statement on how the development is likely to contribute to the Scottish Government Energy Efficient Scotland roadmap and provide the Highlands with secure and clean electricity supplies*".

5.4 National Planning Policy

The Chief Planner Letter to All Heads of Planning (2015)

5.4.1 A letter from the Scottish Government Planning and Architecture Division to all Heads of Planning entitled '*Energy Targets and Scottish Planning Policy'* was published on 11 November 2015.

5.4.2 It sets out that despite some changes to UK policy, the Scottish Government's policy remains unchanged and that it *"supports new onshore renewable energy developments, including onshore windfarms and particularly community owned and shared ownership schemes*". Importantly, it adds that *"this policy support continues in the situation where renewable energy targets have been reached".*

5.4.3 In the letter, the Chief Planner re-emphasises that the Scottish Government's Scottish Planning Policy (SPP)(2014) and *Electricity Generation Policy Statement* (2013) set out the Scottish Government's current position on onshore wind farms. The letter adds that there is no cap on the support for renewable energy development, including onshore wind once the target has been reached.

National Planning Framework

5.4.4 Scotland's third *National Planning Framework* (NPF3) was published by the Scottish Government on 23rd June 2014. NPF3 is a long-term spatial expression of the Government's *Economic Strategy* and plans for development and investment in infrastructure. Together, NPF3 and SPP (referred to below) applied at the strategic and local levels, are intended to help the planning system deliver the Government's vision and outcomes for Scotland and to contribute to the Government's central purpose.

5.4.5 NPF3 sets out a vision for Scotland. One of the key messages is the opportunity of achieving a low carbon place and this is addressed in *Chapter 3*. This is also a 'subject policy' in SPP.

5.4.6 NPF3 notes the Government's ambition "*to achieve at least an 80 % reduction of greenhouse gas emissions by 2020*". *Paragraph 3.8* also sets out an overall aim to meet at least 30 % of overall energy demand from renewables by 2020 which includes generating the equivalent of a least 100 % of gross electricity consumption from renewables.

Scottish Planning Policy

5.4.7 SPP was published on 23 June 2014 and is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed. It is a material consideration in land use decision-making.

5.4.8 SPP refers to 'outcomes' as they relate to the Scottish Government's 'Purpose' "*of creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth….".*

Presumption in Favour of Development that Contributes to Sustainable Development

5.4.9 SPP includes a Policy Principle which "*introduces a presumption in favour of development that contributes to sustainable development"* and *Paragraph 28* states that *"the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost".*

5.4.10 *Paragraph 29* of SPP sets out that policies and decisions on sustainable development should be guided by a number of principles, comprising:

- Giving due weight to net economic benefit.
- Responding to economic issues, challenges and opportunities, outlined in local economic strategies.
- Supporting good design and the six qualities of successful places.
- Supporting delivery of infrastructure, for example transport, education, energy, digital and water.
- Supporting climate change mitigation and adaptation including taking account of flood risk.
- Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.
- Having regard to the principles for sustainable land use set out in the Land Use Strategy.
- Protecting, enhancing and promoting access to cultural heritage, including the historic environment.
- Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.
- Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

A Low Carbon Place

5.4.11 SPP addresses 'A Low Carbon Place' as a 'subject policy' on *page 36*. In terms of 'Policy Principles', *Paragraph 154* states that the planning system should:

> *"Support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving:*
>
> > *30% of overall energy demand from renewable sources by 2020;*
> >
> > *The equivalent of 100% of electricity demand from renewable sources by 2020.*
>
> *Support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity;*
>
> *Guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed."*

Onshore Wind

5.4.12 Onshore wind is specifically addressed at *Paragraph 161* of SPP. Detailed guidance is provided for Planning Authorities with regard to the preparation of spatial frameworks for onshore wind

development, and it is made clear that proposals for onshore wind turbine development should continue to be determined whilst spatial frameworks and local policies are being prepared and updated.

5.4.13 *Paragraph 170* states that wind farms should be, *"sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities.*

5.4.14 In terms of development management, *paragraph 169* of SPP set out that: "*proposals for energy infrastructure developments should always take account of spatial frameworks for windfarms*" and that considerations will vary relative to the scale of the proposal and area characteristics but are likely to include a number of matters. These are set out at *Table 1* within the SPP (*page 39*) (as replicated below).

Table 1: Spatial Frameworks

Group 1: Areas where wind farms will not be acceptable: National Parks and National Scenic Areas.		
Group 2: Areas of significant protection: Recognising the need for significant protection, in these areas wind farms may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.		
National and international designations: • World Heritage Sites; • Natura 2000 and Ramsar sites; • Sites of Special Scientific Interest; • National Nature Reserves; • Sites identified in the Inventory of Gardens and Designed Landscapes; • Sites identified in the Inventory of Historic Battlefields.	**Other nationally important mapped environmental interests:** • areas of wild land as shown on the 2014 SNH map of wild land areas; • carbon rich soils, deep peat and priority peatland habitat.	**Community separation for consideration of visual impact:** • an area not exceeding 2km around cities, towns and villages identified on the local development plan with an identified settlement envelope or edge. The extent of the area will be determined by the planning authority based on landform and other features which restrict views out from the settlement.
Group 3: Areas with potential for wind farm development: Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.		

Figure 5-1 - Extract from SPP

National Planning Framework (NPF) 4

5.4.15 On the 10th of November 2021, the Scottish Government published its draft '*Scotland 2045 - Fourth National Planning Framework*' (NPF4). This followed a Position Statement on NPF 4 which was published in November 2020 which confirmed that "*climate change will be the overarching priority for a spatial strategy. To achieve a net-zero Scotland by 2045 and meet the interim emissions reduction targets of 75% by 2030 and 90% by 2040, an urgent and radical shift in our spatial plan and policies is required*".

5.4.16 NPF4 will ultimately supersede both NPF 3 and SPP and will have the status of the development plan for planning purposes. This is a change to the current position and will mean that its policies will have a stronger role in informing day to day decision making.

5.4.17 The document sets out the Government's spatial strategy, defines policies to support this, and identifies national developments. The overall vision of NPF 4 to create 'Sustainable Places' includes an explicit desire to "…diversify and expand renewable energy" (page 6).

5.4.18 NPF 4 seeks to establish onshore infrastructure for energy generation from renewables on or exceeding 50MW as a 'national development'.

5.4.19 Policy 2 of NPF 4 relating to the Climate Emergency also recognises that "when considering all development proposals, significant weight should be given to the global climate emergency". The presumption in favour of development which contributes to sustainable development which drives the policy framework in SPP is not brought forward to NPF 4.

Planning Advice Notes

5.4.20 **Table 5.1** identifies and summarises the *Planning Advice Notes* (PANs) of relevance to the Proposed Development.

Table 5.1 – Relevant PANs

Guidance	Title	Summary
PAN 2/2011	Planning and Archaeology	Provides advice to planning authorities and developers on dealing with archaeological remains. But it does so with a fresh emphasis which is proportionate to the relative value of the remains and of the developments under consideration.
PAN 1/2011	Planning and Noise	Sets out the role of the planning system in preventing and limiting the adverse effects of noise.
PAN 1/2013	Environmental Impact Assessment (2013)	Explains the role of individual planning authorities and that of the Consultation Bodies in EIA, as well as providing guidance on the ways in which EIA can be integrated into the overall development management process.
PAN 60	Planning for Natural Heritage (2000)	Gives basic advice in relation to development and natural heritage. It reiterates the Government's Commitment to the protection and enhancement of the natural heritage.
PAN 61	Planning and Sustainable Urban drainage Systems (2001)	Provides good practice advice for planners and the development industry complementing the *Sustainable Urban drainage Systems Design Manual for Scotland and Northern Ireland* (2000).
PAN 1/2011	Planning and Noise	Sets out the role of the planning system in preventing and limiting the adverse effects of noise.
PAN 69	Planning & Building Standards Advice on Flooding (2004)	Supports national planning policy on flooding. Contains advice on addressing flood risk in development plans and in dealing with planning applications.
PAN 75	Planning for Transport (2005)	Provides advice on the requirement to link transport strategies and development plans and the need to take into account accessibility, location, modal split parking and design.
PAN 3/2010	Community Engagement	Advice to Planning Authorities and developers on how communities should be properly engaged in the planning process.

5.5 Local Planning Policy

5.5.1 The statutory development plan comprises the following documents:

- *The Highland Wide Local Development Plan* (HwLDP) (adopted 5 April 2012);
- *Inner Moray Firth Local Development Plan* (IMFLDP) (adopted July 2015); and,
- Relevant supplementary guidance, particularly the *Onshore Wind Energy Supplementary Guidance* (OWESG) (2016).

5.5.2 The Highland Council (THC) started to review the HwLDP with a *Main Issues Report* (MIR) consultation in 2016, however, this review was not progressed on the basis that the Scottish Government published the *Planning Bill*. THC's website states that "*we now expect to take forward review of the HwLDP under the new arrangements for Local Development Plans, with formal work anticipated to start in spring/summer 2022*".

Highland Wide Local Development Plan

5.5.3 The policies of the HwLDP most relevant to the Proposed Development are as follows:

Policy 67 – 'Renewable Energy Developments'

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

- *the contribution of the proposed development towards meeting renewable energy generation targets; and*
- *any positive or negative effects it is likely to have on the local and national economy;*
- *and will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other material considerations, including proposals able to demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities.*

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

- *natural, built and cultural heritage features;*
- *species and habitats;*
- *visual impact and impact on the landscape character of the surrounding area (the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations);*
- *amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or out with a settlement boundary);*
- *the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;*
- *ground water, surface water (including water supply), aquatic ecosystems and fisheries;*
- *the safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;*

- *other communications installations or the quality of radio or TV reception;*
- *the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;*
- *tourism and recreation interests; and*
- *land and water-based traffic and transport interests.*

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

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

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

Policy 57 – 'Natural, Built and Cultural Heritage'

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

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

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

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

consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997.

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

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

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

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

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

Policy 61 – 'Landscape'

5.5.13 The Proposed development is located within the Drynachan, Lochindorb and Dava Moors Special Landscape Area. Policy 61 is therefore relevant and is detailed as follows:

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

Policy 55 – 'Peat ad Soils'

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

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

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

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

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

5.5.15 Other relevant HwLDP policies which need to be taken into consideration include the following:

- *Policy 28 – Sustainable Design;*
- *Policy 28 – Sustainable Design;*
- *Policy 29 – Design Quality and Placemaking;*
- *Policy 30 – Physical Constraints;*
- *Policy 31 – Developer Contributions;*
- *Policy 56 – Travel;*
- *Policy 58 – Protected Species;*
- *Policy 59 – Other Important Species;*
- *Policy 60 – Other Important Habitats;*
- *Policy 62 – Geodiversity*
- *Policy 63 – Water Environment;*
- *Policy 66 – Surface Water Drainage;*
- *Policy 68 - Community Renewable Energy Developments;*
- *Policy 69 – Electricity Transmission Infrastructure; and,*
- *Policy 72 – Pollution;*
- *Policy 77 – Public Access.*

Inner Moray Firth Local Development Plan (IMFLDP)

5.5.16 The IMFLDP was adopted in July 2015 and sits alongside the HwLDP to provide the framework for delivery of new homes, jobs and services and supporting infrastructure. The IMFLDP includes a number of land use policies, however, they focus primarily on development within settlements and as such are not directly applicable to the Proposed Development. Notwithstanding this, the IMFLDP does identify Settlement Development Areas (SDA's) and those are the areas to which the Spatial Framework in the *Onshore Wind Supplementary Guidance* (OWSG) (discussed further below) focus policy direction.

5.5.17 The IMFLDP also confirms the boundaries of Special Landscape Areas (SLAs), including the Drynachan, Lochindorb and Dava Moors SLA which the Proposed Development is located within.

5.5.18 A MIR for the new IMFLDP (IMFLDP 2) has been prepared with the consultation period closing at the end of April 2021. The purpose of the MIR is to consult on the key matters affecting the local area in order to inform future development priorities.

5.5.19 The primary focus of the MIR with respect to renewable energy is linked to employment opportunities in the area. The draft vision of the MIR establishes under the 'employment' theme that "*The Inner Moray Firth economy will be growing, greener, circular and diverse. Local enterprises will be national leaders in the life sciences, sustainable tourism and renewable*

energy sectors. More traditional sectors such as construction, food and drink and smaller scale general industry will have continued to thrive and provide jobs close to where people live reducing the need to travel".

5.5.20 More widely in terms of renewables, it should be recognised that the MIR in page 19 states that "*To capture the unique economic and regeneration opportunities arising from a multi-billion pound, 50 year pipeline of renewable energy projects in the Moray Firth, an ambitious and collaborative partnership of private and public sector organisations known as Opportunity Cromarty Firth has been set up*".

Onshore Wind Supplementary Guidance

5.5.21 The Council adopted its Supplementary Guidance on wind energy in November 2016 and this now forms part of the statutory Development Plan. The *Addendum Supplementary Guidance Part 2B* (December 2017) provides Landscape Sensitivity Appraisals for the Black Isle, surrounding hills and Moray Firth coast.

5.5.22 Section 1 'Introduction' states: "*The advice that follows provides a fuller interpretation of HwLDP policies as they relate to onshore wind energy development. The Council will balance these considerations with wider strategic and environmental and economic objectives including sustainable economic growth in the Highlands, and our contribution to renewable energy targets and tacking climate change…*".

5.5.23 *Section 2* 'Highland Spatial Framework' includes a Spatial Framework which follows the approach of *Table 1* in SPP. The Proposed Development is situated outwith the areas identified as being unacceptable for wind farms.

5.5.24 *Section 4* 'Key Development Plan Considerations' sets out how important features and assets identified in HwLDP are expected to be safeguarded in relation to onshore wind energy development. The features/assets listed broadly follow those set out within *Policy 67* of the HwLDP.

5.5.25 Landscape and visual effects are addressed in *paragraphs 4.10 - 4.17. Paragraph 4.17* includes criteria which THC will use as a framework and focus for assessing proposals in terms of landscape and visual aspects. *Para. 4.16* states that "*the criteria do not set absolute requirements but seek to ensure that developers are aware of key constraints to development*".

Wider Supplementary Guidance

5.5.26 The following THC Supplementary Guidance documents have also informed the approach to the EIA:

- *Developer Contributions* (November 2018);
- *Sustainable Design Guidance* (January 2013);
- *Flood Risk and Drainage Impact Assessment* (January 2013);
- *Highland's Historic Environment Strategy* (January 2013);
- *Highland's Statutorily Protected Species* (March 2013);
- *Highland's Renewable Energy Strategy and Planning Guidelines* (May 2006);
- *Physical Constraints* (March 2013);
- *Roads and Transport Guidelines for New Developments* (May 2013); and,
- *Special Landscape Area Citations* (June 2011)

5.6 Cairngorms National Park Authority

5.6.1 The Proposed Development is located in proximity to but outwith Cairngorms National Park.

5.6.2 Cairngorms National Park was designated as a national park under the *National Parks (Scotland) Act 2000* (the 'National Parks Act').

5.6.3 The National Park Plan for the purposes of section 11 of the National Parks Act is currently the *Cairngorms National Park Partnership Plan 2017 – 2022 adopted 2017 (the 'Partnership Plan').* A draft of the next proposed Cairngorms National Park Partnership Plan was published for public consultation on 23 September 2021. The consultation period runs to 17 December 2021.

5.6.4 The Partnership Plan is relevant to the Proposed Development notwithstanding the Proposed Development is located outwith Cairngorms National Park. The Partnership Plan and emerging draft contain policies which will be of relevance to the Proposed Development. The relevant policies are considered where appropriate within each topic specific chapter of the EIA Report.

5.6.5 The Cairngorms National Park Authority will be a consultee in the s36 application process.

5.6.6 Section 14 of the National Park Act states that The Scottish Ministers (and a National Park authority, a local authority and any other public body or office-holder) must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan.

5.6.7 The *Cairngorms Local Development Plan* (adopted 2021) is not relevant to the Proposed Development as that local development plan is only applicable to development proposals within Cairngorms National Park.

5.7 Summary

5.7.1 This chapter sets out the legislative background to onshore wind farm development, identifies international and national energy and climate change policies and strategies and identifies the relevant national and local planning policies and guidance relevant to the environmental impact assessment process. It provides an objective summary of the policy considerations that have been taken into account in the preparation of the EIA Report to ensure it provides appropriate information for the consideration of the s36 application.

5.7.2 As previously noted, the policy appraisal for the Proposed Development is contained in a separate **Planning Statement** submitted with the application for consent.

5.8 References

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