



United Kingdom | December 2021

# *Lethen Wind Farm*

Fred.Olsen Renewables Limited

Planning Statement

December 2021

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# 1 Introduction and Background

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## 1.1 Background

- 1.1.1 Fred. Olsen Renewables (hereafter referred to as ‘the Applicant’) intends to apply to the Scottish Ministers for Section 36 (S36) consent and deemed planning permission, under the terms of the *Electricity Act 1989*, for permission to construct, operate and decommission Lethen Wind Farm (hereafter referred to as the ‘Proposed Development’), at site centre British National Grid (BNG) NS 9322 3567 (refer to **Figure 1.1**).
- 1.1.2 This application will be supported by an Environmental Impact Assessment (EIA) Report as required by *The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017*. This EIA Report has been prepared to assess the environmental impacts of the Proposed Development and will accompany the S36 Application submitted to the Scottish Ministers.
- 1.1.3 This Planning Statement has been authored by Fraser Blackwood (BA Hons, MSc, MRTPI), with overview by Steven Black (MSc, MRTPI) and presents an assessment of the Proposed Development against relevant policy with due regard given to the provisions of the statutory Development Plan for the Highland Council area, national energy and planning policy, and other relevant material considerations, cross-referencing to information contained in the EIA Report, where relevant.
- 1.1.4 Due to the proximity of the site to the Cairngorms National Park, the *Cairngorms National Park Partnership Plan 2017 – 2022* (adopted 2017) (the ‘Partnership Plan’) is also relevant to the Proposed Development notwithstanding the Proposed Development is located outwith Cairngorms National Park.
- 1.1.5 The Planning Statement is supplementary to, and should be read in conjunction with, the EIA Report submitted with the Application.

## 1.2 The Applicant

- 1.2.1 Fred. Olsen Renewables is a leading developer, owner and operator of renewable energy assets, primarily onshore wind farms. The Applicant has been developing and operating wind farms in the UK since the mid 1990’s demonstrating long term commitment to the renewable energy generation market in the UK, Scotland and the north-east of Scotland in particular.
- 1.2.2 With over twenty-five years’ experience in consenting, developing and operating wind farms, Fred. Olsen Renewables is one of very few developers that take a project all the way from initiation and development, through to operation and ultimately decommissioning.
- 1.2.3 The company has been developing and operating wind farms since the 1990’s, and continues to operate Scotland’s first consented wind farm, Windy Standard Wind Farm in Dumfries and Galloway.
- 1.2.4 In the UK alone, Fred. Olsen Renewables’ operational portfolio comprises over 500 MW across ten wind farms. Internationally Fred. Olsen Renewables operates over 1 GW of renewable energy projects.
- 1.2.5 Fred. Olsen Renewables was the first developer to bring forward community benefit in Scotland. To date, Fred. Olsen Renewables has made available over £6 m to eligible communities surrounding its wind farms and is substantially increasing this investment as new projects come online.

- 1.2.6 Fred. Olsen Renewables has committed to maximising opportunities for the local supply chain. This includes committing to ensuring that all main contractors will spend at least 30% of the contract value locally and incentivising all contractors to use local content.
- 1.2.7 In addition, two Fred. Olsen Renewables projects, Rothes I and Rothes II, contributed over £60 m to the Highlands & Islands economy, and £103 m to the Scottish economy alone to date.
- 1.2.8 Fred. Olsen Renewables is a wholly owned subsidiary of Bonheur ASA and is responsible for the group's on-shore renewable energy activities.

### 1.3 Site Description

- 1.3.1 The site is located approximately 10 km north-west of Grantown-on-Spey and 14 km east of Tomatin (refer to **Figure 1.1**) in the Scottish Highlands.
- 1.3.2 The site comprises an area of approximately 1,458 hectares (ha) of land and varies in topography from 290 m Above Ordnance Datum (AOD) in the northern section of the site to 460 m AOD in the southern section of the site.
- 1.3.3 The site is located in an area of open moorland, bounded to the east by the B9007 and to the west by the Leonach Burn. A number of tributaries to the Tomlachlan Burn intersect the site, with the Tomlachlan Burn running south to north through the centre of the site.
- 1.3.4 There is one scheduled monument within the site itself and a further seven within 5 km, including Lochindorb Castle to the east. The site sits approximately 1.1 km north of the Cairngorm National Park and is within the boundary of the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA). It is also within 20 km of two Wild Land Areas (WLA); 20 – Monadhliath and 15 – Cairngorms. The site possesses a strong wind resource.

### 1.4 Proposed Development

- 1.4.1 The Proposed Development will comprise 17 wind turbines with associated transformers and switchgear up to 185 m blade tip height when vertical, each being around 6 megawatt (MW) in power rating. The combined generation capacity of the turbines will be approximately 102 MW, supported by additional energy storage provision with an output capacity of around 10 MW. The associated infrastructure will include: site access, access tracks, crane hardstandings, underground cabling, on-site substation and maintenance building, energy storage facility, temporary construction compounds, laydown area, potential excavations/borrow workings and a permanent meteorological mast.
- 1.4.2 The total power output of the Proposed Development would be around 102 MW. Based on a calculated capacity factor, the annual indicative total energy output for the Proposed Development would be approximately 261.2 gigawatt (GW) hours per annum, indicating the Proposed Development would generate enough electricity to power over 72,500 average UK households (based on average electricity consumption per household in the UK quoted by the Department of Business, Energy and Industrial Strategy (BEIS), of 3,578 kWh per year, 2020).
- 1.4.3 The Proposed Development would contribute towards international and national targets for the generation of renewable energy and reduction in greenhouse gas emissions. The Proposed Development is fully described in **Chapter 3: Project Description** and is shown on **Figure 1.2**.

## 1.5 Consenting Route

### The Electricity Act

1.5.1 The Proposed Development is classified as a generating station, which requires consent from Scottish Ministers to operate under S36 of the *Electricity Act 1989* as it will have a capacity of more than 50MW.

1.5.2 The following Schedules of the *Electricity Act 1989* are also applicable:

#### Schedule 8

- Sets out the key requirements for an application for consent. This includes that a site map should be provided, illustrating the location of where any generating station is proposed (see **Figure 1.2**);
- Ensures that the relevant planning authority will be involved in the application for consent (in this instance, the Highland Council (THC)). Notice is served to the planning authority as part of the application process and an opportunity is provided for them to submit their appraisal of the project. Note that the Cairngorms National Park Authority will also be consulted; and,
- Provision is also given to other consultees and members of the public to submit comments on a proposal.

#### Schedule 9 (3)

- States that applications for S36 consent will be considered with regard to “*the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest*”; and,
- “[*The Applicant*] shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.”. These topics are referred to in detail through the EIA Report and as part of this Planning Statement.

1.5.3 This S36 application has been prepared in accordance with the requirements of *the Electricity Act 1989* and is submitted to the Energy Consents Unit (ECU) of the Scottish Government.

### Town and Country Planning

1.5.4 Section 57(2) of *the Town and Country Planning (Scotland) Act 1997* (‘the Planning Act’), as amended by *the Planning etc., (Scotland) Act 2006* and *the Planning (Scotland) Act 2019* 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).

1.5.5 This application to Scottish Ministers for the Proposed Development therefore requests a direction for deemed planning permission in addition to S36 consent.

1.5.6 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) (Section 25) or Pre-Application Consultation (PAC) (Sections 35A-C).

- 1.5.7 Nevertheless, the LDP is a material consideration for Scottish Ministers who take the response from the planning authority into account when determining S36 applications. In addition, PAC has taken place for the Proposed Development as detailed in the submitted **Statement of Consultation** (SoC).
- 1.5.8 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).

## 1.6 Pre Application Engagement

- 1.6.1 The Planning Statement is also informed by feedback received from extensive consultation with THC as Planning Authority and associated internal THC specialists, statutory and non-statutory stakeholders and the general public. The full extent of consultation carried out and the associated design development is covered in more detail through the submitted **Statement of Consultation** (SoC).

## 1.7 Purpose and Structure of the Planning Statement

- 1.7.1 Considering the above and in line with the ECU's *Good Practice Guidance (2013)*, the purpose of this Planning Statement is to describe how the Proposed Development responds to local and national planning policy. Furthermore, the Planning Statement considers and assesses the Proposed Development against the context of national and international energy and climate legislation, performance, targets and guidance.
- 1.7.2 The Planning Statement is structured as follows:
- **Chapter 2** provides an assessment of the need for onshore wind energy, considering national and international energy and climate legislation, policy and guidance.
  - **Chapter 3** provides an assessment of the Proposed Development against national planning policy. This Chapter is framed with respect to demonstrating the overall sustainability of the Proposed Development.
  - **Chapter 4** provides an assessment of the Proposed Development against local planning policy and other relevant material considerations.
  - **Chapter 5** presents the conclusions of the assessment and highlights the overall benefits of the Proposed Development.
- 1.7.3 The Planning Statement draws on the findings of and should be read in conjunction with the associated EIA Report and the various drawings and plans which are included as part of the S36 Application package. The EIA Report and other relevant accompanying documents will be referenced throughout where they provide more detailed information that is not essential to repeat for the purposes of this Planning Statement.

## 2 The Need for Onshore Wind

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### 2.1 Introduction

- 2.1.1 Scotland's commitment to the development of renewable energy, including onshore wind, in response to the global climate emergency is evident through energy policy and legislation at national and domestic levels.
- 2.1.2 This Chapter explains the energy and climate change policy, strategy and legislation that should be considered as an important material consideration that requires to be weighed in the decision-making balance for the Proposed Development. The energy and climate change policy and legislative framework set the 'Needs Case' for the Proposed Development, which is ultimately aimed at addressing the impacts of climate change through renewable energy generation in a sustainable manner, whilst also maintaining energy security.
- 2.1.3 **Chapter 5: Planning Policy Context** of the EIA Report sets out the legislative and policy background which has underpinned the EIA process and as such, it can be assumed that the outcomes of the EIA have been framed within the context of the current 'climate emergency' which is explained further throughout this Planning Statement.
- 2.1.4 This Planning Statement will seek to focus purely on the most crucial policy, strategy and legislation relevant to demonstrating the need for continuing the enhancement of Scotland's sustainable onshore wind resource. The key matters relevant to demonstrating the need for the Proposed Development are demonstrated by considering:
- The renewed urgency in climate change policy and strategy and the 'Climate Emergency' context in Scotland;
  - Climate and Energy Policy in Scotland; and,
  - Progress and performance against climate change and energy targets in Scotland.
- 2.1.5 A 'Summary of Position' section is included at the end of this Chapter.

### 2.2 Material Weight in Decision Making

- 2.2.1 It is acknowledged that in general terms, *Scottish Planning Policy (SPP)* and *National Planning Framework (NPF) 3*, along with LDP policy provide the primary framework to inform decision-making on developments of this scale and nature. However, it should be noted that many of the strategies discussed throughout this Planning Statement and in particular the establishment of the Climate Emergency in Scotland were established after the aforementioned policy framework and as such provide an altered and more immediate perspective and associated urgency for action on climate change not yet reflected in planning policy.
- 2.2.2 This position was reflected by the then Climate Change Secretary Roseanna Cunningham in a statement on 14<sup>th</sup> May 2020 to the Scottish Parliament on the 'Global Climate Emergency', stating "*the next National Planning Framework and review of Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals*".
- 2.2.3 It should also be recognised that on the 10<sup>th</sup> November 2021, the Scottish Government published a consultative draft of the '*Scotland 2045 - Fourth National Planning Framework*' (NPF4). NPF4 sets out

the Government’s spatial strategy, defines policies to support this and identifies national developments. Draft Policy 2a states when considering all development proposals "*significant weight should be given to the Global Climate Emergency*". It should be noted that the Proposed Development would be considered a ‘national development’ under the terms of NPF 4 given it comprises onshore infrastructure for energy generation from renewables of or exceeding 50MW capacity.

- 2.2.4 In light of the above, it would be reasonable to expect that the material weight afforded to the need for the development in the context of the climate emergency would be increased, albeit the associated planning balance will still guide decision-making.

## 2.3 The Renewed Urgency in Climate Change Policy

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

- 2.3.1 The Paris Agreement (12<sup>th</sup> 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)

- 2.3.2 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.

- 2.3.3 Critically, the Glasgow Climate Pact finalised the ‘Paris Rulebook’ which fully operationalises the Paris Agreement originally agreed in 2015. 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, its pulse is weak and it will only survive if we keep our promises and translate commitments into rapid action*".

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

- 2.3.5 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.

### The Climate Change Committee and Net Zero

- 2.3.6 The Climate Change Committee (CCC) published its landmark report entitled ‘*Net Zero – UK’s Contribution to Stopping Global Warming*’ in May 2019. The report responded to requests from the



Governments of the UK, Wales and Scotland, asking the CCC to reassess the UK's long-term carbon emissions targets.

- 2.3.7 The Foreword of the report (page 8) sets out that the CCC has “*reviewed the latest scientific evidence on climate change, including last year’s [Intergovernmental Panel on Climate Change] IPCC special report on global warming of 1.5 °C and considered the appropriate role of the UK in the global challenge to limit future temperature increases*”. It adds, “*Net Zero is a more fundamental aim than previous targets. By reducing emissions produced in the UK to zero, we also end our contribution to rising global temperatures*”.
- 2.3.8 The Foreword also sets out that “*we must now increase our ambition to tackle climate change. The science demands it; the evidence is before you; we must start at once; there is no time to lose*”. This emphasises the urgent nature of the response required to address the UK's contribution to global climate change.
- 2.3.9 Specific to Scotland, the report recognises that “*Scotland has proportionately greater potential for emissions removal than the UK overall and can credibly adopt a more ambitious target. It should aim for net zero greenhouse gas emissions by 2045. Interim targets should be set for Scottish emissions reductions (relatively to 1990) of 70% by 2030 and 90% by 2040*”.
- 2.3.10 The CCC published a progress report to Parliament in June 2020 (*Reducing UK emissions: 2020 Progress Report to Parliament*) which assesses progress in reducing UK emissions across the UK throughout the previous year. The Report provides important new advice to Government on framing a recovery from Covid-19 that both accelerates the transition to net zero and strengthens resilience to the impacts of climate change, whilst driving new economic activity. The Report reiterates the importance of a fast response to the climate emergency, stating “*we must seize the opportunity to make the COVID-19 recovery a defining moment in tackling the climate crisis. We say to the Government: “act courageously - it’s there for the taking*”.
- 2.3.11 Where powers are reserved to the UK level, the Report recommends that devolved administrations have an important role in ensuring that the emissions reductions take place. In particular (*inter alia*), by producing planning frameworks which are “*well aligned to objectives for emissions reduction... through encouraging... a favourable planning regime for low-cost onshore wind*”.

### **Scotland’s Climate Emergency**

- 2.3.12 In April 2019 Scotland became one of the first nations in the world to declare a state of climate emergency, a step which seeks to place climate change at the heart of all policy decisions and recognise that a system-wide approach is required to address the actions needed to transition to a low carbon economy. At the SNP Conference of April 2019, Scottish First Minister Nicola Sturgeon declared, “*As First Minister of Scotland, I am declaring that there is a climate emergency. And Scotland will live up to our responsibility to tackle it.*”
- 2.3.13 The Scottish Government subsequently made amendments to the *Climate Change (Scotland) Act 2009* in the form of the *Climate Change (Emissions Reduction Targets) (Scotland) Act 2019* to set a net zero emissions target for 2045. This amended and increased the targets for 2030 (to 75% reduction) and 2040 (to 90% reduction). The independent UK Committee on Climate Change advised that these targets represent a high ambition contribution to the *UN Paris Agreement* aims, including limiting warming to 1.5°C.
- 2.3.14 The Scottish Government’s Programme for 2020-21 ‘*Protecting Scotland, Renewing Scotland*’, published in September 2020 reinforces the net zero target, particularly in relation to the recovery

from COVID -19, by stating “*our economic recovery must be a green recovery*” and acknowledges that “*even before the pandemic, we knew we had significant work to do in order to improve the state of nature and meet our statutory commitment to be a net zero society by 2045*”. She states that “*the impacts of the crisis have reinforced the need for that, but also the opportunities it presents*” (page 4).

- 2.3.15 Guided by international and UK-wide legislation and policy, the Scottish Government has set national policy to address the climate emergency and increase the amount of energy produced by renewables, as illustrated through Table 2-1 below. The key objectives of these documents are discussed further throughout this Chapter in the context of the Proposed Development.

Table 2-1 – Overview of National Policy

Policy, Strategy or Legislation	Targets and Key Messages Relevant to the Proposed Development
The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019	Reduce greenhouse gas emissions by 75% to 2030, 90% by 2040 and to Net Zero by 2045.
Climate Change Plan (CCP) (2018)	From 2020 onwards, Scotland’s electricity grid intensity will be below 50g CO2 per kilowatt hour. The system will be powered by a high penetration of renewables, aided by a range of flexible and responsive technologies. By 2032 Scotland’s energy supply will be secure and flexible, with a system robust against fluctuations and interruptions to supply.
Climate Change Plan 2020 Update	Renewable generation will increase substantially between 2020 and 2032, and we expect to see the development of between 11 and 16 GW of capacity during this period, helping to decarbonise our transport and heating energy demand.
Scottish Energy Strategy (SES) 2017	By 2030, equivalent of 50% of the energy from heat, transport and electricity consumption to be supplied by renewable sources.
Onshore Wind Energy Policy Statement (OWEPS) (2017)	Onshore wind generation will remain crucial in terms of Scottish Government 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.
Onshore Wind Policy Statement Refresh 2021: Consultative Draft (October 2021)	Seeks views on the Scottish Government’s ambition to secure an additional 8-12 GW of installed onshore wind capacity by 2030, how to tackle the barriers to deployment, and how to secure maximum economic benefit from these developments.
Scottish Government Energy Efficient Scotland Route Map (2018)	Promoting decarbonisation of heat and reducing emissions from all buildings in Scotland to near zero by 2050.

- 2.3.16 It requires to be noted that the CCP, the SES and OWEPS were published in advance of *the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019*, which sets significantly more ambitious climate change targets. Accordingly, the current suite of energy policy requires to be read in the context of current legislated climate change targets including the December 2020 update to the Climate Change Plan.

## 2.4 Climate and Energy Policy in Scotland

### The Climate Change Plan

- 2.4.1 The *Climate Change Plan* was published by the Scottish Government in February 2018 (hereafter referred to as the CCP). An update to the CCP, ‘*Update to the Climate Change Plan 2018 – 2032, Securing a Green Recovery on a Path to Net Zero*’ (hereafter referred to the 2020 Update), was published in December 2020. The 2020 Update notes that many elements of the 2018 Plan still stand and that the 2020 Update should be read alongside the CCP.
- 2.4.2 At this stage the 2020 Update is a draft Plan, which will be subject to Parliamentary scrutiny, following which a final version will be published responding to recommendations and conclusions from the scrutiny process. The 2020 Update notes that the next full climate change plan will be delivered by early 2025.
- 2.4.3 Within the introduction of the CCP at page 9 it is noted 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.”*
- 2.4.4 At page 25 of the CCP, the contribution of onshore wind to electricity generation is recognised alongside its role in driving innovation.
- “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.”*
- 2.4.5 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 2020 Update notes that more than 83% of the electricity generated in Scotland during 2018 came from renewable or low carbon sources. The 2020 Update sets out a Pathway to Net Zero to 2032 and establishes policies to achieve this.
- 2.4.6 The Scottish Government’s vision for 2032 and 2045 is that *“renewable generation will increase substantially between now and 2032, and we expect to see the development of between 11 and 16 GW of capacity during this period, helping to decarbonise our transport and heating energy demand.”* (page 81). It should be noted that the Onshore Wind Policy Statement Refresh 2021 seeks views on the Scottish Government’s ambition to secure an additional 8-12GW of installed onshore wind capacity by 2030 (see paragraph 2.4.26 of this Planning Statement).
- 2.4.7 The CCP therefore strives to meet the climate change targets but strives to do it in a way that benefits the whole of Scotland. The 2020 Update notes that the transition can realise green jobs, a better environment and a healthy economy that supports our wellbeing.

## Scottish Energy Strategy

- 2.4.8 The 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.
- 2.4.9 The 2050 vision is expressed around six priorities including:
- “Renewable and low carbon solutions – we 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”.*
- 2.4.10 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.
- 2.4.11 The SES sets out the Government’s clear position on onshore wind at page 44, 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, and – increasing the extension and replacement of existing sites with new and larger turbines, 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”.*
- 2.4.12 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”.*
- 2.4.13 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).
- 2.4.14 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”.*

- 2.4.15 The SES and associated 2021 Position Statement gives unequivocally strong policy support for the further development of onshore wind in the right places, recognising the benefits not only with respect to achieving ambitious climate change targets, but in supporting a growing economy. In essence there is a renewed and enhanced impetus being imparted, rather than just a continuation of previous support.
- 2.4.16 In terms of supporting the local rural economy, it should be recognised that the Applicant has been actively pursuing engagement with the local supply chain surrounding the Site. This includes working with the Inverness Chamber of Commerce to engage local business throughout the development, construction, operation and decommissioning of the Proposed Development. The collaboration is intended to supplement existing direct engagement with the supply chain and demonstrate the opportunities for local businesses.
- 2.4.17 On 19<sup>th</sup> August 2021 a virtual event was held in partnership with Inverness Chamber of Commerce. This attracted an audience of over 100 participants and has resulted in substantial engagement following the event.
- 2.4.18 The Applicant has committed to ensuring that Proposed Development benefits the local supply chain by:
- Ensuring that main contractors will spend at least 30% of the contract value locally; and,
  - Incentivising all contractors to use local content.

### **Onshore Wind Energy Policy Statement (OWEPS)**

- 2.4.19 The Ministerial Foreword of the OWEPS 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”*.
- 2.4.20 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”*.
- 2.4.21 Chapter 1 ‘Route to Market’ 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”*.
- 2.4.22 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.
- 2.4.23 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”*.

- 2.4.24 The OWEPS makes it very clear that onshore wind is expected to make a significant contribution to Scotland's energy needs including renewable targets into the long term. In light of the recent legislated climate change targets and declarations of a climate emergency, it is even more imperative that green energy generation is promoted to address decarbonising the grid, heat and transport.

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

- 2.4.25 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."*
- 2.4.26 The shared programme includes an ambition to deliver, subject to consultation, between 8 and 12GW of additional installed onshore wind by 2030.
- 2.4.27 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 8-12GW of installed onshore wind capacity by 2030, how to tackle the barriers to deployment, and how to secure maximum economic benefit from these developments.
- 2.4.28 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"*.
- 2.4.29 It is recognised that the amount of capacity ultimately developed will continue to depend on a range of factors. These will also be considered alongside: (i) the development of other generating technologies and innovations, and (ii) the decarbonisation pathways and demand growth across other sectors such as heat, transport and industrial demand. However, the document is clear on the contribution onshore wind can make to these targets, stating in paragraph 2.1.8, *"We believe it vital to send a strong signal and set a clear expectation on what we believe onshore wind capacity can contribute"*.
- 2.4.30 The Onshore Wind Policy Statement Refresh consults on expanding the Scottish Government's ambition on renewable capacity. While only a consultative document, it shows a clear line of direction in Government thinking which aligns with the CCP 2020 Update in terms of re-emphasising the importance of onshore wind in contributing to achieving emission reduction targets and highlighting the now pressing requirement to go further and faster.

#### **Scottish Government Energy Efficient Scotland Route Map**

- 2.4.31 THC's EIA Scoping Response highlighted 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"*.
- 2.4.32 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.

2.4.33 It should be recognised that further to the advice provided by THC at pre-application stage, and as a result of the feedback received from local Community Councils during the EIA Scoping phase, the Applicant proposes to create the Lethen Wind Farm Energy Efficiency Programme, supporting residents and helping them to:

- Reduce energy bills and save money;
- Improve energy consumption;
- Increase energy awareness;
- Play an active part in Scotland's drive towards net zero;
- Employ an energy efficiency officer locally to provide advice and information;
- Address fuel poverty and energy efficiency in local households;
- Identify and support those living in fuel poor households;
- Provide additional support over and above existing financing mechanisms;
- Help bring forward energy efficiency measures for individual households; and,
- Support a community wide energy conservation strategy.

2.4.34 This directly responds to the aspirations of the Scottish Government Energy Efficient Scotland Route Map and demonstrates a commitment by the Applicant to address a local need, while contributing significantly to national emissions reduction targets.

## 2.5 Progress and Performance

2.5.1 It is useful to consider how much progress has been made towards achieving the Scottish Government targets discussed above and further information in this regard is included in Table 2-2 below. While progress has been made, there is still a way to go to reaching the targets. Notwithstanding this position, even if the target was to be achieved, the Scottish Government has made clear that this does not represent a cap on the installation of further renewable electricity capacity. A continued effort to secure low carbon energy generation is required and as stated in the *Scottish Energy Strategy*, onshore wind must continue to play a vital role in helping to decarbonise the electricity system.

Table 2-2 – Overview of Progress and Performance

Target	Target Year	Current Position	Source / Notes
Renewable Energy			
30 % of total energy use from renewable sources	2020	24% (2019)	Scottish Energy Strategy (SES) (2017) Scottish Government's Scottish Energy Statistics (September 2021)
50 % of total energy use from renewable sources	2030	24 % (2019) (2019)	SES (2017) Scottish Government's Scottish Energy Statistics (September 2021)
Between 11GW and 16GW of renewable generation.	2032	11.8 GW (installed capacity at 2020). 8.4GW of installed onshore wind. 9.7GW in the pipeline.	CCP and CCP Update Scottish Energy Statistics Hub (February 2021).

Target	Target Year	Current Position	Source / Notes
Consultation on additional 8-12GW of onshore wind	2030	11.8 GW (installed capacity at 2020). 8.4GW of installed onshore wind. 9.7GW in the pipeline.	CCP and CCP Update Scottish Energy Statistics Hub (February 2021). Onshore Wind Policy Statement Refresh 2021: Consultative Draft
Renewable Electricity			
Meet 100 % of electricity demand from renewables	2020	95.9% (2020)	2020 Routemap for Renewable Energy in Scotland (2011).  Scottish Government's Scottish Energy Statistics (September 2021)
Renewable Heat			
11% non-electrical heat demand from renewables	2020	6%	Renewable heat target and action: 2020 update (October 2020)  Scottish Government's Scottish Energy Statistics (September 2021)
Climate Change			
Reduce carbon emissions by 75 % against 1990 levels.	2030	51.5% <sup>1</sup> against an interim target of 55%.  (2019 figures)	The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019.  Scottish Greenhouse Gas Emissions 2019, Scottish Government, published June 2021

- 2.5.2 In the Caplich S36 Report to the Scottish Ministers (November 2017), the Reporter, in addressing overall conclusions and recommendations, made reference to relevant International, UK and Scottish policy targets on renewable energy. At paragraph 8.5 he stated, "*International Agreements on renewable energy delivery and greenhouse gas emissions to which the UK is a signatory, some of which will remaining binding irrespective of European Union membership, will pose a significant challenge going forward*".
- 2.5.3 The Reporter went on to make reference to UK and Scottish Government targets and took the view that greater weight should be given to Scottish Government policy and stated at paragraph 8.7 "*that being the case, the contribution this proposal would make to these targets is a factor in its favour, to which significant weight should be attached*".
- 2.5.4 The Reporter added at paragraph 8.9 that "*in any event, there can be no doubt that the targets are minimum levels to be achieved rather than caps that must not be exceeded. The Scottish Government has made it clear that it will continue to support the principle of onshore wind, even if or when current targets are met*".
- 2.5.5 The decision also confirms that national planning policy as set out in *National Planning Framework 3* and *Scottish Planning Policy* confirms the commitment to making Scotland a low carbon place and a world leader in low carbon energy generation including in relation to onshore wind. Paragraph 8.10 of

<sup>1</sup> The Committee for Climate Change (CCC) recommended a new method of reporting emissions for the purposes of reporting against targets from the June 2020, and future, publications. This is known as the GHG Account. The 51.5% figure is calculated on this adjusted basis.



the decision states that “*the proposal’s contribution to such commitments is a factor in its favour that must be taken into account*”.

- 2.5.6 Recent reports to Scottish Ministers from the Planning and Environmental Appeals Division add further support to the need for the continued expansion of the renewables sector. For example, the Inquiry Report to the Scottish Ministers for the construction and operation of Pencloe Wind Farm (2<sup>nd</sup> March 2018; reference WIN-190-4), states:

*“I see no sign that the Scottish Government is slackening the pace; rather, the latest policy statements on energy and onshore wind indicate that the effort is being intensified. The latest target of generating 50% of energy from renewable sources by 2030 is a deliberately challenging one, which may require around 17GW of installed capacity by that date. The newly adopted Scottish Energy Strategy and the accompanying Onshore Wind Policy Statement are explicit that onshore wind will continue to play a vital role in that regard”.*

- 2.5.7 In the Hopsrig Appeal Decision (28<sup>th</sup> January 2019; reference PPA-170-2135), the Reporter set out at Paragraph 64 that:

*“I agree with the appellant that the [Onshore Wind Policy Statement] OWPS uses particularly positive language when discussing onshore wind. For example, in paragraph 3, it is described as playing a “vital role in meeting Scotland’s energy needs and a material role in growing our economy.” It is also stated that “Onshore wind generation will remain crucial in terms of our goals for a decarbonised energy system...” I find it significant that, despite the progress that has been made in recent years in the delivery of onshore wind energy development and the consequent improvement there has been in the provision of energy in ways that minimise greenhouse gas emissions, there remains undiminished, in principle, policy support for further such development. This is made clear in paragraph 4 of the OWPS – “Scotland will continue to need more onshore wind development and capacity, in locations across our landscapes where it can be accommodated.”*

- 2.5.8 In light of the above, it is clear that as a nation Scotland has made strong progress toward clean energy through onshore wind, against challenging energy targets. Notwithstanding this, there is no cap on these targets and the climate emergency adds a new urgency to this transition. The Proposed Development has been designed and developed in order to provide a sustainable response to climate challenges, ultimately contributing to overall national and international aspirations to achieve a climate neutral society.

## **2.6 Overall Conclusions on the Need for The Development**

- 2.6.1 The UK and Scottish Government renewable energy policy documents, and associated renewable energy and climate change targets, all provide considerable support in favour of renewable energy development, and in particular onshore wind.
- 2.6.2 Since 2019, the UK and Scottish Governments have acted on the stark warnings issued by the CCC who had stated that by 2030 it would be too late to limit global heating to 1.5 degrees. In light of the progress report by the CCC the Scottish Government has reformed climate change legislation and stated unequivocally that action has to be quick and decisive.
- 2.6.3 Owing to the recent enactment of climate change legislation and the clear recognition in the Scottish Government’s Programme for Government of the climate emergency that we are in; the need case for

the Proposed Development must be considered significant and a material consideration of significant weight.

- 2.6.4 The Proposed Development has a capacity in the region of 102MW, is predicted to have an approximate 1.8 year carbon payback period and is estimated to be capable of powering the equivalent of 72,500 average UK households (based on average electricity consumption per household in the UK quoted by the Department of Business, Energy and Industrial Strategy (BEIS), of 3,578 kWh per year, 2020). It would make a valuable contribution to legislated climate change targets and government policy objectives; thereby implementing Government policy, which encourages more electricity generation from renewable sources.
- 2.6.5 The Scottish Government makes it unequivocally clear that renewable energy generation is a key component of the ways in which climate change can be addressed and a key component in meeting climate change targets. The SES recognises that onshore wind is a vital part of Scotland’s renewable energy future and that it is the most cost-effective way of generating renewable energy and on this basis must be considered as being the energy generation technology that could contribute the most to our climate change objectives.
- 2.6.6 The scale of the challenge presented by the new targets adopted by the Scottish Government on the advice of the CCC is considerable, especially given the requirements for decarbonisation of heat and transport, which will require significant increases in renewable energy generation well beyond historic deployment levels.
- 2.6.7 The Scottish Government has stated that in light of adopting the CCC recommendations “*this means we have the most stringent statutory targets in the world*”. Moreover, the CCC is unambiguous in stating that “*Current policy is insufficient for even the existing targets*” and although it is noted in the June 2020 update that “*Important new parts of the policy framework have been introduced since the target was set a year ago*” [May 2019], it continues stating that “*Most have not yet delivered, so must progress in the coming year*”. It cannot be the case therefore that it is ‘business as usual’ for decision makers.
- 2.6.8 While it is recognised that the Proposed Development must be sustainable and that potential environmental effects must not demonstrably outweigh the potential benefits, it is clear that significant weight must be attributed in favour of the Proposed Development’s contribution to Scotland’s established climate emergency.
- 2.6.9 Accordingly, the current climate emergency, the scale of the challenge and the contribution that the Proposed Development can make must be a significant consideration weighed in favour of consenting the Proposed Development, particularly given the minimised extent of environmental effects which have been determined through the EIA process discussed further throughout this Planning Statement.
- 2.6.10 The Applicant’s commitment to develop the Lethen Wind Farm Energy Efficiency Programme and engage the local supply chain during construction, operation and decommissioning also demonstrates a significant investment in the locality and responds to the wider Government aspiration to recognise not only the clean energy gains of onshore wind, but also the economic benefits.

## 3 National Policy Assessment

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### 3.1 National Planning Policy Guidance

3.1.1 National planning policy guidance and advice relevant to the consideration of the Proposed Development is addressed in this section and includes consideration of:

- The National Planning Framework 3 (NPF3);
- Scottish Planning Policy (SPP); and,
- The Draft National Planning Framework 4.

#### The National Planning Framework 3

3.1.2 *The National Planning Framework 3 (NPF3) was published on 23<sup>rd</sup> June 2014. NPF3 is a long-term strategy for Scotland and is the 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 Scottish Government’s vision and outcomes for Scotland as well as contribute to the Government’s central purpose.*

3.1.3 While it should be recognised that NPF 3 was published prior to current commitments on climate change, there remains high level support for renewables through the ‘vision’ of the Framework, which is referred to as inter alia:

- A successful, sustainable place – *“we have a growing low carbon economy which provides opportunities...”*;
- A low carbon place - *“we have seized the opportunities arising from our ambition to be a world leader in low carbon generation, both onshore and offshore...”*;
- A natural resilient place - *“natural and cultural assets are respected; they are improving in condition and represent a sustainable economic, environmental and social resource for the nation...”*.

3.1.4 Further support is provided in Chapter 3 ‘A Low Carbon Place’ which sets out the role that Planning will play in delivering the commitments set out in a ‘Low Carbon Scotland: The Scottish Government’s Proposals and Policies’. It states, *“the priorities identified in this spatial strategy set a clear direction of travel which is consistent with our world leading climate legalisation”*.

3.1.5 The introduction to Chapter 3 states that the Government’s ambition *“is to achieve at least an 80% reduction of greenhouse gas emissions by 2020”*.

3.1.6 Paragraph 3.7 states that onshore wind is *“...recognised as an opportunity to improve the long-term resilience of rural communities”*.

3.1.7 Paragraph 3.8 makes reference to targets and states that by 2020, the aim is to reduce total energy demand by 12%. In order to achieve this, and to maintain energy supplies, further diversification of supplies will be required.

3.1.8 It adds that the Government’s aim is to meet at least 30% of overall energy demand from renewables by 2020 – this includes generating the equivalent of at least 100% of gross consumption from

renewables, with an interim target of 50% by 2015. Note these targets have subsequently been updated and are discussed in Chapter 2 above.

- 3.1.9 Paragraph 3.9 states: *“Our Electricity Policy Statement sets out how our energy targets will be met. We are making good progress in diversifying Scotland’s energy generation capacity, and lowering the carbon emissions associated with it, but more action is needed. Maintaining security of supplies and addressing fuel poverty remain key objectives. We want to continue to capitalise on our wind resource and for Scotland to be a world leader of offshore renewable energy. In time we expect the pace of onshore wind energy development to be overtaken by a growing focus on our significant marine energy opportunities including wind, wave and tidal energy”.*
- 3.1.10 Paragraph 3.23 states that *“onshore wind will continue to make a significant contribution to diversification of energy supplies. We do not wish to see wind farm development in our National Parks and National Scenic Areas. Scottish Planning Policy sets out the required approach to spatial frameworks which will guide new wind energy development to appropriate locations, taking into account important features including wild land.”*
- 3.1.11 NPF3 also sets out where wind energy development will be unacceptable, on the basis of protecting the most significant national landscape related assets. NPF3 presumes against wind farms located within National Parks and National Scenic Areas (NSA’s) and recognises the value and sensitivity of Wild Land Areas to onshore wind energy development. The Proposed Development is not within a National Park, National Scenic Area or within a designated Wild Land Area and no significant adverse effects have been identified on such assets.
- 3.1.12 In conclusion, it is clear that onshore wind development is recognised as a key technology in the energy mix which will contribute to Scotland becoming ‘a low carbon place’, which in turn will be a key part of the ‘vision’ for Scotland (as set out at paragraph 1.2 of NPF3). Furthermore, the Scottish Government has made it unequivocally clear that it wants to continue to *“capitalise on our wind resource”*. In principle, the Proposed Development would contribute to the Scottish Government’s energy targets established in NPF3 and subsequently updated, as well as longer term Scottish Government policy objectives and targets set out within this Planning Statement.

### **Scottish Planning Policy**

- 3.1.13 SPP was published on 23<sup>rd</sup> June 2014 and as with NPF 3, does not reflect the context of the current legislative targets on climate change and renewable energy in Scotland. The purpose of the SPP is to set out national planning policies which reflect Scottish Government Ministers’ priorities for the operation of the planning system and for the development and use of land. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed.
- 3.1.14 On 17<sup>th</sup> July 2020 and as a result of prominent legal cases such as Gladman vs The Scottish Ministers, the Scottish Government published a consultation paper setting out proposed interim changes to SPP. Significantly, proposed changes included:
- An amendment to the wording of the previous *“presumption in favour of development which contributes to sustainable development”*, to a *“presumption in favour of sustainable development”*.
  - Removal of references to statutory development plans being out of date if they were older than five years, and a subsequent primacy of the presumption in favour of sustainable development being a *“significant material consideration”*. This is relevant given the Development Plan in this instance includes the Highland-wide Local Development Plan (HwLDP), published in 2012.

3.1.15 The consultation period closed on 9<sup>th</sup> October 2020 and SPP was subsequently updated in December 2020 to reflect the above amendments. However, in July 2021, following a Judicial Review (*Graham’s the Family Dairy Ltd. and MacTaggart and Mickel Homes Ltd. and in the petition of Elan Homes Scotland Ltd. vs Scottish Ministers*) of the decision of Scottish Ministers to change SPP, Lord Clark deemed the consultation “so unfair as to be unlawful”. As a result, the “presumption in favour of development which contributes to sustainable development” remains, as does the primacy of this policy where statutory development plans are older than five years.

### **Relationship of SPP to National Outcomes**

- 3.1.16 Paragraph 9 of the 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....”.
- 3.1.17 Paragraph 10 adds that the Scottish Government’s 16 national outcomes articulate in more detail on how the Purpose is to be achieved. It adds that the pursuit of these outcomes provides the impetus for other national plans, policies and strategies and many of the principles and policies set out in them are reflected in both SPP and NPF3.
- 3.1.18 Paragraph 13 of SPP introduces four planning outcomes which explain how planning should support the vision for the planning system in Scotland. It is clear from previous appeal decisions (Caplich as discussed previously) that with regard to the four planning outcomes and policy principles in SPP “the objective of any analysis of compliance....should be to see whether there is a ‘broad fit’ with the themes and objectives of the various outcomes and principles, rather than to test the proposal against each issue as though it were a specific policy test”. Namely, statements should not be construed as if they were statutory or contractual provisions (i.e. should not be too literal).
- 3.1.19 Three of these outcomes are particularly relevant, namely:
- Outcome 1: a successful sustainable place – supporting sustainable economic growth and ... the creation of well designed, sustainable places;
  - Outcome 2: a low carbon place – reducing our carbon emissions and adapting to climate change; and
  - Outcome 3: a natural, resilient place – helping to protect and enhance our natural and cultural assets and facilitating their sustainable use.
- 3.1.20 In particular, the Proposed Development would assist in delivering sustainable economic growth in line with Outcome 1.
- 3.1.21 Outcome 2 ‘A Low Carbon Place’ explains that SPP will facilitate the transition to a low carbon economy, particularly by supporting diversification of the energy sector. Paragraph 18 makes reference to *the Climate Change (Scotland) Act 2009*. As previously discussed, these targets have now been updated and made to be even more challenging and the Proposed Development would contribute to this outcome. This is discussed further in paragraphs 3.1.41-3.1.44.
- 3.1.22 The Proposed Development would also assist in achieving Outcome 3 ‘a natural, resilient place’, by reference to paragraph 21 in particular, which deals with the concept of a natural, resilient place in a wider context. The Proposed Development would contribute to a natural, resilient place through the part it plays in mitigating the effects of climate change and at a more localised level through the benefits discussed in Chapter 5.

- 3.1.23 Very few developments would be able to contribute to all four outcomes. That the Proposed Development contributes positively to three (and the fourth one is not relevant as it applies to transport and digital connectivity) is significant and reinforces the character of the Proposed Development as ‘sustainable’.

### **Principal Policies of SPP**

- 3.1.24 SPP contains two Principal Policies, namely ‘sustainability’ and ‘placemaking’.
- 3.1.25 Sustainability is addressed at Page 9. SPP stating at paragraph 24 that, “*the Scottish Government’s central purpose is to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth*”.
- 3.1.26 Paragraph 25 adds that the Scottish Government’s commitment to the concept of sustainable development is reflected in its Purpose.
- 3.1.27 Paragraph 27 cross refers to the Government’s Economic Strategy which it states “*indicates that sustainable economic growth is the key to unlocking Scotland’s potential... and to achieving a low carbon economy...*”. It also makes reference to the need to maintain a high quality environment and to pass on “*a sustainable legacy for future generations*”.

### **Presumption in Favour of Development that Contributes to Sustainable Development**

- 3.1.28 A ‘Policy Principle’ in the planning system, introduced in SPP is the statement at Paragraph 27 which is as follows:
- “This SPP introduces a presumption in favour of development that contributes to sustainable development”.*
- 3.1.29 Paragraph 28 continues and states:
- “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”.*
- 3.1.30 The ‘presumption in favour’ therefore takes on a prominent role in national planning policy. For practical purposes it is a (relatively) new approach. Although little practical guidance is available, the approach to its application in wind farm cases has been fairly consistently set out by a number of Reporters. The introduction of the presumption in favour of development that contributes to sustainable development has important consequences for development management practice.
- 3.1.31 Paragraph 32 states that “the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making”. SPP directs decision makers as follows, “*proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising ...*”.
- 3.1.32 Paragraph 33 adds, “*Where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration*”.
- 3.1.33 SPP is non-statutory, yet as guidance issued by Scottish Ministers planning authorities must have regard to it and it is therefore a material consideration in the determination of planning applications. Paragraph (iii) states that the content of SPP is a material consideration that carries significant

weight, although it is for the decision maker (in this case Scottish Ministers) to determine the appropriate weight to be afforded to it in each case.

3.1.34 Given this application is of a scale necessitating consent under *the Electricity Act*, it is already presumed that the Proposed Development is of a significance whereby SPP (and therefore a presumption in favour of development that contributes to sustainable development) will hold significant weight in the decision-making process. It is also presumed that this position is re-enforced further due to the age of the Development Plan.

3.1.35 In summary, the HwLDP does not respond to the climate change emergency in the way that planning is expected to respond as is set out in the Programme for Government and within most recent national legislation and policy on climate change. As such, the presumption in favour of development that contributes to sustainable development is engaged. This position has been supported within recent Appeal decisions such as the Caplich S36 Decision where at paragraph 2.133 of the Inquiry Report, the Reporter referred to what the Reporter described as the “*tilted balance*” where he stated:

*“When a development plan is more than five years old, paragraph 33 is engaged and this requires that when weighing the benefits and disbenefits of a proposal in the planning balance, it will be necessary for any adverse impacts ‘significantly and demonstrably’ to outweigh the benefits of the proposal. Therefore, in such circumstances, the planning balance is tilted in favour of the proposal”.*

3.1.36 It should be noted that the Reporter is clear on the matter of the tilted balance being engaged as a result of the operation of paragraph 33, where at paragraph 2.141 of the Inquiry Report he refers to SPP paragraph 33 referring to “*policies being out of date as being a trigger for the tilted balance*” and goes on to state that, “*This suggests that a development plan that is less than five years old but contains out of date policies may trigger the tilted balance*”.

3.1.37 The Reporter went on in the following paragraph to state:

*“If the proposed development is found to be that which would contribute to sustainable development, then as a result of SPP paragraph 33, the planning balance should be tilted in its favour, such that any adverse impact it would have must be shown significantly and demonstrably to outweigh its benefits”.*

3.1.38 Accordingly, the planning balance should be tilted in favour of the Proposed Development because it would contribute to sustainable development, and there are no adverse impacts which have been identified which would significantly and demonstrably outweigh the benefits derived from the Proposed Development.

### **SPP Appraisal of the Proposed Development with regard to the Presumption in Favour**

3.1.39 Paragraph 29 of SPP sets out that policies and decisions should be guided by a number of principles. Those of relevance are listed in Table 3.1 below together with a summary response of the extent to which the Proposed Development is consistent or otherwise with the respective principle:

Table 3.1 SPP Appraisal of the Proposed Development with regard to the Presumption in Favour of Sustainable Development

Policy Principle	Proposed Development
Giving due weight to net economic benefit.	<p>During the development and construction phase, it is estimated that the Proposed Development could generate up to:</p> <ul style="list-style-type: none"> <li>• £12.5 million Gross Value Added (GVA, a measure of economic activity) and 174 job years (a job year being equivalent to one person employed for a year) in the region (the local authority areas of Highland and Moray); and,</li> <li>• £26.9 million GVA and 375 job years in Scotland (including Highland and Moray).</li> </ul> <p>During each year of the operational phase, it is estimated that the Proposed Development could generate up to:</p> <ul style="list-style-type: none"> <li>• £0.7 million GVA and 11 jobs in Highland and Moray; and,</li> </ul> <p>£1.0 million GVA and 17 jobs in Scotland (including Highland and Moray).</p>
Respond to economic issues, challenges and opportunities, outlined in local economic strategies.	<p>It should also be noted that the Applicant has been actively pursuing engagement with the local supply chain surrounding Lethen Wind Farm. This includes working with the Inverness Chamber of Commerce to engage local business throughout the development, construction, operation and decommissioning of the Proposed Development. Further details of this is provided in the Statement of Consultation but we would highlight that the Applicant has committed to ensuring that the Proposed Development benefits the local supply chain by:</p> <ul style="list-style-type: none"> <li>• Ensuring that main contractors will spend at least 30% of the contract value locally; and,</li> <li>• Incentivising all contractors to use local content.</li> </ul>
Supporting delivery of infrastructure, for example transport, education, energy, digital and water.	<p>The Proposed Development will deliver significant energy infrastructure in the form of approximately 102 MW, supported by additional energy storage provision with an output capacity of around 10 MW. This is of national significance and is recognised as such in the emerging NPF 4.</p> <p>However, at a local scale, the Applicant is also committed to provide community benefit funding for the local area of up to £510,000 annually. This fund was developed in direct response to feedback from the local community during the pre-application process.</p>
Supporting climate change mitigation and adaptation including taking account of flood risk.	<p>The current climate change emergency, the scale of the challenge and the contribution that the Proposed Development can make must be a significant consideration weighed in favour of consenting the Proposed Development, particularly given the limited extent of environmental effects which have been determined through the EIA process discussed further throughout this EIA Report.</p> <p>No significant flood risk has been identified as a result of the Proposed Development, however it should be recognised that a detailed assessment of the potential natural flood management (NFM) measures will be undertaken in an attempt to restore peat that further reduces downstream flood risk.</p>
Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.	<p>An Outline Outdoor Access Plan for the Proposed Development is submitted as part of the EIA (<b>Appendix 3.2</b>). This plan proposes, for example, to create a new public path, Dunearn Footpath, leading to a viewpoint from which there will be a view of Lochindorb Castle from the north western side of Lochindorb (<b>see Figure 3.10</b>). This will encourage social interaction and physical activity, as well as promoting an opportunity for people to enjoy, appreciate, learn from and understand Scotland's historic environment'</p>



Policy Principle	Proposed Development
Having regard to the principles for sustainable land use set out in the Land Use Strategy.	Scotland’s Third Land Use Strategy (March 2021) recognises that energy will continue to be provided by a wide and diverse range of renewable technologies, including onshore wind, stating “we will need to continue to develop wind farms, in the right places”. It impresses that in order to do this, developers will need to work together with local communities to strike the right balance between environmental impacts, local support, benefits and economic benefits for communities. The Statement of Consultation submitted with this S36 application demonstrates how the Applicant has worked with the local community from the project outset, promoting local economic benefits as well as wider regional and national economic benefit and opportunities. Further, the EIA Report demonstrates that the environmental impacts are limited when balanced against the overall benefits of the Proposed Development.
Protecting, enhancing and promoting access to cultural heritage, including the historic environment.	As previously detailed, an Outline Outdoor Access Plan for the Proposed Development is submitted as part of the EIA which proposes to consult on the creation of a new public path, Dunearn Footpath, leading to a viewpoint from which there will be a view of Lochindorb Castle from the north western side of Lochindorb.
Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.	As part of the Proposed Development, significant habitat enhancement measures are proposed, including: Heather management to encourage areas of deep heather, targeted at hen harrier ( <i>Circus cyaneus</i> ), merlin ( <i>Falco columbarius</i> ) and short-eared owl ( <i>Asio flammeus</i> ); and, wet heath and blanket bog restoration which will have a number of ecological and hydrological benefits, including enhancing habitat for curlew ( <i>Numenius arquata</i> ) and golden plover ( <i>Pluvialis apricaria</i> ).
Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.	The cumulative effects of development and the potential effects on water, air and soil have been considered throughout the EIA and where necessary appropriate mitigation has been developed and implemented to minimise environmental impact.

- 3.1.40 The third, fourth, fifth and twelfth principles in SPP relate to placemaking, town centre and regeneration priorities; specifically housing, business, retail uses, and waste management and resource recovery etc. and are of no relevance to the Proposed Development. The Proposed Development is considered to adhere to the abovementioned principles and is, overall, considered to constitute development which contributes sustainable development.

### SPP Subject Policies – A Low Carbon Place

- 3.1.41 SPP addresses ‘A Low Carbon Place’ as a ‘subject policy’ on page 36 and refers to ‘delivering electricity’. Paragraph 152 refers to the NPF context and states that NPF3 is clear that planning must facilitate the transition to a low carbon economy and help to deliver the aims of the Scottish Government. It is stated that Scotland has significant renewable energy resources, both onshore and offshore.
- 3.1.42 Paragraph 153 states that terrestrial planning “facilitates” development of renewable energy technologies, and guides new infrastructure to appropriate locations. It adds that “*efficient supply of low carbon and ... generation of ... electricity from renewable energy sources are vital to reducing*

*greenhouse gas emissions ...*”. It explains that renewable energy also presents a significant opportunity for associated development, investment and growth of the related supply chain.

- 3.1.43 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.
- 3.1.44 The Proposed Development is consistent with the ‘low carbon place’ subject policy and would contribute to the attainment of its objective. Further discussion on how the Proposed Development responds to the current ‘climate emergency’ and associated national and international low carbon policies is included under Chapter 2 of this Planning Statement.

### **SPP Spatial Framework for Energy Infrastructure**

- 3.1.45 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 makes it clear that proposals for onshore wind turbine development should continue to be determined whilst Spatial Frameworks and local policies are being prepared and updated.
- 3.1.46 Paragraph 169 of SPP sets out that “*proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms 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 of SPP (page 39), as replicated below.

Insert 3.1 Extract of SPP Table 1 Spatial Frameworks

**Table 1: Spatial Frameworks**

<p><b>Group 1: Areas where wind farms will not be acceptable:</b> National Parks and National Scenic Areas.</p>		
<p><b>Group 2: Areas of significant protection:</b> 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.</p>		
<p><b>National and international designations:</b></p> <ul style="list-style-type: none"> <li>• World Heritage Sites;</li> <li>• Natura 2000 and Ramsar sites;</li> <li>• Sites of Special Scientific Interest;</li> <li>• National Nature Reserves;</li> <li>• Sites identified in the Inventory of Gardens and Designed Landscapes;</li> <li>• Sites identified in the Inventory of Historic Battlefields.</li> </ul>	<p><b>Other nationally important mapped environmental interests:</b></p> <ul style="list-style-type: none"> <li>• areas of wild land as shown on the 2014 SNH map of wild land areas;</li> <li>• carbon rich soils, deep peat and priority peatland habitat.</li> </ul>	<p><b>Community separation for consideration of visual impact:</b></p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>
<p><b>Group 3: Areas with potential for wind farm development:</b> Beyond groups 1 and 2, wind farms are likely to be acceptable, subject to detailed consideration against identified policy criteria.</p>		

- 3.1.47 The site sits approximately 1.1 km north of the Cairngorm National Park and is within the boundary of the Drynahan, Lochindorb and Dava Moors Special Landscape Area (SLA). It is also within 20 km of two Wild Land Areas, however no significant effects on Wild Land have been identified.
- 3.1.48 The Carbon and Peatland map (2016) shows that areas of the Proposed Development sit within Class 1 of NatureScot’s carbon soil classification, which is identified as a potentially nationally important resource (see **Figure 9.5**). It should be noted that the presence of carbon rich soils does not necessarily preclude development. However, with reference to SPP Table 1 and according to the associated spatial criteria, the Proposed Development would be defined as being partly within Group 2: Areas of Significant Protection (due to the presence of priority peatland), and partly within Group 3: Areas with potential for Wind Farm Development. For all other criteria relating to national and international designations, areas of Wild Land and community separation, the Proposed Development scores favourably with respect to the criteria established in Table 1.
- 3.1.49 This is re-enforced by the fact that within the Highland Council’s Onshore Wind Energy Supplementary Guidance (November 2016), which sets out the Council’s spatial framework for onshore wind development in accordance with SPP, the site falls within primarily within Group 2 (requiring significant protection due to Class 1 priority peatland), with pockets falling within Group 3, which is considered land suitable for wind farm development.
- 3.1.50 However, it should be noted that there are areas across much of the site that contain lower classifications within the northern end at Carn Mòr and to the south. Generally, areas of deep peat observed during the Phase 1 Peat survey coincide with areas identified as Class 1 soils. There is an area of Class 0 (mineral soils) within the northern section at Carn Mòr and the southern section also contains large, scattered pockets of Class 4 and Class 5 soils.
- 3.1.51 Furthermore, the natural peat deposits on site have been modified by a network of artificial drainage ditches. This artificial drainage network will have lowered the water table in the vicinity of drainage ditches which can result in a loss of peat forming conditions, continuous subsidence, and net-carbon

losses. Therefore, the areas indicated as Class 1 soils appear to be in a more degraded condition than indicated by the Carbon and Peatland map (2016).

- 3.1.52 Detailed assessments have been undertaken to assess the impact of the Proposed Development on carbon rich soils within the site area and an iterative design approach has been undertaken in order to reduce and offset the impact on priority peatlands and deep peat. As demonstrated in **Figure 9.6** of the EIA Report, the layout has been designed to avoid deep peats as far as possible
- 3.1.53 A Peat Management Plan (**Appendix 9.3** of the EIA Report) has been developed as part of the EIA and demonstrates that there are opportunities to re-use all excavated peat as part of the site reinstatement. Furthermore, habitat enhancement is proposed through the EIA and this will include wet heath and blanket bog restoration.
- 3.1.54 In summary, the assessments have concluded that the Proposed Development would not affect the overall quality of the assets. Accordingly, with respect to the criteria established in Table 1 of SPP, the site is considered to be suitable for wind farm development in principle, subject to detailed consideration against identified policy criteria. There are no predicted issues in terms of national or international designations, wild land areas, or peat and carbon rich soils, therefore in principle it is considered that the site is more applicable to Group 3: Areas with Potential for Wind Farm Development.

#### **SPP Energy Infrastructure Policy**

- 3.1.55 Paragraph 169 of SPP sets out that considerations for energy infrastructure “... will vary relative to the scale of proposal and area characteristics but are likely to include:
- *“net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;*
  - *the scale of contribution to renewable energy generation targets;*
  - *effect on greenhouse gas emissions;*
  - *cumulative impacts – planning authorities should be clear about the likely cumulative impacts arising from all of the considerations below . . . .;*
  - *impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;*
  - *landscape and visual impacts, including effects on wild land;*
  - *effects on the natural heritage, including birds;*
  - *impacts on carbon rich soils, using the carbon calculator;*
  - *public access, including impact on long distance walking and cycling routes and scenic routes identified in the NPF;*
  - *impacts on the historic environment, including scheduled monuments, listed buildings and their settings;*
  - *impacts on tourism and recreation;*
  - *impacts on aviation and defence interests and seismological recording;*
  - *impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*
  - *impacts on road traffic;*
  - *impacts on adjacent trunk roads;*
  - *effects on hydrology, the water environment and flood risk;*

- *the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration;*
- *the need for a robust planning obligation to ensure that operators achieve site restoration.”*

- 3.1.56 Paragraph 170 of SPP states that areas identified for wind farms should be suitable for use in perpetuity. It further adds that consents may be time limited, but nevertheless “*wind farms should ... be sited and designed to ensure impacts are minimised and to protect an acceptable level of amenity for adjacent communities*”.
- 3.1.57 The provision of paragraph 170 is not a new matter. Circular 4/98 in relation to the use of conditions in planning permissions sets out paragraph 105 that “*the reason for granting a temporary permission can never be that a time limit is necessary because of the effect of the development on the amenity of the area*”.
- 3.1.58 Potential environmental, social and economic effects have been considered through the EIA process and with respect to the outcomes of that assessment, it is recognised that in the context of the EIA, the Proposed Development is likely to have significant adverse landscape and visual effects, as well as significant adverse effects on 3 (no.) cultural heritage assets.
- 3.1.59 When considering the potential negative environmental effects, it is also necessary to consider the potential social, economic or environmental benefits that the Proposed Development may give rise to. The EIA Report has also demonstrated that the Proposed Development will result in important economic benefits which are of local importance.
- 3.1.60 Another important point to note with regard to paragraph 170 of SPP is that it further supports the Government’s position that wind energy developments can play an important role in the long-term renewable generation platform of the country, thereby sustaining carbon savings and renewable energy generation targets. As set out in the very recent Government publications, there are now further challenging carbon saving and renewable energy targets set for the long term that go beyond those referenced in NPF3 and SPP, and wind farms operating on a long term, or in perpetuity basis, will clearly sustain and contribute to those targets.
- 3.1.61 These positive attributes, coupled with clear and significant contribution to renewable energy targets should weigh heavily in favour of the Proposed Development in the planning balance.

### **SPP Conclusions**

- 3.1.62 In conclusion, SPP sets out continued support for onshore wind. Furthermore, it sets out a clear presumption in favour of development that contributes to sustainable development as well as those which accord with the Development Plan. The Proposed Development can draw significant support from SPP and should be considered favourably with respect to the criteria established in Table 1 for determining the suitability of sites for wind farm development.
- 3.1.63 In short, it has been demonstrated through the EIA Report that the site and surrounding environment is capable of absorbing development of renewable technology. The scale and form of the Proposed Development has been refined through the design process to extract the maximum advantages in terms of carbon saving, clean energy production and local economic benefit without compromising the local or regional environment.

#### Draft National Planning Framework 4

- 3.1.64 On the 10<sup>th</sup> 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*”.
- 3.1.65 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. While it is recognised that NPF 4 is at a draft consultation phase only, as previously recognised in this Planning Statement, SPP and NPF 3 were established prior to the recognition of the climate emergency in Scotland and as result NPF 4 does provide an altered and more immediate perspective and associated urgency for action on climate change not yet reflected in planning policy. It is therefore considered that this should be afforded some weight in the decision making.
- 3.1.66 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).
- 3.1.67 It should be noted that the Proposed Development would be considered a ‘*national development*’ under the terms of NPF 4 given it comprises onshore infrastructure for energy generation from renewables of or exceeding 50MW capacity. This designation re-enforces the overall ‘need’ for development of this nature in Scotland, which should be considered in the context of potential detrimental environmental effects of a development when considering the planning balance.
- 3.1.68 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.
- 3.1.69 Overall, the draft NPF 4 reflects the urgency established by the CCC in their 2019 Report (“*we must start at once; there is no time to lose*”) and makes it clear that the climate emergency should become a material consideration in decision making. Given the radical change in climate change context since NPF 3 and SPP, it is considered that the general policy direction within the draft NPF4 should be considered material in the balance of decision making for the Proposed Development. Further, it should be recognised that the Proposed Development would be considered of national significance under the draft NPF 4 and as such the ‘need’ for development of this nature is expressly supported in principle.

## 4 The Statutory Development Plan

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### 4.1 Introduction and Approach

- 4.1.1 As detailed previously in this Planning Statement, due to the regulatory consenting process for S36 applications, the Planning Act is not fully engaged beyond Section 57(2) and therefore primacy in decision making is not given to the LDP.
- 4.1.2 To re-iterate, the statutory development plan covering the site 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).

### 4.2 Status of the Development Plan

#### The Highland Wide Local Development Plan (HwLDP)

- 4.2.1 The HwLDP was adopted in 2012 and therefore exceeds the currently recommended lifespan of 5 years. As such it does not offer a policy context which reflects the most recent Government targets with respect to renewable energy and carbon emissions. Nevertheless, the LDP is a material consideration in the decision-making process and offers important insight into the local land use and policy strategy within the region.
- 4.2.2 The LDP has therefore directly informed the EIA and design iteration process and this Chapter of the Planning Statement demonstrates how the Proposed Development has responded to the overarching vision of the HwLDP and the relevant policies contained therein.
- 4.2.3 THC has progressed consultation on a new HwLDP. The consultation period ended on 24<sup>th</sup> December 2015 and was progressed by way of a Main Issues Report (MIR) which included a series of questions on the main issues affecting people across the Highland region. It is understood that THC is suspending progress on a new HwLDP until there is clarity on a new development planning approach as a result of the proposed *Planning (Scotland) Bill (Scottish Government, 2018a)*. An Interim Position on the issues raised on the MIR was agreed by THC on 17<sup>th</sup> August 2016, however given the very early stage of the new HwLDP process, no material weight can reasonably be placed on the content of the MIR or the associated feedback.

#### Inner Moray Firth Local Development Plan (IMFLDP) (adopted July 2015)

- 4.2.4 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.
- 4.2.5 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.

- 4.2.6 An MIR for the new IMFLDP (IMFLDP 2) has been prepared with the consultation period closing at the end of April 2021. 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”*.
- 4.2.7 The IMFLDP sets out broad intentions for the area, rather than a specific land allocation policy. The IMFLDP is therefore not considered further in this policy assessment, other than to note the MIR’s support of renewables in terms of employment generation.

### **Cairngorms National Park Authority LDP (adopted 2021)**

- 4.2.8 It should also be noted that the Proposed Development is located in proximity to (but outwith) the Cairngorms National Park Authority who will be an important consultee in the S36 application process.
- 4.2.9 Cairngorms National Park was designated as a national park under the *National Parks (Scotland) Act 2000* (the ‘National Parks Act’).
- 4.2.10 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.
- 4.2.11 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.
- 4.2.12 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. As such the specific policy framework has not been considered further in this assessment, other than where it is relevant to the outcomes of the specific environmental assessments.
- 4.2.13 The Cairngorms National Park Authority will be a consultee in the S36 application process.
- 4.2.14 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. The policy framework contained therein is therefore not considered further with respect to this Planning Statement.

## **4.3 LDP Policy Assessment**

- 4.3.1 The HwLDP policies are assessed under the following policy topics. The policy topics are as follows:-
- Renewable Energy (paras 4.3.2-4.3.6);
  - Sustainable Design (paras 4.3.7-4.3.14 );
  - Landscape and Visual (paras 4.3.15-4.3.48);



- Ecology and Ornithology; (paras 4.3.49-4.3.62);
- Geology, Peat, Hydrology and Hydrogeology (paras 4.3.63-4.3.85);
- Noise and Vibration (paras 4.3.86-4.3.92);
- Archaeology and Cultural Heritage (paras 4.3.93-4.3.112);
- Access, Traffic and Transportation (paras 4.3.113-4.3.122);
- Socio Economics, Tourism and Recreation; (paras 4.3.123-4.3.142); and,
- Aviation and radar (paras 4.3.143-4.3.151)

## Renewable Energy

4.3.2 Policy 67 is considered to be relevant.

### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*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 Guidance 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.*

- 4.3.3 The Proposed Development seeks to balance potential environmental effects with the maximum potential energy yield by promoting 17 wind turbines up to 185 m blade tip height when vertical, each being around 6 megawatt (MW) in power rating. The combined generation capacity of the turbines will be approximately 102 MW, supported by additional energy storage provision with an output capacity of around 10 MW. This presents a significant contribution to the renewable energy generation targets in compliance with the first of the bullet points of the policy extract above and targets set out within Government policy discussed previously in this Planning Statement.
- 4.3.4 The policy clearly requires a balance in decision-making to be struck with consideration to environmental effects. The beneficial impacts of the Proposed Development are discussed further in this Chapter and summarised in Chapter 5. These should be considered alongside the wider benefits of the Proposed Development’s contribution to clean energy. While it is recognised that up to moderate minor adverse landscape and up to minor adverse visual and heritage effects have been identified through the EIA, it is still considered that the Proposed Development adheres to the general aspirations of the LDP policy framework. This is largely as a result of the Applicant’s robust site selection process and decision to amend the layout and reduce the scale of the development following analysis of the consultation responses and representations received.
- 4.3.5 The Proposed Development continues to utilise a location with an excellent wind resource, despite being in fairly low-lying land which is not of a prominent topography in the wider landscape.

Furthermore, the existence of the approved wind farm at Tom nan Clach will allow utilisation of existing infrastructure, including the existing priority T-junction from the B9007.

- 4.3.6 In summary, the Proposed Development meets with and can draw significant support from policy 67 and the wider renewables and sustainability policies of the LDP in the respect in that it will make a significant contribution to renewable energy generation targets, will have a positive effect on the local and national economy, and is capable of utilising existing site infrastructure.

### **Sustainable Design**

- 4.3.7 Policy 28 sets out the requirement for all development to be designed in the context of sustainable development and climate change. The Policy sets out criteria which proposed developments are to be assessed against. Those that are relevant to the Proposed Development are outlined below.

#### **Policy 28 Extract**

*The Council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland. Proposed developments will be assessed on the extent to which they:*

- *are compatible with public service provision (water and sewerage, drainage, roads, schools, electricity);*
- *maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy and heat;*
- *are affected by physical constraints described in Physical Constraints on Development: Supplementary Guidance;*
- *demonstrate that they have sought to minimise the generation of waste during the construction and operational phases. (This can be submitted through a Site Waste Management Plan);*
- *impact on individual and community residential amenity;*
- *impact on non-renewable resources such as mineral deposits of potential commercial value, prime quality agricultural land, or approved routes for road and rail links;*
- *impact on the following resources, including pollution and discharges, particularly within designated areas:*
  - *habitats*
  - *freshwater systems*
  - *species*
  - *marine systems*
  - *landscape*
  - *cultural heritage*
  - *scenery*
  - *air quality;*
- *demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;*
- *contribute to the economic and social development of the community.*

- 4.3.8 THC's Scoping Response requested that a Sustainable Design Statement be included as part of the consent package, highlighting that "*wind farms produce a sustainable form of energy however, the Council will need to be satisfied in reaching a conclusion on any consultation or application that the development in its entirety is in fact sustainable development*".
- 4.3.9 The provisions of Policy 28 and the over-arching principle to promote development which contributes to sustainable development at this site has guided the design process from the outset and has ultimately led to the finalised layout of the Proposed Development.
- 4.3.10 **Chapter 2 Site Selection and Design Iteration** of the EIA Report provides further narrative on the process undertaken in selecting the site as a potential location for a wind energy development and discusses the design evolution process undertaken by the Applicant prior to arriving at the final design.
- 4.3.11 Policy 28 is considered to be of limited relevance in terms of undertaking a comprehensive policy appraisal against the terms of the LDP. It adds nothing further to the existing detailed provisions of Policy 67 which deals specifically with renewable energy developments. However, the Proposed Development is considered to be in accordance with Policy 28 insofar as:
- It is compatible with public service provision in that it will not burden or effect existing drainage supplies, will utilise an existing access point from the B9007 and it will contribute significant energy capacity to the national grid. Locally, a community benefit fund would be established to address fuel poverty.
  - The site layout and design maximises energy efficiency and will make a significant contribution to national renewable energy targets without significantly comprising the receiving environment.
  - Policy 30 of the HwLDP seeks to ensure that various physical and technical factors are assessed when considering development proposals. The Physical Constraints Supplementary Guidance sets out a range of physical constraints which need to be taken into account. Detailed physical constraints mapping was provided by THC in their pre-application response of 28<sup>th</sup> April 2021. The Proposed Development is considered to be in accordance with Policy 30 as all of the relevant physical constraints have been considered throughout the EIA Report and it would not adversely affect human health and safety or pose a risk to safeguarded sites.
  - Waste will be minimised during construction and a Site Waste Management Plan (SWMP) will be developed and implemented to ensure this.
  - Impacts on residential amenity has been considered through the EIA and no significant effects have been identified.
  - Impacts on non-renewable resources has been considered through the EIA. **Chapter 15 Other Issues**, details the outcome of the land use assessment which was based on the relevant OS mapping and the Macaulay Institute Land Capability for Agriculture (LCA) map (Scotland's Soils, 2017). Site surveys have confirmed the land within the site boundary is used mainly for grouse moorland with some sheep grazing. Construction and operation of the Proposed Development is anticipated to have a no significant effect on agricultural land or grouse moorland. In addition, a Peat Management Plan (**Appendix 9.3** of the EIA Report) has been developed and demonstrates that there are opportunities to re-use all excavated peat as part of the site reinstatement.
  - Impacts on habitats, freshwater systems, species, marine systems, landscape, cultural heritage, and scenery have been considered through the design and EIA process and are reported

throughout this Planning Statement. Air quality has been scoped out of this assessment as no potential effects have been identified.

4.3.12 The sustainable nature of the design approach and proposed development has also been informed by THC's Sustainable Design Guide Supplementary Guidance (January 2018) which provides detail to Policies 28, 'Sustainable Design' and Policy 29, 'Design Quality and Placemaking' of the LDP, promoting a sustainable approach to design which considers:

- Conserving and enhancing the character of the Highland area;
- Using resources efficiently;
- Minimising the environmental impact of development; and,
- Enhancing the viability of Highland communities.

### **Carbon Balance**

4.3.13 A carbon balance assessment has been produced (**Appendix 3.3** of the EIA Report) to give an indication of the Proposed Development's impact on the existing peat on site and to assess the potential effects in terms of carbon dioxide (CO<sub>2</sub>) emissions against the total potential carbon savings attributed to the Proposed Development. The assessment quantifies the gains over the life of the project against the release of CO<sub>2</sub> during construction, including loss of peat bog and construction of roads/tracks and other infrastructure. The carbon balance assessment also takes into consideration reductions in any existing carbon losses as a result of peatland habitat restoration prescriptions.

4.3.14 The principles established in Paragraph 29 of SPP (and discussed further above) have framed the site selection and design iteration process in order that the finalised design solution at the site offers the maximum energy yield without compromising the overall contribution to sustainability. Overall therefore, it is considered that the Proposed Development demonstrates sensitive siting and high quality design which respects the historic and natural environment and on balance should be considered sustainable development.

### **Landscape and Visual Policy**

4.3.15 The following policies are considered relevant to the assessment of Landscape and Visual Impacts:-

#### **Policy 67 'Renewable Energy Policy' (Extract)**

*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:...*

- *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 outwith a settlement boundary);*

### **Policy 28 Sustainable Design (Extract):**

*The Council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland.*

*Proposed developments will be assessed on the extent to which they:*

- *impact on individual and community residential amenity;*
- *impact on the following resources, including pollution and discharges, particularly within designated areas: ...landscape ...scenery;*

*Developments that will have significant adverse effects will only be supported if no reasonable alternatives exist, if there is demonstrable over-riding strategic benefit or if satisfactory overall mitigating measures are incorporated.*

### **Policy 61 Landscape**

*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.*

*Note: The principles and justification underpinning the Council's approach to sustainable developments are contained in the supplementary guidance: "Sustainable Design". The key principles underlying this guidance are set out in Policy 28:*

### **Policy 57 Natural, Built and Cultural Heritage (Extract)**

*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.

- 4.3.16 The landscape and visual effects associated with the Proposed Development are identified in **Chapter 6** of the EIA Report.
- 4.3.17 It is acknowledged that significant landscape and visual impacts are inevitable as a result of commercial scale wind farm developments. The site selection criteria examined landscape and visual sensitivity from the project outset and the final proposed turbine layout has been subject to many design and layout iterations to minimise impacts. Nevertheless, the Landscape and Visual Impact Assessment (LVIA) identifies the likely significant effects arising from the Proposed Development on landscape character and visual amenity.
- 4.3.18 Landscape and visual effects are discussed further below in the context of the relevant HwLDP policies.
- 4.3.19 It should also be noted that THCs Onshore Wind Energy Supplementary Guidance (SG), November 2016, including Part 2b Update of December 2017 (combined report) is discussed further in section 4.4 of this Planning Statement and Appendix 1. It was also utilised through the LVIA to help inform the consideration of the susceptibility and value of Landscape Character Types (LCTs). As discussed in **Chapter 6** of the EIA Report, the findings of the SG have not been adopted verbatim. Rather the approach taken has been to seek to provide a sensitivity rating for each area in line with the approach advocated in the Guidelines for Landscape and Visual Impact Assessment (GLVIA3)<sup>3</sup>, whilst taking the SG into consideration.

### Landscape Impact

- 4.3.20 A review of all landscape designations within the 45 km study area has been undertaken. Landscape designations are illustrated on **Figure 6.4**.
- 4.3.21 There are no international landscape designations covering the site or located within the 45 km study area.
- 4.3.22 There are no national landscape designations covering the site. However, the Cairngorms National Park (CNP) is situated approximately 2.8 km to the south of the nearest turbine, as shown on **Figures 6.4** and **6.5** along with the designated sites. Given the relatively close proximity of the Proposed Development to the National Park, the effects on it and the special Landscape Qualities (SLQs) which underpin the Park's Landscape Character Areas (LCAs) are considered as part of the assessment.
- 4.3.23 The Proposed Development is located within LCT 291 Open Rolling Upland. The key characteristics of this LCT are discussed further in **Chapter 6** of the EIA Report.

- 4.3.24 The Proposed Development is also situated within the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) which is described as follows in THC’s ‘Assessment of Highland Special Landscape Areas’ (2011):

*“This landscape comprises high rolling moorland, which has a consistency of character derived from gentle gradients, limited relief, and management of much of the area as grouse moor. Although this moorland is not as extensive as other moorlands further north, it is valuable for being located mid-way between a number of settlements and for being easily accessible via several roads which pass through the area.*

*Elements of human intervention are evident within this landscape, most obviously in the form of tracks, fences, muirburn patterns and fencing. However, it retains a strong sense of tranquillity as well as some wildness qualities, which are emphasised by an almost complete absence of built structures.”*

- 4.3.25 The existing Tom nan Clach and Moy wind farms are also situated within the western part of the SLA.
- 4.3.26 No effects on other SLA’s within the region have been identified, due to their distance from the site. Similarly, no effects have been identified on Wild Land Areas (WLAs) or Gardens and Designed Landscapes.
- 4.3.27 The assessment on landscape concludes that the Proposed Development would result in direct and significant effects on the part of the landscape character type within which the Proposed Development is located, LCT 291 Open Rolling Upland and indirect effects out to approximately 3 km to the west, to the southern edge of the LCT and 6 km to the east. There would also be indirect and significant effects on LCT 286 Narrow Wooded Valley – Moray and Nairn up to approximately 5 km to the north of the Proposed Development.
- 4.3.28 In relation to cumulative landscape and visual effects, when each of the other consented wind farms (excluding Cairn Duhie which has been assessed as an in-planning scheme) are added into the assessment such that they are considered to already form part of the baseline it is considered that there would be no change to the previous assessment of the effects on landscape character which the Proposed Development would bring about. When other schemes in planning are also considered if the revised Cairn Duhie scheme were already present in the landscape, the extent of the significant effect brought about by the Proposed Development would reduce in a north-easterly direction down to approximately 4 km, as beyond that point the existing influence of the revised Cairn Duhie scheme would be such as to render the additional effect of the Proposed Development non-significant.
- 4.3.29 In terms of the totality of effect on landscape character, were the Proposed Development and each of the additionally proposed schemes consented alongside the existing Tom nan Clach scheme, the character of LCT 291 Open Rolling Upland area would become one which could be described as ‘Open Rolling Upland with wind farms’. However, wind energy would not become the single dominant characteristic of LCT291, nor LCT 286 such that wind energy would become the single dominant characteristic these LCTs.

### **Visual Impact**

- 4.3.30 In relation to visual effects, it is accepted that the Proposed Development would be visible from some nearby properties, settlements as well as the surrounding road network and the nearby Dava Way.
- 4.3.31 It has been assessed that there would be a significant visual effect at 7 of the 16 representative viewpoints during daylight hours, namely:

- Viewpoint 1 – Carn Glas-choire;
- Viewpoint 3 – B9007 near Lochindorb;
- Viewpoint 4 - Creag Ealraich;
- Viewpoint 6 – Shore Road, Lochindorb;
- Viewpoint 9 – Gorton Hill;
- Viewpoint 13 – Minor road, near Dunearn Fort; and,
- Viewpoint 16 – Knock of Braemoray.

- 4.3.32 Of these viewpoints, it has been assessed that Viewpoint 1 – Carn Glas-choire; Viewpoint 3 – B9007 near Lochindorb; Viewpoint 4 - Creag Ealraich; Viewpoint 13 – Minor road, near Dunearn Fort; and Viewpoint 16 – Knock of Braemoray would also experience a significant effect during the hours of darkness.
- 4.3.33 Fourteen residential properties have been identified within 2 to 5 km of the Proposed Development. Of these Banchor, Drumlochan, Milltown, Dunearn Lodge, Lochindorb Lodge, and Refouble would experience significant effects during daylight hours only and it has been assessed that only one of these, Banchor, would experience significant effects during the hours of darkness. However, none would experience an overbearing effect.
- 4.3.34 The assessment of routes found that there would be no significant effects on recreational routes or the A940 or A939. However, road users travelling north along the B9007 would experience significant effects over a distance of approximately 2.9 km, while road users travelling south would experience significant effects over a distance of approximately 4.3 km, in the vicinity of the site. In this regard, it should be recognised that the B9007 starts at the A938 at Duthil and ends where it meets the A939 at Ferness: approximately 29.8km in total length. While significant visual effects have been identified for a maximum distance of 4.3km (southbound), this is considered to be a fairly minimal extent when compared to the length of the route in its totality.
- 4.3.35 It should also be highlighted that the route does not pass between the turbines and so the view out from any vehicle travelling southbound and looking to the east would remain unaffected by the turbines. Furthermore, the Tom nan Clach turbines are already visible from the section of the route where significant effects have been identified, in broadly the same direction, so it is considered that a significant visual effect is already established, albeit not to the extent proposed.
- 4.3.36 In relation to cumulative visual effects, when each of the other consented wind farms are added into the assessment such that they are considered to already form part of the baseline it is considered that there would be no change to the previous assessment of the effects on visual amenity which the Proposed Development would bring about. When other schemes in planning are also considered, there may be the potential for views of the Proposed Development in one direction and Cairn Duhie Wind Farm in the opposite direction. Any significant cumulative effects would however be limited to a very small number of dwellings. The two schemes may also be seen successively, from locations along the A939, A940, the B9007 and the Shore Road Lochindorb, where significant ‘sequential’ cumulative visual effects are also identified for a short section of the routes if the Cairn Duhie Wind Farm were also to be constructed, above that which was reported in the main assessment of the route. There would be no significant sequential cumulative visual effects as a result of any of the other in planning schemes.



- 4.3.37 THCs Onshore Wind Energy Supplementary Guidance, November 2016, including Part 2b Update of December 2017 (combined report) is discussed further in section 4.4 of this Planning Statement and Appendix 1. For the purposes of informing the sensitivity of receptors however, it should be recognised that significant adverse effects have only been identified at two of the key views, key routes and key gateways recognised, namely at Lochindorb (Viewpoint 6) and on the B9007 (viewpoint 3).

**Summary of Landscape and Visual Effects**

- 4.3.38 THC's pre-application response (28<sup>th</sup> April 2020) on the Proposed Development raised significant concerns with respect to potential landscape and visual effects, particularly in relation to the substantial scale and anticipated visibility of the Proposed Development and its central location within the SLA. Furthermore, there were specific concerns with respect to the potential effects on motorised and non-motorised users on the local road network and tourist routes.
- 4.3.39 Based on the feedback received from THC and associated stakeholders, the Proposed Development has been reduced in scale from up to 23 turbines (at pre-application stage) to 17.
- 4.3.40 The key landscape and visual policy test contained within Policy 67 requires that development will *"not be significantly detrimental overall"* and that *"the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact"*. This premise is reflected in Policy 61 which seeks new development to 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"*.
- 4.3.41 The second relevant part of policy 67 with respect to amenity, requires that development proposals have regard to *"amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary)"*.
- 4.3.42 As detailed in the Cultural Heritage section below, it has been concluded in **Chapter 11** of the EIA Report that while there will be significant effects on heritage assets as a result of the Proposed Development, in each case the assets' key landscape relationships would still be appreciable and that there would not be an adverse effect upon the integrity of their setting. Furthermore, no significant socio-economic effects on visitor sites have been identified as a result of the Proposed Development. The assessment of routes found that there would be no significant effects on recreational routes (including the Dava Way) or the A940 or A939.
- 4.3.43 It is accepted that significant effects have been recognised with respect to both landscape and visual considerations. Overall however, it has been clearly demonstrated that these impacts have been minimised where possible. It has been demonstrated that no residential properties will experience an overbearing effect from the Proposed Development. Mitigation has been designed into the proposed aviation lighting to reduce the intensity of the 2000 candela steady state lights in certain atmospheric conditions by reducing their intensity and attenuating the amount of vertical downwards lighting in order to reduce the visual impact experienced by receptors below the lights.
- 4.3.44 When considering the cumulative effects of the Proposed Development, in terms of the totality of effect on landscape character, were Proposed Development and each of the additionally proposed schemes consented alongside the existing Tom nan Clach scheme, the character of LCT 291 Open Rolling Upland area would become one which could be described as 'Open Rolling Upland with wind

farms'. However, wind energy would not become the single dominant characteristic of LCT291, nor LCT 286 such that wind energy would become the single dominant characteristic these LCTs.

- 4.3.45 Similarly, in terms of the totality of effect on visual amenity, it is not considered that the addition of the Proposed Development would be such as to result in the overall cumulative impact of turbines being dominant or oppressive in views from this area.
- 4.3.46 Overall the Proposed Development has been designed and altered to reflect concerns from consultees and propose a design that seeks to minimise the landscape and visual impact. In this respect the Proposed Development can draw support from policies 67 and compliance with policies 61 and 28.
- 4.3.47 It is noted that localised significant effects on landscape character and visual amenity are inevitable as a result of commercial wind energy development anywhere in the UK. Whilst the LVIA identified some significant landscape and visual effects it is considered that the landscape has the capacity to accommodate the effects identified, particularly when balanced against the overall benefits of the Proposed Development.
- 4.3.48 It should be noted that narrative of the landscape and visual impacts are discussed further in section 4.4 below against the Onshore Wind Energy Supplementary Guidance, November 2016, including Part 2b Update of December 2017 (combined report). Appendix 1 provides a summary of the key criteria which were considered as part of this assessment.

### **Ecology and Ornithology Policy**

- 4.3.49 Policy 67, includes the requirement to have regard to species and habitats:

#### **Policy 67 'Renewable Energy Policy' (Extract)**

*...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:...*

- species and habitats;

- 4.3.50 Policies 58, 59 and 60 relate more specifically to ecology and habitats and require developers to consider the presence of protected species and habitats and provide mitigation to avoid or minimise any impacts as appropriate.

### **Policy 58 Protected Species**

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

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

*There is no satisfactory alternative; and*

*The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and*

*The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.*

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

*There is no other satisfactory solution; and*

*The development is required in the interests of public health or public safety.*

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

*Species listed in Annex 1 of the EC Birds Directive*

*Regularly occurring migratory species listed in Annex II of the Birds Directive*

*Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended*

#### **Birds of conservation concern**

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

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

### **Policy 59 Other Important Species**

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

*Species listed in Annexes II and V of the EC Habitats Directive*

*Priority species listed in the UK and Local Biodiversity Action Plans*

*Species included on the Scottish Biodiversity List*

*We will use conditions and agreements to ensure detrimental affect on these species is avoided.*

### **Policy 60 Other Important Habitats and Article 10 Features**

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

*Habitats listed in Annex I of the EC Habitats Directive*

*Habitats of priority and protected bird species (see Glossary)*

*Priority habitats listed in the UK and Local Biodiversity Action Plans*

*Habitats included on the Scottish Biodiversity List*

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

- 4.3.51 **Chapter 7** of the EIA Report considers potential effects on ornithology. **Chapter 8** of the EIA report considers potential effects on non-avian ecology.
- 4.3.52 18 months of ornithological survey work was undertaken to inform the design development between March 2018 and August 2019 (two breeding seasons and one non-breeding season). NatureScot agreed that a second non-breeding season survey was not required at the Proposed Development. Surveys comprised of Vantage Point (VP) flight activity surveys, Breeding Bird Surveys (BBS), raptor and black grouse surveys.

- 4.3.53 In order to inform the Ecological Impact Assessment (EiA), baseline ecology surveys were undertaken in 2019. These included Phase 1 and National Vegetation Classification (NVC) habitat surveys, protected mammal surveys and bat surveys (roost assessment and activity surveys) following standard NatureScot guidance. Additional Phase 1 and NVC habitat surveys were undertaken in 2021 in areas not previously surveyed in 2019 that were within 300 m of proposed infrastructure.
- 4.3.54 An assessment has been made of the predicted significance of effects of the Proposed Development on ornithological interests and non-avian ecology. The outcome of this assessment predicted no significant effects individually or cumulatively on any of the Important Ornithological Features (IOF) recorded or the Important Ecological Features (IEFs) recorded.
- 4.3.55 Habitat enhancement measures are proposed as follows:
- Heather management to encourage areas of deep heather, targeted at hen harrier (*Circus cyaneus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*);
  - Wet heath and blanket bog restoration which will have a number of ecological and hydrological benefits, including enhancing habitat for curlew (*Numenius arquata*) and golden plover (*Pluvialis apicaria*);
- 4.3.56 In addition, a comprehensive Fish and Macro-invertebrate Monitoring Programme (FMMP) will be produced in consultation with NatureScot and local fishery boards to monitor the watercourses and the species that depend on them. The monitoring will commence during the pre-construction phase and continue during the period of construction of the Proposed Development. The requirement for operational monitoring will be determined following completion of the pre-construction and construction monitoring.
- 4.3.57 A Species Protection Plan is proposed and good practice guidance regarding breeding birds and ecology will be followed, with an Ecological Clerk of Works (ECow) employed during construction
- 4.3.58 This demonstrates an overall compliance with the element of Policy 67 relating to species and habitats.
- 4.3.59 Habitat enhancement will be managed through a robust Habitat Management Plan (HMP) which will be subject to consultation with the landowner, NS and THC. An outline HMP is included within **Appendix 8.3** of the EIA report and this identifies suitable locations in which to undertake peatland restoration, totalling c. 38.5 ha of modified bog and 55.8 ha modified and degraded wet heath. A monitoring regime will be included as part of this plan in order to assess the effectiveness of management measures implemented as part of the HMP.
- 4.3.60 The habitat enhancement measures identified through the outline HMP complement embedded mitigation measures which have been established to minimise impacts of the construction and operation of the Proposed Development on IEFs and IOFs, and to prevent a breach of legislation under the *Wildlife and Countryside Act (1981)* as amended by the *Nature Conservation (Scotland) Act (2004)*.
- 4.3.61 Overall, no significant effects on IOFs, including the priority protected bird species referenced in HwLDP Policy 58 have been identified through the EIA. Furthermore, habitat enhancement measures are proposed in the form of heather management and blanket bog restoration will result in an overall beneficial effect. Therefore, it is considered that the Proposed Development responds positively to the ornithological and important and protected species safeguards established through the HwLDP in Policies 58, 59 and 60.

- 4.3.62 It should be noted that there are six Special Protection Areas (SPAs) within 25 km of the site which are designated for capercaillie (*Tetrao urogallus*) breeding. Further to an initial *Habitats Regulations Assessment* (HRA) Screening, potential effects on the qualifying features of these SPAs have been taken forward for Appropriate Assessment. These are dealt with in a separate HRA Screening document.

#### **Hydrology, Hydrogeology and Geology**

- 4.3.63 Potential effects on the water environment and ground conditions are considered in **Chapter 9 Hydrology, Geology and Hydrogeology** of the EIA Report
- 4.3.64 The following policies can be considered as relevant with respect to hydrology, hydrogeology and geology.

#### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*...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:...*

- ground water, surface water (including water supply), aquatic ecosystems and fisheries;

#### **Policy 55 ‘Peat and Soils’**

*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.*

### **Policy 64 'Flood Risk'**

*Development proposals should avoid areas susceptible to flooding and promote sustainable flood management.*

*Development proposals within or bordering medium to high flood risk areas, will need to demonstrate compliance with Scottish Planning Policy through the submission of suitable information which may take the form of a Flood Risk Assessment.*

*Development proposals outwith indicative medium to high flood risk areas may be acceptable. However, where:*

*better local flood risk information is available and suggests a higher risk;*

*a sensitive land use (as specified in the risk framework of **Scottish Planning Policy**) is proposed, and/or;*

*the development borders the coast and therefore may be at risk from climate change;*

*A Flood Risk Assessment or other suitable information which demonstrates compliance with SPP will be required.*

*Developments may also be possible where they are in accord with the flood prevention or management measures as specified within a local (development) plan allocation or a development brief. Any developments, particularly those on the flood plain, should not compromise the objectives of the EU Water Framework Directive.*

*Where flood management measures are required, natural methods such as restoration of floodplains, wetlands and water bodies should be incorporated, or adequate justification should be provided as to why they are impracticable.*

### **Policy 66 'Surface Water Drainage'**

*All proposed development must be drained by Sustainable Drainage Systems (SuDS) designed in accordance with The SuDS Manual (CIRIA C697) and, where appropriate, the Sewers for Scotland Manual 2nd Edition. Planning applications should be submitted with information in accordance with Planning Advice Note 69: Planning and Building Standards Advice on Flooding paragraphs 23 and 24. Each drainage scheme design must be accompanied by particulars of proposals for ensuring long-term maintenance of the scheme.*

- 4.3.65 A desktop assessment and series of site investigations have been undertaken to identify and characterise the hydrological, geological and hydrogeological environment within the vicinity of the Proposed Development.
- 4.3.66 The potential effects on the hydrological, geological and hydrogeological environment have considered: pollution incidents, erosion and sedimentation, changes in water quality, changes to water resources i.e., modification of surface water and groundwater flows, modification of natural drainage patterns, impediments to flow and flood risk, peat instability and compaction of soils. These are discussed further below.

### **Impacts on Peat and Soils**

- 4.3.67 A Phase 1 peat depth survey was carried out at the site during November 2018. The survey was undertaken on a 100 m grid pattern within the survey boundary and a total of 1118 survey location

points were probed. Further detailed probing of infrastructure elements was undertaken during June, July and September 2021. Detailed survey was focussed to areas where peat was greater in depth than 0.5 m or where a better understanding of peat depth in the areas close to deep peat were required. The infrastructure layout was refined following each individual site visit. A further 1536 locations were measured for peat depth during detailed site survey.

- 4.3.68 A map displaying the range of peat depths across the Proposed Development is presented in **Figure 9.6** of the EIA Report. Peat depths recorded were predominately within the range of  $\leq 0.5$  m (49.7% of total surveyed points). In terms of spatial coverage, the steeper slopes at the southern end of the Proposed Development recorded the shallower peat depths. Within the surveyed area pockets of deeper peat within the range of 1.5 to greater than 3 m were identified within the north-eastern and central section of the Proposed Development.
- 4.3.69 The Carbon and Peatland map (2016) shows that areas of the Proposed Development sit within Class 1 of NatureScot's carbon soil classification, which is identified as a potentially nationally important resource (**Figure 9.5** of the EIA Report). However, there are areas across much of the site that contain lower classifications within the northern end at Carn Mòr and to the south. Generally, areas of deep peat observed during the Phase 1 Peat survey coincide with areas identified as Class 1 soils. There is an area of Class 0 (mineral soils) within the northern section at Carn Mòr and the southern section also contains large, scattered pockets of Class 4 and Class 5 soils.
- 4.3.70 The natural peat deposits have been modified by a network of artificial drainage ditches. This artificial drainage network will have lowered the water table in the vicinity of drainage ditches, this can result in a loss of peat forming conditions, continuous subsidence, and net-carbon losses. Therefore, the areas indicated as Class 1 soils appear to be in a more degraded condition than indicated by the Carbon and Peatland map (2016).
- 4.3.71 As demonstrated in **Figure 9.6**, the layout has been designed to avoid deep peats as far as possible, demonstrating general compliance with Policy 55 to "*avoid unnecessary disturbance, degradation or erosion of peat and soils*". In addition, it should be recognised through **Figure 9.1** that large areas of Class 1 peat have been heavily modified by man-made drainage.
- 4.3.72 It is not considered that there will be unacceptable disturbance of peat, however as development on peat is unavoidable, a Peat Management Plan (**Appendix 9.3** of the EIA Report) has been developed and demonstrates that there are opportunities to re-use all excavated peat as part of the site reinstatement. Furthermore, habitat enhancement is proposed through the EIA and this will include wet heath and blanket bog restoration. As part of this, detailed mapping of the man-made drainage ditches would be carried out post consent and opportunities to restore the areas identified through the NatureScot Carbon and Peatland Soils mapper would be explored.
- 4.3.73 The Peat Slide Risk Assessment (**Appendix 9.2** of the EIA Report) demonstrates that there is low risk, with the Proposed Development having been characterised in the lowest peat slide risk categories.
- 4.3.74 While it is recognised therefore that there may be impacts on peat resulting from the Proposed Development, overall these are not deemed to be significant particularly when considered against the wider commitment for habitat enhancement on the site and the wider benefits of the Proposed Development in terms of the local economy and national contribution to renewable energy capacity. Overall, it is therefore considered that the Proposed Development complies with Policies 55 and 67.



### Geology and Hydrogeology

- 4.3.75 An assessment of the baseline bedrock and superficial geology of the site is discussed in **Chapter 9** of the EIA Report. This is supplemented by the National Vegetation Classification (NVC) Survey undertaken on the site which is summarised in **Chapter 8 Ecology**. The survey indicates that there are habitats with the potential to be groundwater dependant. These areas of groundwater dependant terrestrial ecosystems (GWDTEs) are protected under the *Water Framework Directive*(WFD) (2000/60/EC).
- 4.3.76 **Chapter 8** of the EIA Report shows that the vast majority of the potential GWDTE areas (M15, with much smaller areas of M23, M25) are associated with land management impact (overgrazing/artificial drainage) or are features in connection to either surface water features or ombrogenous (rain-fed) habitats along surface water pathways and areas of topographic wetness as a result of flow convergence. The retention of surface water in areas of reduced topographic gradient is also likely to be exacerbated by the low permeability of the underlying indurated bedrock as well as the spatially discontinuous overlying peat. Other potential GWDTE areas were associated with several discrete acidic flushes (M6), often associated with the watercourses that drain the site. It is concluded through the EIA that groundwater dependency on these will be no more than moderate and is likely to be low.
- 4.3.77 As demonstrated on **Figure 9.7.**, the location of GWDTEs have been avoided, where possible, through the iterative design process. However, it has not been possible to completely avoid all such features due to a range of other environmental and technical constraints.
- 4.3.78 It is important also to note that many of the acid flush habitats (particularly M6c/d), whilst being sensitive to local changes to hydrology, are botanically species-poor and also frequently occurring in riparian zones across the site. Where it has not been possible to avoid these features, a mitigation strategy will be implemented to further avoid/reduce direct and indirect impacts on GWDTE habitats and the hydrological conditions supporting them. The approach will include a commitment to micro-site infrastructure (within the agreed limits) to further avoid these features prior to and during the Proposed Development construction phase under the advice of an onsite Ecological Clerk of Works (ECoW). Also, prior to construction, location-specific detailed designs for infrastructure drainage will be developed, to avoid/minimise impacts on these habitats as much as possible. Further details would be provided in the Construction and Environmental Management Plan (CEMP) prior to construction. The CEMP will also set out that the perturbation of local ground and surface water hydrology supporting these habitats is minimised through appropriate environmental design and construction methods. With this mitigation in place the potential impact on GWDTEs is considered to be minor/moderate.
- 4.3.79 While it is recognised therefore that there may be impacts on groundwater ecosystems resulting from the Proposed Development, overall these are not deemed to be significant and when considered against the wider aspirations for habitat enhancement on the site, it is considered that the Proposed Development complies with the relevant provisions of Policy 67.

### Flood Risk and Surface Water

- 4.3.80 Hydrologically, the Proposed Development lies within the watershed of the River Findhorn which discharges into the Moray Firth at Findhorn on the north coast. **Figure 9.1** of the EIA Report shows a hydrological overview of the Proposed Development.

- 4.3.81 The upper catchment and headwaters of the Tomlachlan Burn is situated entirely within the Proposed Development boundary. The two main tributaries of the Tomlachlan Burn are the Caochan Gortach and the Allt Laoigh. The Proposed Development is bounded to the west by the Leonach Burn. The watercourses are characterised by moorland riparian habitat, meandering channels with gravel, boulder, and bedrock riverbed materials.
- 4.3.82 Aerial photography and site survey observations indicate that the hydrology of the site has been altered by a network of man-made drainage channels. These artificial drainage channels will act to increase peak run-off rates and downstream fluvial flood risk within the Tomlachlan Burn and Leonach Burn catchments.
- 4.3.83 No potential effects have been identified on public or private water supplies.
- 4.3.84 The Proposed Development has been designed to minimise watercourse crossing, where possible, as demonstrated in **Appendix 9.1** of the EIA Report, ‘Watercourse Crossing Assessment’.
- 4.3.85 It is concluded through the EIA that a site-specific CEMP incorporating the mitigation principles outlined in **Chapter 9** will be appropriate to protect any potential effects on groundwater and surface water resources from pollution and minimise changes to the hydrological environment.

### Noise Policy

- 4.3.86 The following policies of the HWLDP can be considered to be relevant with respect to noise:

#### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*...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:...*

- amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or outwith 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;

- 4.3.87 Noise is considered in **Chapter 10 Noise and Vibration** of the EIAR Report. Noise and vibration from construction activities has been scoped out on the basis it can be controlled by implementation of appropriate controls such as a CEMP. Therefore, only noise from the operation of the turbines and other fixed plant items has been considered.
- 4.3.88 The assessment has comprised the adoption of an appropriate study area, characterisation of the baseline noise environment, derivation of operational noise limits, prediction of operational noise levels, and evaluation of predicted operational noise levels against derived criteria, including consideration of potential cumulative effects.
- 4.3.89 There are no residential properties located within 2 km of the Proposed Development. Fourteen residential properties have been identified within 2 to 5 km of the Proposed Development.

- 4.3.90 Predicted noise levels associated with the Proposed Development (both fixed plant and the turbines themselves) during operation meet the adopted evaluation criteria and no mitigation will be required. Noise impacts from operation of the Proposed Development, both in isolation and alongside cumulative developments, have therefore been determined to be not significant.
- 4.3.91 No specific mitigation is required, however, predicted compliance with the criterion will be confirmed during procurement of the substation and other fixed plant.
- 4.3.92 The Proposed Development is in a relatively remote location where there are very few noise sensitive receptors. Where noise sensitive receptors do exist, noise levels at those locations are predicted to be below the minimum standard, without the requirement for mitigation. In this context the Proposed Development is considered to be in accordance with and can draw support from the policies of the HwLDP with respect to noise.

### **Cultural Heritage Policy**

- 4.3.93 Policy 67 of the HwLDP includes a requirement to have regard to natural, built and cultural heritage features.

#### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*...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;

- 4.3.94 Policy 57 requires that all development proposals are assessed to take into account the level of importance and type of heritage features, and any impact on identified features and their setting.

#### **Policy 57 Natural, Built and Cultural Heritage**

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

- 1. For features of **local/regional importance** we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource.*
- 2. For features of **national importance** we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services.*

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

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

- 4.3.95 **Chapter 11** of the EIA Report identifies the archaeological and cultural heritage value of the site and assesses the likely significant effects on archaeological features and heritage assets resulting from the construction, operation and decommissioning of the Proposed Development.
- 4.3.96 The assessment identifies a total of 45 known non-designated heritage assets within the site, all of which date to the post-medieval period and later. Two of the non-designated assets (Assets 65 and 66) could potentially be directly impacted by the construction of the Proposed Development. Both assets are considered to be of negligible importance and impacts would at worst be of negligible effect. This is because the assets are of a common type with local interest only and there would not be a loss of information. As such, no mitigation is required however an archaeological watching brief is recommended. The purpose of such a watching brief would be to determine the presence, character, extent and significance of any currently unknown archaeological features or artefacts that may be disturbed by ground-breaking works.
- 4.3.97 Impacts upon the setting of designated heritage assets have generally been mitigated through the iterative design process. However, potentially significant effects have been identified on the setting of 3 (no.) Schedule Monuments, Allt Laoigh, Lochindorb Castle, and Dunearn hill fort. For the purposes of this policy assessment, these assets are considered to fall under Criteria 2 of Policy 57, in that they are features of national importance. The effects on these assets are the focus on this policy assessment and discussed further below:

**Alltlaigh, farmstead 1990m NE of (Asset 3)**

- 4.3.98 The Scheduled post-medieval farmstead complex of Alltlaigh (Asset 3) is visible as upstanding remains in remote, open moorland on the west bank of the Allt Laoigh. The operational turbines of Tom nan Clach Repowering are visible to the west of the farmstead complex. The nearest turbine of the Proposed Development would be 1.16 km to the north, with the Zone of Theoretical Visibility (ZTV) indicating that 13-17 turbines would be visible from the asset within its main viewshed. The Proposed Development turbines would be seen offset from the Tom nan Clach turbines currently visible from the monument and due to their proximity would appear as much larger features within the wider open moorland setting of the farmstead (Heritage Viewpoint 1; refer to **Figure 6.56**).

- 4.3.99 The EIA Report concludes that although the turbines would be located within the elements that contribute to an understanding of the settlement's location, the Proposed Development would not materially impact the setting of the asset to such an extent that an understanding and appreciation of the monument, its cultural significance and its relationship to that setting would be diminished.

**Lochindorb Castle (Asset 17)**

- 4.3.100 Lochindorb Castle (Asset 17) comprises the Scheduled remains of a 13th century castle set on an island in the middle of Lochindorb Loch, located 290 m from its eastern shore. Lochindorb Castle is located within a topographic bowl in the landscape, and its setting comprises the island, loch and gently sloping sides of the loch shore. The castle is a prominent feature within the loch and is highly visible when viewed across the landscape. The wider context of the castle comprises open moorland hills which rise most steeply to the west. Coniferous forest plantation is also located to the west of the loch and features in views of the castle in this direction. The operational turbines of Tom nan Clach wind farm are visible to the west of the castle. To the north-east, the views include operational turbines at Berry Burn and Paul's Hill Wind Farm seen against a backdrop of moorland hills and, occasionally, skyline.
- 4.3.101 The setting of Lochindorb Castle, given its highly visible location within the loch and below much of the surrounding landform, contributes directly to an understanding and appreciation of the heritage asset as a high status strategic and defensive structure. The nearest turbine of the Proposed Development would be approximately 3.97 km to the west-south-west, with the ZTV indicating that 13-17 turbines would be visible from the asset (Heritage Viewpoint 2; refer to **Figure 6.57**).
- 4.3.102 The Proposed Development would be visible in numerous views towards Lochindorb Castle from the loch shore. However, the turbines would be seen within the open moorland beyond the core setting of the castle, defined as the island, loch and sloping ground surrounding the loch. The Proposed Development would also be seen in a direction of view which already features wind turbine development. The existing views of turbines backdropping the castle do not currently affect the ability to understand or appreciate the castle in its setting. The Proposed Development would not diminish the ability to understand and appreciate the location of the castle within a topographic bowl in the landscape, nor would it impede the ability of the viewer to understand its defensive advantages. Key views towards the castle from the loch shore, up and down the length of the road, would still be understandable and remain appreciable. However, there may be some effect on the current experience of the asset, as the Proposed Development would introduce relatively large modern features on the moorland hills, where previously development has been of a smaller scale.
- 4.3.103 The Proposed Development would not materially impact the setting of the asset such that an understanding and appreciation of the monument, its cultural significance and its relationship to that setting would be diminished. As such the integrity of the setting would not be impacted.

**Dunearn, fort 510m S of (Asset 20)**

- 4.3.104 The Scheduled Dunearn hill fort (Asset 20) is located on the summit of a prominent rocky outcrop east of the River Findhorn. The outcrop commands a strategic prominent position owing to its relatively isolated elevated location above the lower lying fertile land along the Findhorn valley and lends an associated prominence and strategic importance to the fort.
- 4.3.105 The nearest turbine of the Proposed Development would be located approximately 2.92 km to the south-south-west, with the ZTV indicating that 13-17 turbines would be visible from the asset. The

turbines would occupy a considerable proportion of the wider setting of the fort (refer to **Figure 6.66**), although views of the turbines would be impeded to a degree in the summer months when deciduous trees would provide some screening.

- 4.3.106 The strategic location of the fort on the summit of an outcrop which commands wide reaching views across the landscape would remain legible as would the core relationship between the fort and the Findhorn Valley. Existing views of turbines do not detract from an ability to understand and appreciate the setting of the fort. The Proposed Development would not reduce the ability to understand and appreciate the core setting relationships with the Findhorn valley and wider landscape and as such the integrity of the setting of the fort would not be affected by the Proposed Development.

### **Summary of Heritage Effects**

- 4.3.107 Impacts upon the setting of designated heritage assets have generally been mitigated through the iterative design process. The Proposed Development generally reflects the requirements of Policy 57, in that it has been demonstrated that the surrounding heritage resource is largely protected.
- 4.3.108 However, the scale of the Proposed Development is such that it is recognised that there will be potentially significant effects on three heritage assets of national importance. In each instance it has been concluded that these assets' key landscape relationships would still be appreciable and that there would not be an adverse effect upon the integrity of their setting as a result of the Proposed Development. Furthermore, no significant cumulative effects were identified.
- 4.3.109 Accepting the significant impacts predicted upon the setting of Lochindorb Castle as a result of the Proposed Development; proposals for increasing access and interpretation to this asset are explored within the Outline Outdoor Access Plan for the Proposed Development (**Appendix 3.2**). This plan proposes to consult on the creation of a new public path, Dunearn Footpath, leading to a viewpoint from which there will be a view of Lochindorb Castle from the north western side of Lochindorb (see **Figure 3.10**). There is currently no access to the loch or a view of the castle from the north western side and thus the construction of this path will create an opportunity to better understand and appreciate the wider setting of the castle and its relationships with the shores of loch. A stopping place will be constructed along the B9007 road which runs between the proposed development site and the adjacent woodland area and will be the starting point for the Dunearn Footpath. The Proposed Development would be set west of the path and the viewpoint and thus would not be visible in any views towards the castle from here. The new path will be sign posted / way marked and an interpretation panel will be provided at the viewpoint to give visitors information on Lochindorb and the history of Lochindorb Castle. The Outline Outdoor Access Plan will thus present an opportunity for people to '*enjoy, appreciate, learn from and understand Scotland's historic environment*' as outlined in the Historic Environment Policy for Scotland (HES 2019a; HEP2).
- 4.3.110 In considering these potential effects, which themselves are not deemed to effect the integrity of the setting of the Scheduled Monuments, Policy 57 suggests that weight should be given to social or economic benefits of national importance. Further, the Policy states that "*it must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services*".
- 4.3.111 It is highlighted that the Proposed Development addresses both of these matters: at a national scale by providing significant contribution to national renewable energy capacity in the context of a climate emergency; and, locally by generating economic activity and opportunity during construction,

committing to local supply chains and implementing a community benefit fund to address fuel poverty.

- 4.3.112 On balance therefore, it is considered that the overall benefits of the Proposed Development, together with the embedded and additive mitigation measures proposed together outweigh the effects identified on heritage assets, and as a result the Proposed Development is considered to be commensurate with the requirements of Policy 57.

### **Traffic and Transport**

- 4.3.113 Policy 67 requires that regard is given to transport interests.

#### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*...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, having regard in particular to any significant effects on the following:...*

- land and water based traffic and transport interests.

- 4.3.114 Traffic and Transport Impacts are considered in **Chapter 12 Traffic and Transport** of the EIA Report.
- 4.3.115 As previously described in this Planning Statement, access to the site will be taken from the B9007 using the existing priority T-junction access to the adjacent Tom nan Clach Wind Farm.
- 4.3.116 It has been determined through the EIA process that construction traffic will result in a temporary increase in traffic flows on the road network surrounding the Proposed Development. The maximum traffic effect associated with construction of the Proposed Development is predicted to occur in Month 7 of the construction programme. During this month, an average of 112 Heavy Goods Vehicles (HGV) movements is predicted per day and it is estimated that there will be a further 70 car and light van movements per day to transport construction workers to and from the site.
- 4.3.117 With the implementation of appropriate mitigation, no significant residual effects are anticipated in respect of traffic and transport issues. The residual effects are all assessed to be slight or insignificant but as they will occur during the construction phase only, they are temporary and reversible.
- 4.3.118 Traffic levels during the operational phase of Proposed Development will be one or two vehicles per week for maintenance purposes. Traffic levels during the decommissioning of the Proposed Development are expected to be lower than during the construction phase as some elements may be left in situ and others broken up on-site.
- 4.3.119 The movement of Abnormal Indivisible Loads (AIL) traffic will require small scale and temporary remedial works at three locations along the identified delivery route. There will be other minor improvements e.g. slight widening and tree trimming within the Highways verge at various points along the route as represented in full in the An Abnormal Indivisible Load Route Survey Report (RSR) swept path assessment drawings.

- 4.3.120 ALL mitigation works can be designed to be temporary in nature to enable restoration to their original condition (if required by THC). Areas of widening must be usable for the lifetime of the Proposed Development, although they can be re-vegetated following construction.
- 4.3.121 In conclusion, the Proposed Development has been assessed in relation to traffic and transport policy and in compliance with policy 67 the Proposed Development is not significantly detrimental overall, either individually or cumulatively with other developments having regard to traffic and transport interests.
- 4.3.122 As previously discussed, Policy 67 also promotes “*effective use of existing and proposed infrastructure or facilities*” in relation to renewable energy development. Access to the site will be taken from the B9007 using the existing priority T-junction access to the adjacent Tom nan Clach Wind Farm and as such the Proposed Development directly responds to this policy aspiration.

### **Tourism and Socio-Economics**

- 4.3.123 Tourism and Socio-Economic impacts are considered in **Chapter 13 Socio-Economics, Tourism and Recreation** of the EIA Report.
- 4.3.124 Policy 67 requires that regard is given to tourism and recreation interests including core paths and established public access.

#### **Policy 67 ‘Renewable Energy Policy’ (Extract)**

*...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:...*

- any positive or negative effects it is likely to have on the local and national economy;
- the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;
- tourism and recreation interests;

- 4.3.125 Policy 77 and 78 relate specifically to public access and long distance routes.



**Policy 77 ‘Public Access’**

*Where a proposal affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights, then The Council will require it to either;*

- retain the existing path or water access point while maintaining or enhancing its amenity value; or
- ensure alternative access provision that is no less attractive, is safe and convenient for public use, and does not damage or disturb species or habitats

*For a proposal classified as a Major Development, the Council will require the developer to submit an Access Plan. This should show the existing public, non- motorised public access footpaths, bridleways and cycleways on the site, together with proposed public access provision, both during construction and after completion of the development (including links to existing path networks and to the surrounding area, and access point to water).*

**Policy 78 ‘Long Distance Routes’**

*The Council, with its partners, will safeguard and seek to enhance long distance routes (as indicated on Figure 11), and their settings. Consideration will be given to developing/improving further strategic multi user routes both inland and along the coast with due regard to the impact on the Natural Heritage features along these routes.*

**Effects on the Local and National Economy**

- 4.3.126 The local area (which is comprised of the electoral wards of Nairn and Cawdor, and Badenoch and Strathspey) has a higher proportion of people aged 65 and over compared to Scotland as a whole, as do Highland and Moray. The populations of both local authorities are expected to decline in the coming decades. This suggests that the local area around the Proposed Development and the wider region lack the economic drivers required to retain and attract working age people and consequently could benefit from economic opportunities associated with the Proposed Development.
- 4.3.127 During the development and construction phase, it is estimated that the Proposed Development could generate up to:
- £12.5 million Gross Value Added (GVA, a measure of economic activity) and 174 job years (a job year being equivalent to one person employed for a year) in the region (the local authority areas of Highland and Moray); and,
  - £26.9 million GVA and 375 job years in Scotland (including Highland and Moray).
- 4.3.128 During each year of the operational phase, it is estimated that the Proposed Development could generate up to:
- £0.7 million GVA and 11 jobs in Highland and Moray; and
  - £1.0 million GVA and 17 jobs in Scotland (including Highland and Moray).
- 4.3.129 While not necessarily material to the planning decision-making process, it should be noted that the Proposed Development would also provide community benefit funding for the local area of up to

£510,000 annually. This fund would be used to address fuel poverty, which affects around a third of households, with a fifth in extreme fuel poverty. Local households would be given grants directly to make improvements to their home, increasing energy efficiency and reducing their fuel bills, delivering a substantial benefit for the local area. This fund was developed in direct response to feedback from the local community during the pre-application process.

- 4.3.130 It should also be noted that the Applicant has been actively pursuing engagement with the local supply chain surrounding the Proposed Development. This includes working with the Inverness Chamber of Commerce to engage local business throughout the development, construction, operation and decommissioning of the Proposed Development. Further details of this is provided in the **Statement of Consultation** but we would highlight that the Applicant has committed to ensuring that the Proposed Development benefits the local supply chain by:
- Ensuring that main contractors will spend at least 30% of the contract value locally; and,
  - Incentivising all contractors to use local content.
- 4.3.131 The Applicant has experience of building wind farms nearby, having constructed Rothes I Wind Farm (operational since 2005), Paul’s Hill windfarm (operational since 2006) Rothes II Wind Farm (operational since 2013) to the south of Elgin in Moray, which supported jobs in the local construction sector, as well as through its operation. The Applicant therefore has established a local supply chain.
- 4.3.132 It is also estimated that the Proposed Development would pay £0.7 million each year in non-domestic rates, so helping to support local government services.
- 4.3.133 In conclusion, the economic structure of the local area is able to benefit from the construction of a wind farm, having a higher proportion of employment in construction than Scotland as a whole. This has the potential to address the ageing population of the local and regional areas, retaining the workforce and attracting younger workers through job creation. This job creation would also support the recovery of the regional economy which has been particularly affected by Covid-19.
- 4.3.134 Furthermore, the prevalence of fuel poverty in both Highland and Moray suggests that local areas within these authorities would particularly benefit from initiatives to address it.
- 4.3.135 The Proposed Development is therefore deemed to have a temporary minor beneficial effect on the Highland and Moray economies and a temporary negligible beneficial effect on the Scottish economy during construction. Further benefits are realised during operation, in particular in the local area due to the proposed actions to reduce fuel poverty.
- 4.3.136 In this context, the proposed development is considered to comply with and can draw support from the HWLDP.

#### **Effects on Core Paths and Other Established Public Access Routes**

- 4.3.137 Various core paths are identified between 9 km-15 km away from the Proposed Development, including clusters of core paths around Grantown on Spey, Carrbridge, Nethy Bridge, Dulnain Bridge, and Tomatin A small number of recreational trails were identified within 15 km of the Proposed Development. Of these, two are considered long distance routes and as such fall under the protection of Policy 78 discussed above. These comprise:

- The Speyside Way, a 137 km long distance route between Newtonmore and Buckie, which is one of Scotland's Great Trails. It passes through Grantown on Spey approximately 11 km to the south-east of the site; and,
- The Dava Way a 38 km long distance trail between Grantown-on-Spey and Forres, which is one of Scotland's Great Trails. It passes through Dava located 6 km east of the Proposed Development.

- 4.3.138 Core Paths and associated recreational routes have been assessed on the basis of whether there would be a reduction in visitors or recreational users in the area resulting from the Proposed Development. Overall, given the proximity of these routes from the site, no significant effects have been identified.
- 4.3.139 The Proposed Development therefore complies with Policies 77 and 78 of the LDP in that it safeguards existing access routes, Core Paths and recreational routes.

#### **Effects on Tourism and Recreation Interests**

- 4.3.140 The most recent evidence on the relationship between wind farms and tourism (*BiGGAR Economics. (2021). Wind Farms & Tourism Trends in Scotland: Evidence from 44 Wind Farms*) suggests that there are no adverse effects on the tourism economy resulting from the development of onshore wind. A review of the latest available research evidence has been undertaken.
- 4.3.141 Tourist attractions and accommodation were identified within the vicinity of the Proposed Development, and the potential effect of the Proposed Development has been considered with reference to the research evidence. Important visitor attractions for the wider Highland and Moray region were also identified and considered, even if they are not within the vicinity of the Proposed Development.
- 4.3.142 An assessment of the Proposed Development on specific local tourism assets and accommodation providers found no expected adverse effects. The Proposed Development has therefore been sited and designed appropriately with respect to wider tourism and recreation interests and is in compliance with the relevant aspects of Policy 67.

#### **Aviation, Radar and Telecommunications**

- 4.3.143 Policy 67 includes a requirement to consider aviation impacts.

#### **Policy 67 'Renewable Energy Policy' (Extract)**

*...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:...*

- Other communications installations or the quality of radio or TV reception
- 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

- 4.3.144 **Chapter 14: Aviation and Radar** of the EIA report details the consultation that was undertaken with relevant aviation operators and agencies.

- 4.3.145 The site lies approximately 20 km south-east of Inverness Airport and over 40 km south-west of RAF Lossiemouth, beyond the physical safeguarding zones of both aerodromes. It is remote from all navigational aids, radio communication stations and weather radar, in an area of low priority for military low flying training. Studies have determined that no impacts are anticipated to any key radar; i.e. any radar operated by NATS, Airports or the Ministry of Defence (MoD).
- 4.3.146 The physical presence of additional, tall structures in the landscape does however require appropriate demarcation to minimise aircraft collision risk. As a result, appropriate mitigation has been incorporated into the design in the form of a turbine lighting scheme. After consultation with key aviation stakeholders it was concluded that a scheme based on cardinal lighting only was suitable for this site, in the interests of reducing visual impacts.
- 4.3.147 This is summarised as follows and is demonstrated further in **Figure 14.1**:
- Medium intensity steady red (2000 candela) lights on the nacelles of turbines T01, T03, T14, T15 and T17 (five total);
  - A second 2000 candela light on the nacelles of the above turbines to act as alternates in the event of a failure of the main light;
  - The lights on these turbines to be capable of being dimmed to 10% of peak intensity when the visibility as measured at the Proposed Development exceeds 5 km; and,
  - Infra-red lights to MoD specification installed on the nacelles of all perimeter turbines; that is all turbines except T02, T06, T09 and T13.
- 4.3.148 This lighting scheme has been approved in principle by the Civil Aviation Authority (CAA), who will also need to provide a final approval prior to construction. The visual effects of the lighting scheme are discussed within the Landscape and Visual section of this Planning Statement.
- 4.3.149 The telecommunications assessment carried out and reported in **Chapter 15: Other Issues** of the EIA Report has been undertaken through consultation with the appropriate consultees. The consultation process identified two Microwave Radio links located within the site boundary operated by Airwave Solutions. The links are located as shown on **Figure 15.2**.
- 4.3.150 The design of the finalised layout has been developed with due cognisance of this constraint and as a result, no effects on telecommunications from the construction, operation or decommissioning of the Proposed Development were identified. In turn, the Proposed Development will not have any cumulative effects on telecommunication links with other developments.
- 4.3.151 In summary, no significant effects on aviation radar or telecommunications during construction, operation or decommissioning have been identified through the EIA as a result, the Proposed Development is in accordance with the relevant policies of the HWLDP in this regard.

## 4.4 Supplementary Guidance Assessment

### Onshore Wind Energy Supplementary Guidance, November 2016, including Part 2b Update of December 2017 (combined report)

- 4.4.1 THC's Onshore Wind Energy Supplementary Guidance (SG) was adopted by the Council in November 2016 (with an update in December 2017) and now forms part of the Development Plan. Policy 67 refers

to the SG and its role in providing further criteria for the consideration of onshore wind energy proposals.

4.4.2 Paragraph 1.8 of the SG is helpful in understanding its role. It 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 tackling climate change...*”.

4.4.3 The statutory basis for SG is set out in:

- The Town and Country Planning (Scotland) Act 1997 – Section 22 with regard to Supplementary Guidance;
- The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 – specifically section 27 which deals with Supplementary Guidance; and,
- Circular 6/2013 ‘Development Planning’.

4.4.4 Section 27(2) of the 2008 Regulations states “*supplementary guidance adopted and issued under section 22(1) of the Act in connection with a particular strategic development plan or local development plan may only deal with the provision of further information or detail in respect of the policies of proposals set out in that Plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance*”.

### **Section 2 – Highland Spatial Framework**

4.4.5 The SG contains a Spatial Framework (SF) which accords with the provisions of Table 1: Spatial Frameworks in SPP. The SF identifies those areas likely to be most appropriate for onshore wind farms. Paragraph 2.1 of the SG sets out that the SF is applicable to a proposal of the scale subject to the application as the proposal comprises more than one turbine with a height of 30m to blade tip.

4.4.6 As shown in the SF, the majority of the site is identified within a Group 2 area (an area of significant protection). The remaining element of the site is identified as Group 3 (Areas with potential for wind farm development).

4.4.7 However, there are no predicted issues in terms of national or international designations, wild land areas, or peat and carbon rich soils, therefore in principle it is considered that the site is more applicable to Group 3.

### **Section 4 – Key Development Plan Considerations**

4.4.8 Section 4 of the SG sets out key development plan considerations and the topic headings broadly follow those as set out within Policy 67 of the HwLDP. The relevant topics are addressed below:

#### **Siting and Design**

4.4.9 Paragraphs 4.3 to 4.9 highlight the importance of sensitive siting and design of wind energy developments. As explained in **Chapter 2** of the EIA Report, Site Selection and Design, the Proposed Development has been subject to a number of design iterations over time and the layout has evolved to respond to feedback from consultees and the collection of additional environmental data.

### **Landscape and Visual Effects**

- 4.4.10 Paragraph 4.11 of the SG lists various “key aspects” which may be relevant to the assessment of a proposal and states that “*they are not tests, but rather highlight where there may be key issues to consider*”. Included in this list and relevant to the consideration of the Proposed Development, are matters such as:
- National Parks, National Scenic Areas and mapped wild land areas;
  - Special Landscape Areas;
  - The capacity of the local landscape to accommodate a proposal; and,
  - Important public views.
- 4.4.11 At paragraph 4.16, the SG sets out that “*the following criteria set out key landscape and visual aspects that the Council will use as a framework and focus for assessing proposals, including discussions with applicants*”.
- 4.4.12 Paragraph 4.17 adds that the criteria do not set absolute requirements, but rather seek to ensure developers are aware of key potential constraints to development. Following paragraph 4.17 there is then a list of 10 criteria, together with associated thresholds for development. Appendix 1, below, considers the Proposed Development against the 10 criteria. Overall, the Proposed Development would have a satisfactory and acceptable relationship with regard to the various physical considerations in the criteria.

### **Other Considerations**

- 4.4.13 Part 4 of the SG sets out the following considerations. These matters are addressed throughout this Planning Statement and the EIA Report:
- Safety of Airport, Defence and Emergency Service Operations;
  - Other Communications;
  - The Natural and Historic Environment;
  - The Water Environment;
  - Peat;
  - Trees and Woodland;
  - Tourism and Recreation;
  - Public Access;
  - Traffic and Transport interests;
  - Electricity and Gas Infrastructure;
  - Noise Assessment;
  - Borrow Pits;
  - Mitigation;

- Construction and Environmental Management Plans; and
- Restoration Bonds.

**The SG: Section 5 – Highland Strategic Capacity**

- 4.4.14 *The Addendum Supplementary Guidance: ‘Part 2b Highland Strategic Capacity’* was adopted in 2017 and looks at six geographical areas in relation to their strategic capacity for wind energy development. For each of the six study areas the addendum identifies the strategic capacity, the landscape sensitivity, key views, key routes and gateways before appraising each of the landscape character areas within the study area, identifying key views, routes the character area’s landscape sensitivity (susceptibility) to wind energy development.
- 4.4.15 The Proposed Development is located in the Black Isle, Surrounding Hills and Moray Firth Study Area and specifically within the BL10 Tom nan Clach, Lochindorb to Airdrie Mill, South of River Findhorn area.
- 4.4.16 In relation to key views, the appraisal identifies that the area forms part of the “*part of the layered landscape visible in long views from the North, while not in itself being a key focus within the views.*”
- 4.4.17 The appraisal identifies views from the minor road on the south-eastern shore of Lochindorb as a ‘Key View’ which allows views of Lochindorb Castle, backdropped by rolling uplands. This view is considered further at Viewpoint 6 and discussed in the EIA Report.
- 4.4.18 The appraisal also notes the B9007, the A939, the A940 and the Dava Way as ‘Key Routes’ crossing through this area. Views from these key routes are represented by Viewpoints 3, 8 and 15, 16 and 7 respectively.
- 4.4.19 The appraisal recognises the junction of the A939 and A940 as a ‘Key Gateway’. Both the A939 and the A940 have been considered through the LVIA and no significant effects have been identified where the two routes meet. A specific wireline has been developed for this viewpoint, included as A939-VP 5 in **Appendix 6.7**.
- 4.4.20 In terms of landscape character sensitivity (susceptibility), the appraisal attributes a score of 1 to large scale wind farms and a score of 2 to access infrastructure (1 being most susceptible to change). Nonetheless, it notes that “the nature of the landscape itself is not inherently incompatible with wind energy development”.
- 4.4.21 In terms of the area’s strategic capacity, the appraisal also identifies some scope for medium to large development:
- “*where well designed and contained;*
  - *where design respects spacing and scale of existing development pattern;*
  - *where development would not detract from Key Characteristics and Special Qualities of the Drynachen, Lochindorb and Dava Moors SLA; and*
  - *where development respects borrowed views to more distant hills in the north.*”
- 4.4.22 Paragraph 5.4 adds that Applicants will be expected to “*demonstrate how their proposals align with the conclusions of the assessments, and if they do not, will be expected to demonstrate why they are still appropriate developments*”. Paragraph 5.6 states that it provides “*general advice*” and 5.7 makes it

clear that “*finding the balance between the benefits of a particular scheme and the impacts it may present will be the subject of careful consideration on a case by case basis at the development management stage*”. Paragraph 5.8 adds that it is a “*strategic level assessment*”.

- 4.4.23 **Chapter 6** of the EIA Report has assessed the Proposed Development in terms of its impact upon Landscape Character Types. It is concluded that the while significant effects have been recognised with respect to impacts on the SLA, overall it has been clearly demonstrated that these impacts have been minimised where possible. It has been demonstrated that no residential properties will experience an overbearing effect from the Proposed Development. It is therefore considered that the scale of development proposed can be accommodated successfully in the receiving landscape.

**Conclusions in relation to the SG**

- 4.4.24 In terms of the role and function of the SG, it is supplementary to the ‘lead’ Policy 67 of the LDP which contains the applicable policy test. It is also helpful to note the Council’s position in relation to the role and use of the SG as set out in their evidence to the Golticlay S36 Inquiry. The Council stated the following at paragraph 4.4.9 of their Policy Hearing Statement for that Inquiry:

*“the directly applicable parts of the SG does not contain any further tests beyond what is contained in the parent policy in the Highland Wide Local Development Plan, in this case Policy 67 – ‘Renewable Energy’ in respect of which to assess compliance. In such circumstances, there is little to be gained from separately assessing “accordance” with the SG”.*

- 4.4.25 The Reporter in the Culachy Appeal Decision Notice (dated 27th April 2018) addressed the SG in some detail and was very clear in setting out his position that the SG was in his view consistent with Policy 67 of the LDP and he added:

*“It follows that no policy within the OWSG will override Policy 67’s main criterion that development proposals are supported if they are located, sited and designed such that, having taken account of a number of specified factors, they will not be significantly detrimental overall”.*

- 4.4.26 The same Reporter in the Druim Ba Appeal Decision Notice (28 June 2018), para. 15, stated that:

*“It should be interpreted as doing no more than providing further information or detail with the framework set out for written Policy 67”.*

- 4.4.27 Importantly, the Reporter at paragraph 19 of the Decision Notice stated with regard to Chapter 4 of the SG that:

*“I do not understand Chapter 4 to contain policy tests. It is rather intended to make applicants aware of key constraints”.*

- 4.4.28 Therefore, the SG provides criteria against which to help assess a proposal with the application of Policy 67 but introduces no new or separate tests. This position is accepted by THC and endorsed in the recent Dell Wind Farm Appeal Decision (22 August 2019) where the Reporter stated at para. 10:

*“parties agreed that the guidance does not contain any further tests to assess compliance beyond what is contained with Policy 67”.*



**Overall Conclusion**

- 4.4.29 In light of the above, it is considered that the Proposed Development accords with Policy 67. No effects would arise that could be considered significantly detrimental overall, individually or cumulatively, with other developments having specific regard to the criteria contained within the policy.

**Other Supplementary Guidance**

- 4.4.30 The following THC SG is also relevant to the Proposed Development:

- Sustainable Design (see section 4.3.7 – 4.3.14 above).
- 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)

- 4.4.31 Each of the abovementioned SG documents have been taken into account in the design approach to the Proposed Development and the matters dealt with in each SG have been addressed throughout the EIAR and this Planning Statement.

**4.5 LDP Conclusions**

- 4.5.1 Through considering the relevant policies of the HwLDP to the Proposed Development, in addition to supplementary guidance where necessary, against a focus on those significant effects identified through the EIA Report, it has been established that the Proposed Development accords with the LDP.
- 4.5.2 Residual significant adverse landscape, visual and heritage effects have been identified through the EIA, however these are limited in nature given the scale and location of the Proposed Development and have been minimised through an iterative design approach. Overall, it is considered that the Proposed Development responds positively to the relevant policies of the Development Plan when it is read as a whole and there are no material considerations which suggest otherwise.
- 4.5.3 Furthermore, for the reasons set out above, the Development Plan in this case needs to be viewed from the perspective of the presumption in favour of development that contributes to sustainable development which is engaged as per paragraph 33 of SPP (because the key Development Plan policies are more than five years old). In this regard the tilted balance applies. In this respect the Proposed Development results in a range of benefits as set out below, including a significant increase in the renewable energy contribution and the CO2 emissions savings. The limited impacts identified would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development is an important matter which should lend significant support in favour of a positive determination of the application.

## 5 Conclusion and Overall Benefits

### 5.1 Benefits of the Proposed Development

5.1.1 The following benefits of the Proposed Development are important material considerations in the determination of the application:

- the Proposed Development would make a valuable contribution to the achievement of the UK and Scottish Government 'whole system' targets to decarbonise energy consumption by increasing the zero-carbon energy yield;
- the larger turbine dimensions, and thereby increase in energy yield, would improve the viability of the project in commercial terms as the Proposed Development would be able to operate in the absence of subsidies, indeed the increase in generation capacity would be in the order of 102MW, supported by additional energy storage provision with an output capacity of around 10 MW;
- the increase in energy production would lead to an equivalent increase in homes supplied with clean, renewable energy and an equivalent increase in CO<sub>2</sub> reduction, making a valuable contribution to the Scottish Government's targets. This is considered particularly relevant in the context of the current Climate Emergency;
- Proposals for increasing access and interpretation to this asset are explored within the Outline Outdoor Access Plan for the Proposed Development (**Appendix 3.2**). This plan proposes to consult on the creation of a new public path, Dunearn Footpath, leading to a viewpoint from which there will be a view of Lochindorb Castle from the north western side of Lochindorb (see **Figure 3.10**). There is currently no access to the loch or a view of the castle from the north western side and thus the construction of this path will create an opportunity to better understand and appreciate the wider setting of the castle and its relationships with the shores of loch. A stopping place will be developed along the B9007 road which runs between the Proposed Development site and the adjacent woodland area and will be the starting point for the Dunearn Footpath. The Proposed Development would be set west of the path and the viewpoint and thus would not be visible in any views towards the castle from here. The new path will be sign posted / way marked and an interpretation panel will be provided at the viewpoint to give visitors information on Lochindorb and the history of Lochindorb Castle. The Outline Outdoor Access Plan will thus present an opportunity for people to '*enjoy, appreciate, learn from and understand Scotland's historic environment*' as outlined in the Historic Environment Policy for Scotland (HES 2019a; HEP2).
- A detailed assessment of the potential natural flood management (NFM) measures will be undertaken in an attempt to restore peat that further reduces downstream flood risk.
- Habitat enhancement measures are proposed as follows:
  - Heather management to encourage areas of deep heather, targeted at hen harrier (*Circus cyaneus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*);
  - Wet heath and blanket bog restoration which will have a number of ecological and hydrological benefits, including enhancing habitat for curlew (*Numenius arquata*) and golden plover (*Pluvialis apicaria*);

- During the development and construction phase, it is estimated that the Proposed Development could generate up to:
  - £12.5 million Gross Value Added (GVA, a measure of economic activity) and 174 job years (a job year being equivalent to one person employed for a year) in the region (the local authority areas of Highland and Moray); and,
  - £26.9 million GVA and 375 job years in Scotland (including Highland and Moray).
- The Proposed Development would provide community benefit funding for the local area of up to £510,000 annually. Part of this fund would be used to address fuel poverty, which affects around a third of households, with a fifth in extreme fuel poverty. Local households would be given grants directly to make improvements to their home, increasing energy efficiency and reducing their fuel bills, delivering a substantial benefit for the local area. This fund was developed in direct response to feedback from the local community during the pre-application process.
- The Applicant has been actively pursuing engagement with the local supply chain surrounding Lethen Wind Farm. This includes working with the Inverness Chamber of Commerce to engage local business throughout the development, construction, operation and decommissioning of the Proposed Development. Further details of this is provided in the Statement of Consultation but we would highlight that the Applicant has committed to ensuring that the Proposed Development benefits the local supply chain by:
  - Ensuring that main contractors will spend at least 30% of the contract value locally; and,
  - Incentivising all contractors to use local content.

## 5.2 The Consenting Regime

- 5.2.1 S36 of the *Electricity Act 1989* provides that a generating station with a capacity in excess of 50MW shall not be constructed, extended or operated except in accordance with a consent granted by the Scottish Ministers. S36 therefore applies to the Proposed Development.
- 5.2.2 As mentioned above, in the context of Section 36 applications the Development Plan does not have primacy in the way that it would in terms of Section 25 of the Planning Act for a regular application for planning permission. For S36 applications, the Development Plan is a material consideration to be taken account of along with many other material considerations.
- 5.2.3 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).
- 5.2.4 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. The individual topic chapters of the EIA Report describe the way in which these features and interests are preserved and protected.

- 5.2.5 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 is not a licence holder and does not benefit from a licence exemption, the duty under paragraph 3(1)(b) does not formally apply in this case. The Applicant has nevertheless taken significant steps to mitigate the effects of the Proposed Development and those mitigations are described within the individual topic chapters of the EIA Report.

### 5.3 The Renewable Energy Framework

- 5.3.1 The Proposed Development would contribute significantly to the national targets for clean energy. The resultant environmental benefits that would flow from this in terms of carbon dioxide and other greenhouse gas emission savings have been set out.
- 5.3.2 It is very important to take into account the renewable energy policy considerations which have been outlined in some detail. Given the scale of the Proposed Development, it would clearly make a valuable contribution to the attainment of renewable energy and electricity targets at both the Scottish and UK levels on a site which has already been deemed capable and suitable of accommodating an onshore wind farm. The evidence clearly shows that there remains a considerable shortfall in terms of these targets.
- 5.3.3 Beyond the specific targets, it is important to remember that these are not capped, and as the Scottish Government set out in its Energy Generation Policy Statement “*it is as much about the value and importance of the journey as it is about the destination*”. The Government’s position is that Scotland “*can and must exploit its huge renewables potential to the fullest possible extent ...*”. The Proposed Development achieves that objective, in a way that results in acceptable environmental effects. It thereby satisfies the national planning policy principle of being the right development in the right place, as set out in SPP.
- 5.3.4 Reference has been made to very recent Scottish Government publications, namely the Climate Change Plan, Energy Strategy and the Onshore Wind Policy Statement (including the 2021 refresh consultative draft). These documents, amongst other relevant matters, make it very clear that “*securing a route to market for onshore wind of all scales is a priority of the Scottish Government*”.

### 5.4 National Planning Policy

- 5.4.1 NPF3 and SPP set out a strong position of support in relation to renewable energy and renewable energy targets and recognise the significant energy resource that can be realised by onshore wind. This is clearly not at any cost and development continues to be guided to appropriate locations. As per SPP, the Proposed Development would be defined as being partly within Group 2: Areas of Significant Protection (due to the presence of priority peatland), and partly within Group 3: Areas with potential for Wind Farm Development. For all other criteria relating to national and international designations, areas of Wild Land and community separation, the Proposed Development scores favourably with respect to the criteria established in Table 1 of SPP.
- 5.4.2 The Proposed Development has been assessed against the relevant policy criteria and is deemed to be acceptable.

- 5.4.3 A further important point in terms of national planning policy is the presumption in favour of development that supports sustainable development. The Proposed Development draws support from that policy principle which applies with force in this case.
- 5.4.4 The Proposed Development also responds favourably to Policy 2 of NPF 4 which recognises that “*when considering all development proposals, significant weight should be given to the global climate emergency*”.
- 5.4.5 The Proposed Development can draw significant support from the provisions of NPF3, SPP and NPF 4.

## 5.5 The Development Plan

- 5.5.1 Appropriate regard has been given to, in so far as relevant, the Development Plan in the evaluation of Proposed Development. Whilst recognising the potential landscape, visual and heritage effects overall, the Proposed Development is considered to comply with the Development Plan, particularly Policy 67 and the related SG, when it is read as a whole, insofar as it is a relevant consideration in this S36 application.

## 5.6 Overall Conclusions

- 5.6.1 The UK Government’s objective is to cut carbon emissions whilst also delivering electricity to consumers at the lowest cost. As such, it is large onshore wind sites with excellent wind resource, readily available infrastructure such as a proximate grid connection and limited environmental impacts, that are likely to be able to proceed to implementation in an increasingly competitive environment, and therefore contribute to the Scottish Government’s and the UK Government’s targets and policy objectives. The Proposed Development is located on such a site and would ensure that such benefits are maximised to their full potential.
- 5.6.2 Paragraph 5.1 has set out a wide range of socio-economic and environmental benefits that would arise over and above the renewable energy and climate change advantages that the Proposed Development would deliver.
- 5.6.3 The Proposed Development is the result of careful design considerations and a comprehensive EIA. The overall conclusion is that the Proposed Development satisfies the relevant duties of *the Electricity Act*, while also taking into account other policy considerations including those which are relevant in the Development Plan. On this basis, it is respectfully recommended that consent is granted under S36 of *the Electricity Act* with a direction that deemed planning permission should be granted.

# Appendix 1 : Highland Council Onshore Wind Energy Supplementary Guidance (2016) and Addendum (2017) Landscape and Visual Considerations

OWESG Assessment Criteria	Development Commentary
<p><b>Criterion 1.</b> Relationship between Settlements / Key locations and wider landscape are respected.</p>	<p>Fourteen residential properties have been identified within 2 to 5 km of the Proposed Development. Of these Banchor, Drumlochan, Milltown, Dunearn Lodge, Lochindorb Lodge, and Refouble would experience significant effects during daylight hours only and it has been assessed that only one of these, Banchor, would experience significant effects during the hours of darkness. However, it has been concluded that none would experience an overbearing effect.</p> <p>The majority of the routes identified within the detailed LVIA study area are considered unlikely to experience significant visual effects</p> <p>It is accepted that significant effects have been recognised with respect to both landscape and visual considerations. Overall however, it has been clearly demonstrated that these impacts have been minimised where possible. It has been demonstrated that no residential properties will experience an overbearing effect from the Proposed Development. Mitigation has been designed into the proposed aviation lighting to reduce the intensity of the 2000 candela steady state lights in certain atmospheric conditions by reducing their intensity and attenuating the amount of vertical downwards lighting in order to reduce the visual impact experienced by receptors below the lights.</p> <p>It is therefore concluded the threshold for this criterion would not be exceeded by the Proposed Development. Turbines are not visually prominent in the majority of views within or from settlements/Key Locations or from the majority of its access routes.</p>
<p><b>Criterion 2.</b> Key Gateway locations and routes are respected</p>	<p>The majority of the Key Gateway and Key Routes identified in the OWESG: Part 2b would not be affected by the Proposed Development. However, significant effects have been identified at the Key View at the south eastern shore at Lochindorb and on the B9007 which is recognised as a Key Route.</p> <p>The assessment of routes found that there would be no significant effects on recreational routes or the A940 or A939. However, road users travelling north along the B9007 would experience significant effects over a distance of approximately 2.9 km, while road users travelling south would experience significant effects over a distance of approximately 4.3 km, in the vicinity of the site. In this regard, it should be recognised that the B9007 starts at the A938 at Duthil and ends where it meets the A939 at Ferness: approximately 29.8km in total length. While significant visual effects have been identified for a maximum distance of 4.3km (southbound), this is considered to be a fairly minimal extent when compared to the length of the route in its totality.</p> <p>It should also be highlighted that the route does not pass between the turbines and so the view out from any vehicle travelling southbound and looking to the east would remain unaffected by the turbines. Furthermore, the Tom-nan-clach turbines are already visible from the section of the route where significant effects have been identified, in broadly the same direction, so it is considered that a significant visual effect is already established, albeit not to the extent proposed.</p> <p>Overall however, it is considered that the Proposed Development would not overwhelm or detract from the key elements of the routes and gateway points identified in the OWESG: Part 2b. It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Development.</p>
<p><b>Criterion 3.</b> Valued natural and cultural landmarks are respected.</p>	<p>The scale of the Proposed Development is such that it is recognised that there will be potentially significant effects on three heritage assets of national importance. In each instance it has been concluded that these assets' key landscape relationships would still be appreciable and that there would not be an adverse effect upon the integrity of their</p>

OWESG Assessment Criteria	Development Commentary
	<p>setting as a result of the Proposed Development. Furthermore, no significant cumulative effects were identified.</p> <p>It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Varied Development from a landscape and visual perspective.</p>
<p><b>Criterion 4.</b> The amenity of key recreational routes and ways is respected</p>	<p>The assessment of routes found that there would be no significant effects on recreational routes. Core Paths and associated recreational routes have also been assessed on the basis of whether there would be a reduction in visitors or recreational users in the area resulting from the Proposed Development.</p> <p>Wind Turbines or other infrastructure do not overwhelm or otherwise significantly detract from the visual appeal of key routes and ways. Overall, given the proximity of these routes from the Site, no significant effects have been identified.</p> <p>It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Varied Development from a landscape and visual perspective.</p>
<p><b>Criterion 5.</b> The amenity of transport routes is respected</p>	<p>The majority of the Key Gateway and Key Routes identified in the OWESG: Part 2b would not be affected by the Proposed Development.</p> <p>However, significant effects have been identified at the Key View at the south eastern shore at Lochindorb and on the B9007 which is recognised as a Key Route. Overall however, it is considered that the Proposed Development would not overwhelm or detract from the key elements of the routes and gateway points identified in the OWESG: Part 2b. It is therefore concluded that the threshold for this criterion would not be exceeded by the Proposed Varied Development.</p>
<p><b>Criterion 6.</b> The existing pattern of Wind Energy Development is respected</p>	<p>This criterion cites the following considerations to be taken into account:</p> <ul style="list-style-type: none"> <li>• Turbine height and proportions;</li> <li>• density and spacing of turbines within developments;</li> <li>• density and spacing of developments;</li> <li>• typical relationship of development to the landscape;</li> <li>• previously instituted mitigation measures; and,</li> <li>• Planning Authority stated aims for development of area.</li> </ul> <p><b>Chapter 2</b> Site Selection and Design Iteration of the EIA Report provides further narrative on the process undertaken in selecting the site as a potential location for a wind energy development and discusses the design evolution process undertaken by the Applicant prior to arriving at the final Proposed Development design.</p> <p>Overall, it is considered that the Proposed Development has been subject to a number of design iterations over time and the layout has evolved to respond to LDP policy aspirations and aims, feedback from consultees and the collection of additional environmental data.</p> <p>The proposal therefore contributes positively to existing pattern or objectives for development in the area.</p>
<p><b>Criterion 7.</b> The need for separation between developments and / or clusters is respected</p>	<p>Tom nan Clach Wind Farm is located within the western edge of the LCT, while the consented Cairn Duhie Wind Farm is situated within the northern part of the LCT to the north of Dava. The existing Pauls Hill and Clash Gour wind farms are also located within the eastern part of the LCT. The existing Moy Wind Farm is located within an adjacent LCT near the smaller unit of this LCT.</p> <p>In relation to cumulative landscape and visual effects, when each of the other consented wind farms (excluding Cairn Duhie which has been assessed as an in-planning scheme) are added into the assessment such that they are considered to already form part of the baseline it is considered that there would be no change to the previous assessment of the effects on landscape character which the Proposed Development would bring about.</p> <p>When other schemes in planning are also considered if the revised Cairn Duhie scheme were already present in the landscape, the extent of the significant effect brought about by the Proposed Development would reduce in a north-easterly direction down to approximately 4 km, as beyond that point the existing influence of the revised Cairn</p>

OWESG Assessment Criteria	Development Commentary
	<p>Duhie scheme would be such as to render the additional effect of the Proposed Development non-significant.</p> <p>In terms of the totality of effect on landscape character, were Proposed Development and each of the additionally proposed schemes consented alongside the existing Tom nan Clach scheme, the character of LCT 291 Open Rolling Upland area would become one which could be described as ‘Open Rolling Upland with wind farms’. However, wind energy would not become the single dominant characteristic of LCT291, nor LCT 286 such that wind energy would become the single dominant characteristic these LCTs.</p> <p>In relation to cumulative visual effects, when each of the other consented wind farms are added into the assessment such that they are considered to already form part of the baseline it is considered that there would be no change to the previous assessment of the effects on visual amenity which the Proposed Development would bring about. When other schemes in planning are also considered, there may be the potential for views of the Proposed Development in one direction and Cairn Duhie Wind Farm in the opposite direction. Any significant cumulative effects would however be limited to a very small number of dwellings. The two schemes may also be seen successively, from locations along the A939, A940, the B9007 and the Shore Road Lochindorb, where significant ‘sequential’ cumulative visual effects are also identified for a short section of the routes if the Cairn Duhie Wind Farm were also to be constructed, above that which was reported in the main assessment of the route. There would be no significant sequential cumulative visual effects as a result of any of the other in planning schemes.</p> <p>In terms of the totality of effect on visual amenity, it is not considered that the addition of the Proposed Development would be such as to result in the overall cumulative impact of turbines being dominant or oppressive in views from this area.</p> <p>In summary therefore, the Proposed Development maintains appropriate and effective separation between developments and/ or clusters</p>
<p><b>Criterion 8.</b> The perception of landscape scale and distance is respected</p>	<p>The Proposed Development would be formed of larger turbines than those of the adjacent operational Tom nan Clach wind farm. This difference in scale may be perceived from a small number of viewpoints and landscape areas close to the Proposed Development, and from some viewpoints the larger turbines may appear to bring turbines slightly closer to the viewer. This may slightly reduce a perceived scale of the landscape in some locations which would contribute to landscape and visual effects. However, it would not affect the overriding perception of expansive scale within the landscape and would be only a small contributory factor to any of the limited significant effects which are experienced.</p>
<p><b>Criterion 9.</b> Landscape setting of nearby wind energy developments is respected</p>	<p>As previously discussed, in relation to cumulative landscape and visual effects, when each of the other consented wind farms (excluding Cairn Duhie which has been assessed as an in-planning scheme) are added into the assessment such that they are considered to already form part of the baseline it is considered that there would be no change to the previous assessment of the effects on landscape character or visual effects which the Proposed Development would bring about.</p> <p>The Proposed Development would not encroach on other existing wind energy developments which are operational, consented, or in planning.</p> <p>It is therefore considered that the Proposed Development relates well to the existing landscape setting and does not increase the perceived visual prominence of surrounding wind turbines. The threshold for this criterion would therefore not be exceeded by the Proposed Development.</p>
<p><b>Criterion 10.</b> Distinctiveness of Landscape character is respected</p>	<p>The assessment on landscape concludes that the Proposed Development would result in direct and significant effects on the part of the landscape character type within which the Proposed Development is located, LCT 291 Open Rolling Upland and indirect effects out to approximately 3 km to the west, to the southern edge of the LCT and 6 km to the east. There would also be indirect and significant effects on LCT 286 Narrow Wooded Valley – Moray and Nairn up to approximately 5 km to the north of the Proposed Development.</p>



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