# Culachy Wind Farm

## Planning and Energy Policy Statement

# Contents



# List of Abbreviations

| *Abbreviation* | *Description* |
|---|---|
| BESS | Battery Energy Storage System |
| CAA | Civil Aviation Authority |
| CNP | Cairngorms National Park |
| CSOH | Court of Session Outer House |
| EIA Report | Environmental Impact Assessment Report |

| | |
|---|---|
| GHG | Greenhouse Gas Emissions |
| GVA | Gross Value Added |
| HwLDP | Highland wide Local Development Plan |
| LCT | Landscape Character Type |
| LVIA | Landscape and Visual Impact Assessment |
| MOD | Ministry of Defence |
| MW | MegaWatt |
| NPF4 | National Planning Framework 4 |
| NSA | National Scenic Area |
| NSR | Noise Sensitive Receptor |
| OBEMP | Outline Biodiversity Enhancement Management Plan |
| OCEMP | Outline Construction Environmental Management Plan |
| OWESG | Onshore Wind Energy Supplementary Guidance |
| OWPS | Onshore Wind Policy Statement |
| RVAA | Residential Visual Amenity Assessment |
| SAC | Special Area of Conservation |
| SLA | Special Landscape Area |
| SPA | Special Protection Area |
| SSSI | Site of Special Scientific Interest |
| SPP | Scottish Planning Policy |
| WLA | Wild Land Area |

# 1. Introduction

1.1.1. This Planning and Energy Policy Statement has been prepared by Savills UK Limited on behalf of Fred Olsen Renewables (the Applicant). It supports an application to the Scottish Ministers under Section 36 (S36) of the Electricity Act 1989 (the Electricity Act) for a development comprising up to 8 wind turbines (each with a maximum tip height of 200 metres (m)), a battery storage facility, and associated access and infrastructure, to be known as Culachy Wind Farm and hereafter referred to as 'the Proposed Development'.

1.1.2. The Proposed Development will have an installed capacity of more than 50 Megawatts (MW). A description of the Proposed Development and individual components is set out in Chapter 3: 'Proposed Development Description' of the Environmental Impact Assessment Report (EIA Report).

1.1.3. This Statement accompanies the EIA Report for the Proposed Development. It does not form part of the EIA Report, but draws upon its findings to inform conclusions on planning and energy policy matters.

1.1.4. As part of the S36 process, the Applicant is also seeking that Scottish Ministers issue a Direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (the Planning Act), as amended, that deemed planning permission also be granted for the Proposed Development. Culachy Wind Farm is proposed to have an operational life of 35 years from the date of final commissioning.

1.1.5. This Statement provides an assessment of the Proposed Development against relevant energy policy, national planning policy and local planning policy. There is no 'primacy' of the Development Plan in an application made under the Electricity Act, as would be the case for an application under the Planning Act as found in the case of William Grant & Sons Distillers Ltd v Scottish Ministers [2012] CSOH 98 (paragraphs 17 and 18). Rather, weight can be attributed by the decision maker to all material considerations including the various levels of national and local energy and planning-related policy and guidance as deemed appropriate.

1.1.6. This Statement assesses the acceptability of the Proposed Development in land use and planning policy terms in light of the residual impacts identified in the EIA Report. It also gives consideration to energy policy and other objectives, concluding with considered comments about the overall acceptability of the Proposed Development in the context of the full range of material considerations.

1.1.7. This Planning Statement is set out in sections. Following this introductory section, subsequent sections are set out as follows;

- Section 2 provides commentary on the Electricity Act;
- Section 3 sets out details about the site and the Proposed Development;
- Section 4 provides commentary on relevant planning history;
- Section 5 discussed the most relevant energy policy matters and considers the Proposed Development with reference to relevant policies and targets;
- Section 6 assesses the Proposed Development against the relevant policies of the Development Plan including National Planning Framework 4; and
- Section 7 weighs up the planning case for the Proposed Development providing concluding remarks on the overall acceptability of the Proposed Development.

# 2. Electricity Act – Schedule 9

2.1.1. A decision on this S36 application under the Electricity Act is the principal decision to be made in this case. Schedule 9 paragraph 3 to the Electricity Act imposes no duties on an Applicant other than a generating licence holder or a person authorised by an exemption to generate electricity. The Applicant is not a holder of a generating licence or an exemption in respect of the Proposed Development and the duties under Paragraph 3 do not apply.

2.1.2. The Scottish Ministers as decision maker are required to have regard to the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9 (paragraph 3(2)(a)).

2.1.3. This interpretation of the law was confirmed in the opinion of Lord Ericht in the petition of North Lowther Energy Initiative Limited v Scottish Ministers [2021] CSOH 104 (paragraph 18).

2.1.4. Notwithstanding, through the design evolution and the EIA process, the Applicant has sought to avoid significant environmental impacts arising from the Proposed Development and to then mitigate those that have been identified. These details are set out in the various chapters forming the EIA Report that is submitted with the application to enable Scottish Ministers to comply with their duties under Schedule 9.

# 3. The Site and Proposed Development

## 3.1 The Proposed Development

3.1.1 The application for Section 36 consent and deemed planning permission describes the Proposed Development as:-

*'The Proposed Development will comprise up to 8 wind turbines with a maximum blade tip height of up to 200 m, a battery and energy storage system (output capacity of approximately 10MW), and up to 678 ha of biodiversity enhancement. The combined generation capacity of the Proposed Development will exceed 50MW. The associated infrastructure will include: site access junction, access tracks, crane hardstandings, underground cabling, on-site substation and maintenance building, temporary construction compounds, laydown areas, batching plant, and potential excavations/borrow workings'.*

3.1.2 A detailed description of the Proposed Development is set out in EIA Report Chapter 3 'Proposed Development Description' but in summary, it comprises the following key elements:-

- Up to eight wind turbines, each up to a maximum of 200m above ground level (AGL);
- Newly constructed site access point on the U1667 Ardachy Road;
- approximately 8km of new access tracks and 5.5km of existing tracks which will be upgraded;
- 16 watercourse crossings, seven of which will be new and nine of which are existing;
- crane hardstandings;
- Onsite underground electrical cables and cable trenches;
- on-site substation and maintenance building;
- a Battery Energy Storage System (BESS);
- Two temporary construction compounds;
- A concrete batching plant; and
- Two borrow pit search areas, within which borrow pits for the working and winning of rock for onsite construction activities will be undertaken, subject to further geotechnical surveys.

3.1.3 In addition to the above, the Applicant is proposing four areas for compensation and enhancement activities, the locations of which are shown on EIA Report Figure 3.2. Combined, these areas total 678hectares (ha) and comprise the following:-

- Peatland Restoration Area (424.63 ha);
- Golden Eagle Management Area (231 ha);
- Black Grouse Woodland Planting (19.11 ha); and
- Ancient Woodland Expansion, Natural Regeneration (3.88 ha).

3.1.4 These works are important and integral parts of the Proposed Development that allow it to respond positively to the nature crisis and global climate emergency. They go beyond mitigating the adverse effects of the proposed Development and will give rise to demonstrable biodiversity net gain.

3.1.5 Based upon the candidate turbine used for the purposes of the EIA, it is anticipated that the overall capacity of the turbines will be approximately 57.6MW, supported by a BESS with an output capacity of approximately 10 MW. These figures may change in future subject to a future procurement process and selection of wind turbines and BESS manufacturer; however, the overall generating capacity of the Proposed Development will exceed 50MW.

3.1.6 To comply with Civic Aviation Authority (CAA) policy on the lighting of wind turbines at 150m in height or more, visible aviation lighting is needed on four of the wind turbines: T1, T2, T7 and

T8. The proposed lighting scheme has been discussed with and agreed by the CAA and Ministry of Defence (MoD). Details of the approved lighting strategy is presented as EIA Report Appendix 14.1. In addition, all eight proposed wind turbines require non-visible infra-red aviation lighting to satisfy MoD low flying requirements.

3.1.7 It is intended that the proposed turbine locations and all ancillary infrastructure will be subject to a micro-siting tolerance of 50m in any direction, taking into consideration onsite constraints and the findings of detailed site investigation works to be carried out prior to construction. It is anticipated that any micrositing would be undertaken under the supervision of the appointed Environmental Clerk of Works (ECoW).

3.1.8 Subject to detailed site investigations, it is expected that the turbines will be constructed on concrete foundations, measuring approximately 29m in diameter to a depth of around of 4m, as shown on EIA Report Figure 3.4. Each turbine foundation will require up to 1,000m$^3$ of concrete. The detailed design, sizing and specification for each foundation will depend on the final turbine selected and the ground conditions encountered at each turbine location, which will be confirmed by detailed site investigations post-consent, in the pre-construction period.

3.1.9 Permanent crane hardstandings measuring approximately 113m x 35m will be constructed at each turbine location to facilitate the erection of the turbine components using mobiles cranes (EIA Report Figure 3.5). Additional temporary hardstanding areas will be also provided to facilitate crane erection, which will be removed following the end of the construction period. The permanent hardstandings will be left in-situ during the operational life of the Proposed Development to facilitate ongoing turbine maintenance.

3.1.10 An indicative layout for the BESS is shown on EIA Report Figure 3.14. The compound will measure approximately 50m x 40m and is located to the west of the site access, to the north of the turbine array, close to the proposed substation and borrow pit search area A (see EIA Report Figure 1.2).

3.1.11 Two temporary construction compounds will be required to enable construction of the Proposed Development, the locations of which are shown on EIA Report Figure 1.2. Depending on their size and location, it is envisaged that they will include site offices, staff welfare facilities (mess room, kitchen, WCs, changing and drying rooms), storage and laydown areas for equipment and materials, bunded storage for fuels and oils, and car parking for contractors and visitors.

3.1.12 In order to minimise the amount of stone required to be imported, two temporary borrow pits may be used, which would be located within the search areas shown on EIA Report Figure 1.2. Borrow Pit Search Area A is located to the west of the site access to the north of the turbine array, while Borrow Pit B is located to the east of T3 and T5. It is anticipated that stone won from these borrow pits will be used to construct access tracks and hardstanding requirements.

3.1.13 EIA Report Chapter 12 ‘Traffic and Transport’, notes that whilst it is anticipated that on-site borrow pits will be able to meet up to 70% of the construction aggregate requirements, the assessment assumes that only 50% of the aggregate required for construction will be sourced onsite, with the remaining 50% sourced from local quarries.

3.1.14 To minimise traffic movements associated with concrete delivery, an onsite concrete batching facility is proposed. At this stage, it is anticipated that batching will be undertaken within the southern construction compound to the east of T3 and T5 however, the final location will be determined by the appointed principal contractor in due course.

3.1.15 While the layout of the Proposed Development has been developed to minimise the number of watercourse crossings required, a total of 16 watercourse crossings would be required comprising seven new watercourse crossings and nine existing watercourse crossings, as detailed in EIA Report Table 3.3. EIA Report Chapter 9 ‘Hydrology, Geology and Hydrogeology’ and Appendix 9.5 ‘Watercourse Crossing Inventory’ provides further details on the watercourse

crossings. The exact specifications of watercourse crossings will be subject to detailed design prior to construction.

3.1.16 Habitat enhancement measures form an integral part of the Proposed Development. As already noted, the Applicant is proposing a series of measures across four separate areas, as identified on EIA Report Figure 3.2. Further details on the aims, objectives and management prescriptions for three of these four areas are set out in EIA Report Appendix 8.6 'Outline Biodiversity Enhancement Management Plan' (OBEMP). Details of the fourth area, the Ancient Woodland Expansion Area, is discussed in Appendix 3.3.

3.1.17 Appendix 8.6 sets out a framework for compensation and enhancement works within the three enhancement areas referenced in that document. These measures would be refined post consent and in consultation with relevant stakeholders and landowners. A Biodiversity Net Gain (BNG) toolkit has been used to quantify the benefits arising from these works, and this is included in Appendix 8.6. The biodiversity benefits associated wit these works are discussed later in Section 6, notably in relation to NPF4 Policies 3 and 11.

3.1.18 The construction period for the Proposed Development would be approximately 19 months depending upon seasonal working and weather conditions. EIA Report Table 3.5 provides an indicative timetable for each phase of the construction works, with an associated likely sequencing of the works.

3.1.19 Normal hours of working during the construction period will be as follows:-

- Monday to Friday 0700-1900;
- Saturday 0700-1300; and
- No working on Sundays or public holidays without prior written approval from Highland Council.

3.1.20 No works, with the exception of turbine or transformer delivery, the completion of turbine erection or emergency work, will take place outside these hours, unless agreed in advance with Highland Council. The requirement for out-of-hours work could arise, for example, from delivery and unloading of abnormal loads (usually undertaken at night/early morning to minimise disruption on the public road network and in agreement with consultees, such as Police Scotland) or health and safety requirements, or to ensure optimal use is made of fair weather windows for the erection of turbine blades and the erection and dismantling of cranes.

3.1.21 The Applicant has made clear its commitment to set up a community benefit fund for the duration of the 35 year operational period of the Proposed Development. This has been discussed with the local community through the pre-application stage and the Applicant will continue to engage with local stakeholders in the post submission phase to ensure these benefits are structured and targeted in a way that meets community expectations and delivers tangible benefits. The fund would be in line with the Scottish Government guidelines, which is the equivalent of £5,000 per MW of installed capacity per year. Further information in relation to the socio-economic benefits of the Proposed Development are set out in EIA Report Chapter 13 'Socio-economics, Tourism and Recreation'.

## 3.2 Site Description

3.2.1 The site of the Proposed Development is located on land located to the south of Loch Ness and to the east of Loich Oich. It is located approximately 34.5km northeast of Fort William and 6km south of Fort Augustus at the southern end of Loch Ness. The site is located in a remote, sparsely populated area.

3.2.2 General Wades Military Road runs in close proximity to the east of the site. This Road is a Scheduled Monument in parts and was built under the supervision of General George Wade

after the Jacobite rising of 1715. The Beauly-Denny overhead line (BDOHL) also runs through the site, to the west of General Wades Military Road.

3.2.3 The proposed site access point is via a newly constructed junction on the U1667 Ardachy Road, entering the site from the north before moving southwards to the turbine array, which is located in an upland bowl.

3.2.4 The site is dominated by moorland ground cover with some small rocky outcrops. There are small areas of woodland and scattered trees within the site, located principally to the north away from the turbine area, along the access track route. An area of designated Ancient Woodland is located within the site, to the north along the access track route.

3.2.5 The turbines are located approximately 6.5 km to the south of Fort Augustus and are situated within the rolling upland moorland. The closest residential property is located 3.6km away from the wind turbines.

3.2.6 The site itself is not located within any landscape or natural heritage designation. It is located within the northern most corner of Wild Land Area 19, Braeroy-Glenshirra-Creag Meagaidh. As shown on EIA Report Figure 6.5, there are a number of Special Landscape Areas within 10km of the turbines, with the boundary of the Cairngorms National Park located approximately 12.5km to the east. Further away at distances of 20-35km are the Ben Nevis and Glen Coe and Glen Affric and Glen Strathfarrar National Scenic Areas.

3.2.7 The Loch Knockie and nearby Lochs Special Protection Area is located 3.7km to the nearest proposed turbine (underpinned by Knockie Lochs SSSI, Glendoe Lochans SSSI), as shown on EIA Report Figure 7.4. There is one Special Area of Conservation (SAC) and two SSSIs within 5km of the site boundary that contain ecological qualifying interests, the closest of which is the Ness Woods SAC, located 20m from the site boundary at its closest point, as shown on EIA Report Figure 8.1.part

3.2.8 As EIA Report Figure 10.1 shows, there are a number of cultural heritage assets within the site boundary and close by within the wider Culachy Estate Boundary. These comprise non-designated heritage assets and the Scheduled Monuments, that are each included as part of the route of General Wades Military Road which runs to the east of the site. Further afield there are other heritage assets including Listed Buildings, Conservation Areas and Gardens and Designed Landscapes which are discussed further in EIA Report Chapter 10 ‘Cultural Heritage’.

3.2.9 EIA Report Figure 6.2 shows the NatureScot Carbon & Peatland Map, which indicates the mapped presence of Class 1 and 2 nationally important, priority peatlands within the site boundary.

# 4. Planning History

## 4.1. The Previous Culachy Wind Farm Proposal

4.1.1. In 2014 Renewable Energy Systems applied to Highland Council for planning permission to construct and operate a development, also known as Culachy Wind Farm. The description of the scheme as applied for was:-

*'Erection of 13 wind turbines with 12 up to 149.5m tip height and one up to 132m tip height including ancillary development'.*

4.1.2. Planning permission was refused against the officer recommendation by Highland Council in December 2015. An appeal against this refusal was dismissed on 27 April 2018 (reference PPA-270-2151) by the appointed Reporter. In paragraph 2 of the appeal decision he listed the main issues to be considered as follows:-

- the landscape and visual effects of the scheme, including its effect on the Brae Roy - Glenshirra - Creag Meagaidh wild land area;
- the effect of the scheme on the setting of the Wade Road running through the appeal site;
- the effect of the scheme on tourism;
- the effect of the scheme on peat at the appeal site;
- the potential benefits of the scheme, particularly its contribution to meeting renewable energy targets; and
- the weight to be given to the scheme's contribution to meeting renewable energy targets in the light of the Scottish Energy Strategy and Onshore Wind Policy Statement (as they were at that time).

4.1.3. The Reporter discussed the benefits of the scheme between paragraphs 134 – 150 of the appeal decision, including commentary on the weight to be given to the contribution the proposed development would make to meeting renewable energy targets. He noted in paragraph 134 that the proposed development would '*make a modest but useful contribution to meeting'* renewable energy targets and that there would also be a '*modest positive economic effect overall'.*

4.1.4. The Reporter noted the terms of the Scottish Energy Strategy and Onshore Wind Policy Statement in force at the time, and the support for onshore wind in meeting wider renewable energy target targets. He considered in paragraph 146 that there was nothing in either document:-

*'to suggest that any increased weight is to be given to the contribution of onshore wind development to meeting renewable energy targets or that less weight is to be given to landscape protection or other environmental considerations'.*

4.1.5. The Reporter went on to say in the same paragraph that '*I am not persuaded the Scottish Government would make such a policy change without doing so expressly'*. The same Reporter took a similar approach in the Report to Ministers on the S36 Application for Golticlay Wind Farm (dated 20th February 2020 WIN-270-10 ) at paragraphs 2.73 and 2.74.

4.1.6. The Reporter noted the benefits of the scheme in paragraph 179 of the Culachy decision but considered that it did not adequately protect the landscape or the wider environment. He concluded in paragraph 180 that it did not accord overall with the relevant provisions of the development plan and that there are no material considerations that would still justify granting planning permission.

## 4.2. Relevance of the 2018 decision to the Proposed Development

4.2.1. Since planning permission was refused for the RES scheme in 2018, there have been a number of key changes that have taken place in the national energy and planning policy context. The Proposed Development is required to be considered against the new national energy and planning policies that must be reflected in the assessment of the Proposed Development.

4.2.2. The following factors are relevant to consideration of the Proposed Development which were not material to consideration of the previous application and provide substantial support to the case for granting consent:-

- Planning permission was refused in April 2018, prior to the declaration of the 'climate emergency' by the Scottish Government in May 2019[1] and prior to the declaration of a 'climate emergency' by Highland Council also in May 2019. Therefore, following refusal of planning permission the seriousness of the challenged posed by the changing climate was explicitly recognised by the Scottish Government, and this was not the case at the time planning permission was refused a year previously;
- The change in approach which Reporters have taken to the climate emergency since 2021 is aptly summed up in the Reporters Report into the Rothes III Wind Farm in Moray (DPEA reference WIN-300-5 dated 25th February 2022 ) where in paragraph 2.181 the Reporter noted:-

  *'the urgency of meeting those stringent targets, set with the purpose of avoiding dangerous climate change, must necessarily affect the balance to be struck. This is so for every particular development, notwithstanding that no particular development is required by policy to be permitted. We acknowledge that that is a different view from the position one of us took in making recommendations on the proposed Golticlay windfarm. However, it appears to us that the evidence of the need for new onshore-wind development in particular has moved on since that report was made in early 2020'.*

- The Reporter in the Rothes III case was the same Reporter that refused planning permission for the RES scheme in 2018. The above quote shows that the Reporter felt there was a material change in the 'need case' for more onshore wind between early 2020 and when his report on Rothes III was written in February 2022. The same point can be made even more forcefully in response of the previous RES scheme, given it pre-date declaration of the climate emergency as noted above;
- The introduction of National Planning Framework 4 (NPF4) in early 2023 and the Onshore Wind Policy Statement in late 2022 put beyond any doubt the need for significantly more onshore wind to help meet climate change targets with the OPWS describing onshore wind as 'mission critical' for meeting climate targets. NPF4 now requires decision makers to give 'significant weight' to the renewable energy benefits of a scheme in the planning balance, whereas the Reporter was under no such requirement when considering the previous scheme. As this Planning Statement notes later, decision makers have taken this requirement on board in recent post NPF4 decisions, to the extent that in two cases previous Reporters recommendations to refuse permission were changed to recommendations for approval following the adoption of NPF4. These are discussed below;
- The position on wild land areas has changed between the now replaced Scottish Planning Policy (2014) and NPF4. Policy 4(g) of NPF4 now clarifies that proposals that help meet renewable energy targets are potentially acceptable land uses within wild land areas;
- The Proposed Development incorporate a significant scale of peatland restoration and habitat enhancement works, extending over four areas and totalling 678ha. The previous

[1] https://www.gov.scot/publications/global-climate-emergency-scotlands-response-climate-change-secretary-roseanna-cunninghams-statement/

RES scheme did not involve such a scale of environmental improvement works and the inclusion of these elements as an integral part of the Proposed Development must be given significant weight in the planning balance, as required by NPF4 Policy 1; and

- As an application for Section 36 consent, there is no requirement to determine the application in accordance with the Development Plan, as was the case with the RES scheme which was a planning application. While NPF4 is a very recent element of the Development Plan and it is a very important document, the HwLDP is now 11 years old and the energy policy context within which that was prepared is very different now. Various recent energy policy publications also lend significant support to the Proposed Development as discussed in Section 5.

4.2.3. While it is clearly relevant to note the planning history on site, that decision does not determine the prospects for the Proposed Development which must be considered on its own merits, having regard to the different nature of the proposals and the vastly changed energy and planning policy context.

# 5. The Energy Policy Context

## 5.1 Overview

5.1.1 The Section of the Planning Statement provides commentary against the most relevant pieces of energy legislation and policy considered to be of most relevance to the Proposed Development. This is not an exhaustive overview of all relevant policies and plans relevant to this subject area, and given the legislative basis and statutory nature of the net-zero targets (discussed further below) only the most salient pieces of legislation and policies are discussed here. A more comprehensive overview of relevant energy policy matters is set out in EIA Report Chapter 5 'Planning and Energy Policy'.

## 5.2 The Legislative Framework

### Climate Change Act 2008

5.2.1. The Climate Change Act 2008 became law on 26 November 2008 and introduced a legally-binding target for the UK to reduce $CO_2$ emissions by at least 80% by 2050, relative to 1990 levels. Efforts to reduce emissions in Scotland contribute to achievement of UK wide targets, as well as meeting Scotland specific targets as discussed below.

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

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

### The Climate Change (Scotland) Act 2009

5.2.3. The Climate Change (Scotland) Act 2009 created the statutory framework for GHG emission reductions in Scotland by setting a target for net Scottish emissions for the year 2050 to be at least 80% lower than the 1990 baseline level. An interim target of a 42% reduction by 2020 was also set out.

5.2.4. The 2009 Act also established the Public Bodies Climate Change Duties which came into force on 1 January 2011. It requires that Public Bodies, which includes the Scottish Ministers as decision-makers, exercise their functions:

- in a way best calculated to contribute to deliver the Act's emissions reduction targets;
- in a way best calculated to deliver any statutory adaptation programme; and
- in a way that it considers most sustainable.

5.2.5. In 2019 the Scottish Government amended the 2009 Act, to set a target for net zero GHG emissions in Scotland, as discussed below.

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

5.2.6. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 amends the Climate Change (Scotland) Act 2009, by introducing even more ambitious GHG reduction targets than those contained in the 2009 Act. It commits Scotland to becoming a net zero society by 2045 (five years earlier than the rest of the UK).

5.2.7. In addition to setting a target date of 2045 for reaching net zero emissions, the 2019 Act also introduced interim targets and states that the Scottish Ministers must ensure that the net Scottish emissions account for the year:

- 2020 is at least 56% lower than the baseline (1990 being baseline);
- 2030 is at least 75% lower than the baseline; and
- 2040 is at least 90% lower than the baseline.

5.2.8. The Climate Change (Scotland) Act 2009 (Interim Target) Amendment Regulations 2023 (which came into force on 31 May 2023) adjusts the interim 2020 target from 56% to 48.5%. It also revises down the annual targets for the 2020s in the lead up to the next key interim target of 75% in 2030. This new legislation follows advice from the Climate Change Committee to the Scottish Ministers and is in response to a change in international carbon reporting practice.

## 5.3 Progress towards Net Zero targets

5.3.1. To help ensure delivery of the long-term GHG reduction targets, Scotland's climate change legislation also includes annual targets for every year to 2045. The levels of these targets (expressed as percentage reductions from the 1990 baseline) are set out in Table 1 below.

***Table 1 – Scottish Greenhouse Gas Reduction Targets***

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

5.3.2. The Scottish Government GHG emissions statistics for 2021 were published in June 2023 and show that for the eighth time in 12 years the annual target has been missed (49.9% compared to the new and lower target of 51.1%). As anticipated, emissions experienced a 'bounce back' from 2020 levels (up by 2.4%) following the relaxation of Covid-19 lockdown measures. Domestic transport was still the biggest source of emissions and was responsible for 26.2% of the total, although emissions from cars were 17.5% lower than 2019, the year before the pandemic.

5.3.3. These statistics demonstrate that much more needs to be done if we are to meet the next key milestone of a 75% reduction in GHG emissions by 2030 and to ensure that Scotland is on the pathway to achieving net zero by 2045.

## 5.4 United Nations (UN) Emissions Gap Report 2023 – Broken Record – Temperatures hit new highs, yet word fails to cut emissions (again)

5.4.1. For more than a decade the UN Gap Reports have compared where GHG emissions are heading, against where they need to be, and highlights ways to close the gap. The latest Gap Report, 'Broken Record - Temperatures hit new highs, yet word fails to cut emissions (again)', was published on 23 November 2023.

5.4.2. The 2023 Gap Report notes in the Foreword that GHG emission reached a new high in 2022. While there are signs of progress since the signing of the Paris Agreement in 2015, the report notes that '*change must come faster in the form of economy-wide, low-carbon development transformations, with a focus on the energy transition. Countries with greater capacity and responsibility for emissions will need to take more ambitious action and provide financial and technical support to developing nations'*.

5.4.3. The Report notes in the Executive Summary that '*Not only was September 2023 the hottest month ever, it also exceed the previous record by an unprecedented 0.5oC, with global average temperatures at 1.8oC above pre-industrial levels'*. The Report notes that not only were temperature records broken, global GHG emissions and atmospheric concentrations of carbon dioxide also set new records in 2022. As a result, the Report notes that unprecedented action is now needed by all countries and for high-income countries (such as the UK), there is a need to further accelerate '*domestic emissions reductions, committing to reaching net-zero as soon as possible'.*

5.4.4. In Chapter 3, the Report notes that '*The United Kingdom Government made a U-turn on climate policies in September 2023 and announced the country is to delay in phasing out new petrol and diesel cars, to delay in phasing out gas boilers and to eliminate the requirement for landlords to improve the energy efficiency of their homes, among other measures'*. In response, the Report notes that the United Kingdom's Climate Change Committee remains '*concerned about the likelihood of achieving the United Kingdom's future targets, especially the substantial policy gap to the United Kingdom's 2030 goal*'.

## 5.5 The Onshore Wind Policy Statement 2022

5.5.1 The Onshore Wind Policy Statement (OWPS) was published in December 2022 and clearly sets out that onshore wind will be a critical technology to help deliver the 2030 and 2045 GHG targets.

5.5.2 The Ministerial Forward notes that *'we must accelerate our transition towards a net zero society*'. The 'Vision Statement' states that:-

*'onshore wind is the biggest source of renewable energy in Scotland - of the total 13 GW of renewable energy in Scotland, almost 9 GW is supplied by onshore wind. Public acceptance for onshore wind has consistently increased over the last decade with the latest RenewableUK poll noting that more than 87% of the UK public either strongly support onshore wind*

*development or have no opinion. Scotland's abundant natural resources and policy support for onshore wind have seen us lead the way in project deployment and the resulting economic benefit compared to other parts of the UK'*.

5.5.3 The OWPS quantifies the amount of new onshore wind that is needed in order to meet GHG reduction targets and notes in the Ministerial Foreword that there is an 'ambition of 20GW of onshore wind capacity in Scotland by 2030' to encourage decarbonisation of the energy system.

5.5.4 Paragraph 8.4.1 states that onshore wind can also play a greater part in ensuring energy supply security. The importance of a secure energy supply has come into much sharper focus following the start of war in Ukraine and this is a theme that is central to the British Energy Security Strategy, which is discussed in EIA Report Chapter 5, revisited very recently in the Energy Security Act 2023, also discussed in EIA Report Chapter 5.

5.5.5 Chapter 3 of the OWPS, 'Environmental Considerations: Achieving Balance and Maximising Benefits', references Scotland's Land Use Strategy and recognises that as the country moves towards a net zero economy, there will need to be a significant land use change, from current uses to forestry and peatland restoration and that this needs to happen alongside other essential activities, **including onshore wind**, while protecting and enhancing habitats.

5.5.6 Paragraph 3.5.6 recognises that as an *'essential part of our energy mix'*, onshore wind deployment will increase in the coming years, providing further opportunities for the sector to contribute significantly to biodiversity ambitions. In the commentary on peat and carbon-rich soils, the OWPS notes that reversing degradation of peat through peatland restoration is central to mitigating and adapting to the linked climate and nature crises. Paragraph 3.3.6 notes that in some cases it will be necessary to construct onshore wind farms on areas of peat, *'given the established need for additional onshore wind turbines to tackle climate change and to ensure long-term availability of cheap renewable energy'* (underlining added).

5.5.7 In Section 3.6, the OWPS discusses landscape and visual matters and links with NPF4 (discussed in Section 6 of this Statement). Paragraph 3.6.1 notes that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that *'this will change the landscape'* (no underlining added). This very clear statement from the Scottish Government recognises that facilitating the route to net zero will result in noticeable changes to the landscape, and this is something as a society we will have to accept. This point is also recognised in Policy 11(e)(ii) of NPF4. Not all renewable energy projects will receive permission however, and the OPWS recognises in paragraph 3.6.1 that the aspiration is to ensure *'the right development happens in the right place'.*

5.5.8 Importantly, the OWPS states in paragraph 3.6.2 that *'stronger weight'* is now to be given to the contribution of a development to the climate emergency in the planning balance, as well as community benefits. Scottish Government Reporters have addressed this issue head-on in several recent post NPF4 reports on wind farm proposals, some of which are referenced later in Section 6.

5.5.9 Chapter 5 of the OWPS 'Benefits to Local Communities and Financial Mechanisms' notes the Scottish Government's commitment to the principles of a just transition to a net zero economy, meaning that communities across Scotland feel the benefits of this transition. There is specific reference in paragraph 5.2.2 to the University of Strathclyde and Fraser of Allander Institute publication, 'The Economic Impact of Scotland's Renewable Energy Sector - Update' which shows that the onshore wind sector alone directly supports over 2,600 full time equivalent jobs in Scotland. The Proposed Development would contribute to these figures during the construction, operation and decommissioning phases.

5.5.10 In the concluding chapter, the OWPS describes the deployment of onshore wind as *'mission critical'* for meeting climate targets. There is a clear desire to see the deployment of greater

volumes of onshore wind over the coming decades to deliver the 2045 net zero ambition. Critically, the OWPS does not just want developers to deliver onshore wind energy in isolation. Proposals need to maximise the economic, social and environmental benefits too, to help the just transition to a net zero society.

## 5.6 Draft Scottish Energy Strategy and Just Transition Plan

5.6.1 The Scottish Government published the Draft Energy Strategy & Just Transition Plan (hereafter referred to as the Draft SES) for consultation purposes in January 2023. In due course, this will replace the 2017 SES which is discussed in EIA Report Chapter 5. While the Draft SES may be subject to change following consideration of responses to an earlier consultation exercise, brief commentary is merited here on certain aspects of its content.

5.6.2 The Ministerial Foreword describes the 2020s as a 'decisive decade' when we must deliver an energy system that meets the challenge of becoming a net zero nation by 2045. It notes the need to reduce dependency on oil and gas, as a means of combating the climate crisis and reducing our exposure to global market volatility in the energy market, which has seen energy prices increase significantly since the start of the Ukraine war in 2022. The Draft SES seeks to reduce energy costs in the long term and reduce the likelihood of future energy cost crises. It also seeks to achieve the transition to a net zero society in a just manner, so that the employment and economic opportunities associated with it are fully realised.

5.6.3 The overall vision is that by 2045:-

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

5.6.4 A series of actions are listed on page 24 to achieve this vision, including the need to *'significantly scale up renewable energy production, including on-and offshore wind power, renewable hydrogen, marine energy, solar and hydro'* (underlining added).

5.6.5 Meeting the anticipated increase in demand for domestic electricity forms a key component of the Draft SES, but exporting electricity generated in Scotland is recognised as an economic opportunity.

5.6.6 Section 3.1 notes that *'increasing levels of home-grown renewable supply will make energy more affordable and ensure it is always available when we need it'*. The Draft SES is not technology specific and there are comments, aspirations and targets for different technology types. The Draft SES notes at paragraph 3.1.2 that *'taller and more efficient turbines can be deployed at both new developments and when considering the repowering of existing sites, providing significantly increased capacity, often without increasing the footprint of an existing site'*.

5.6.7 Consistent with the OWPS, the Draft SES seeks to ensure that economic benefits and benefits to communities are maximised as part of the drive to deliver significant additional onshore wind capacity. This is reflected in the wording of NPF4 Policy 11(c).

5.6.8 The need to address the nature crisis as we deploy greater volumes of onshore wind is discussed on page 66, recognising that peatland impacts of onshore wind can be significant. As such, there remains a need to balance the benefits of onshore wind deployment with impacts on carbon rich habitats.

5.6.9 In Section 3.2 'Reducing Our Reliance on Other Energy Sources', the Draft SES notes that the Scottish Government wishes to ensure the fastest possible transition from dependence on a

fossil fuel energy system to one that maximises the value we obtain from Scotland's rich and varied renewable energy resource. This section references NPF4 and states that the Scottish Government will encourage, promote and facilitate all forms of renewable energy development, both onshore and offshore.

# 6. The Development Plan Framework

## 6.1 Introduction

6.1.1 This section considers the Proposed Development against the relevant provisions of the Development Plan, which now comprises:-

- National Planning Framework 4 (NPF4), adopted in 2023;
- the Highland-wide Local Development Plan (HwLDP), adopted in 2012; and
- Inner Moray Firth Local Development Plan (IMFLDP), adopted in 2015.

6.1.2 While the IMFLDP does form part of the Development Plan, it does not contain any policies or proposals that are relevant to determination of this Application. Therefore, this Section of the Planning Statement will comment upon NPF4 and the HwLDP only.

6.1.3 The Scottish Government's Chief Planner issued a letter on 8 February 2023 relating to 'Transitional Arrangements and to provide advice on NPF4 becoming part of the statutory Development Plan'. The letter reiterates that, as per Section 13(2)(3) of the Planning (Scotland) Act 2019, in the event of any incompatibility (which is not defined) between a NPF4 provision and a LDP provision, whichever of them is later in date shall prevail. In the case of the Proposed Development therefore, in the event of any policy incompatibility, NPF4 carries greater weight in the planning balance as the more recent document.

## 6.2 National Planning Framework 4 (NPF4)(2023)

### Introduction

6.2.1 NPF4 was adopted on 13 February 2023 and now comprises the national element of the statutory Development Plan. NPF4 sets out the long-term vision for development and investment across Scotland and replaces Scottish Planning Policy (SPP) and National Planning Framework 3 (NPF3) in their entirety.

6.2.2 NPF4 sets out a list of national planning policies to assess applications, alongside national developments and spatial priorities for different regions within Scotland. NPF4 is an Outcome focused document, with each of the 33 planning policies accompanied by statements on 'Policy Intent' and 'Policy Outcomes'.

6.2.3 This marks a significant change from the status of the now replaced NPF3 and SPP, which did not form part of the statutory Development Plan. Not only has the status of the document changed, but the wording of key national planning policies has materially altered too, as discussed below.

6.2.4 There are two central themes running through NPF4 namely addressing i) the climate emergency and ii) the nature crisis. These key themes are reflected in the detailed wording of many policies, as well as their stated Intent and Outcomes. As the Ministerial Foreword notes:-

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

6.2.5 The Ministerial Foreword also notes that delivering net zero greenhouse gas (GHG) emissions is one of three 'strategic priorities' alongside addressing child poverty and delivering a wellbeing economy.

6.2.6 While not all renewable energy applications will be granted permission and there is still a need for decisions makers to apply the 'planning balance', it is clear that the introduction of NPF4 is having a material effects upon the weight that decision makers give to the global climate emergency and nature crisis. In two recent Section 36 wind farm cases, Reporters have

changed their initial recommendations to refuse permission to recommendations to approve, following the introduction of NPF4. Those two schemes are:-

- Clashindarroch II Wind Farm (Aberdeenshire); and
- Shepherds Rig Wind Farm (Dumfries & Galloway).

6.2.7 In the case of Clashindarroch II, in the post NPF4 Supplementary Report to Ministers (DPEA Reference WIN-110-2, 3 March 2023), the Reporter concluded in paragraph 2.90 that:-

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

(it is noted that the decision of the Scottish Ministers is currently subject to a challenge by way of judicial review on matters relating to consideration of impacts on wild cat)

6.2.8 While in the Shepherds Rig Wind Farm case, in that post NPF4 Supplementary Report to Ministers (DPEA Reference WIN-170-2005, 2 March 2023), the Reporter reached similar conclusions in paragraph 3.14:-

> *'… we recognise the urgent policy imperative in OWPS and NPF4 to deliver additional installed wind farm capacity. These recently published policy statements demonstrate a significant strengthening of policy support for renewable energy developments, to which the proposal would make an obvious contribution. In our original report, we found that the significant effects on the area's recreational resources should be given significant weight, to the extent that they outweighed the aims of delivering renewable energy. In the updated policy context, we find that the proposal's obvious contribution to renewable energy targets causes the benefits as a whole to now clearly outweigh the significant landscape and visual effects'.*

6.2.9 Not all post NPF4 wind farm applications have been granted permission and Ministers have refused permission for consent at sites including Clauchrie Wind Farm and Kintradwell Wind Farm. For the reasons discussed more fully in the following paragraphs, it is considered that the planning balance in the case of the Proposed Development clearly fall on the side of granting consent. Not only will the Proposed Development contribute positively to the global climate emergency (and also benefit from National Development status), it will make a positive contribution to the nature crisis, through the implementation of a variety of biodiversity compensation and enhancement measures, further details of which are set out in the OBEMP, EIA Report Appendix 8.6.

6.2.10 The positive contribution that the Proposed Development can make to addressing the twin nature and climate crises is set out in the following policy assessment. The following commentary starts with Part 1 of NPF4, working through the document in chronological order, and considering the Proposed Development against specific planning policies and wider stated outcomes and spatial priorities.

## NPF4 Part 1 – A National Spatial Strategy for Scotland 2045

6.2.11 Part 1 of NPF4 sets out the national spatial strategy and regional spatial priorities for different parts of Scotland. Six spatial principles are identified which will influence all plans and decisions as follows:-

- Just Transition;
- Conserving and Recycling Assets;
- Local Living;
- Compact Urban Growth;
- Rebalanced Development; and

- Rural Revitalisation.

6.2.12 Application of these spatial principles will support the planning and delivery of:-

- Sustainable Places – where we reduce emissions, restore and better connect biodiversity;
- Liveable Places – where we can all live better, healthier lives; and
- Productive Places – where we have a greener, fairer and more inclusive wellbeing economy.

6.2.13 The commentary in NPF4 on 'Sustainable Places' is the most relevant section of Part 1 to this application. Page 6 notes the legislative basis for Scotland's net zero GHG emissions target by 2045.

6.2.14 As a headline objective, the commentary on page 7 states that '*Scotland's future places will be net zero, nature-positive places that are designed to reduce emissions and adapt to the impacts of climate change, whilst protecting, recovering and restoring our environment'*.

6.2.15 Page 7 states that '*every decision on our future development must contribute to make Scotland a more sustainable place'* and there is encouragement for the expansion of renewable energy generation. To respond to the global biodiversity crisis, '*nature recovery must be at the heart of future places*' (page 7).

6.2.16 In the 'Cross-Cutting Outcome and Policy Links' Box on page 8 'Reducing Greenhouse Gas Emissions', NPF4 states that:-

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

6.2.17 In the 'Cross-Cutting Outcome and Policy Links' Box on page 9 'Improving Biodiversity', NPF4 notes that the nature crisis and the global climate emergency underpin the spatial strategy as a whole.

6.2.18 These Policy Link Boxes clarify how NPF4 will help achieve the stated Outcomes through reference to relevant policies and summary commentary on each. The Proposed Development responds positively to both these challenges by providing National Development scale renewable energy generation, combined with biodiversity improvements across a sizeable area, extending to some 678 ha.

6.2.19 Those NPF4 policies of most relevance to the Proposed Development are discussed in the section below on NPF4 Part 2.

## NPF4 Part 2 – National Planning Policy

6.2.20 Part 2 of NPF4 sets out the national planning policies. There are 33 national planning policies in total, set out under the three headings of:-

- Sustainable Places;
- Liveable Places; and
- Productive Places.

6.2.21 For each policy, NPF4 provides commentary on Policy Intent, Policy Outcomes and then discusses implications of the policy for Local Development Plans. Following the policy wording, NPF4 then sets out statements on Policy Impact and cross references to other Key Policy Connections.

6.2.22 Those policies considered to be of relevance to the Proposed Development are discussed in the following paragraphs, starting with Policy 11 'Energy', being the most relevant in this case. Thereafter, commentary on policies follows in numerical order.

### *Policy 11: Energy*

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

> *'encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS)'*

6.2.24 The Policy Outcomes are the *'expansion of renewable, low-carbon and zero emissions technologies'.*

6.2.25 To achieve these Outcomes, Policy 11 states in part (a) that *'development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported'*. This includes '*wind farms including repowering, extending, expanding and extending the life of existing wind farms'* outwith National Parks and National Scenic Areas (NSA) (parts (a)(i) and (b)).

6.2.26 On the basis of the above, it is considered that the Proposed Development can draw in-principle support from Policy 11 (part a). In this respect, NPF4 Part 3 states, *'where a policy states that development will be supported, it is in principle, and it is for the decision maker to take account of all other relevant policies*'. It is also recognised that each application must be treated on its own merits, having regard in particular to the assessment criteria in part (e) of Policy 11.

6.2.27 These criteria are discussed below in Table 2, but what is important to highlight at this point is that the final part of Policy 11(e) requires decision makers to give 'significant weight' to the contribution that a proposal makes to '*renewable energy generation targets and on greenhouse gas emissions reduction targets'.* As already noted, the relatively new policy requirement has seen Reporters change recommendations on two recent wind farm cases, at Clashindarroch II Wind Farm and Shepherds Rig Wind Farm, with the weight given to these matters in the planning balance sufficient to outweigh identified environmental effects.

6.2.28 Part (c) of Policy 11 deals with the socio-economic impacts of renewable energy and low carbon proposals. It states that *'proposals will only be supported where they maximise net economic-impact, including local and community socio-economic benefits such as employment associated business and supply chain opportunities'*.

6.2.29 The socio-economic benefits associated with the Proposed Development are set out Chapter 13 of the EIA Report. During the development and construction phase, it is estimated that the Proposed Development could generate up to:

- £10.8 million Gross Value Added (GVA, a measure of economic activity) and 155 job years (a job year being equivalent to one person employed for a year) in Highland;
- £17.8 million GVA and 260 job years in Scotland (including Highland); and
- £32.6 million GVA and 475 jobs across the UK (including Scotland).

6.2.30 During each year of the operational phase, it was estimated that the Proposed Development could generate up to:

- £0.4 million GVA and 5 jobs in Highland;
- £1.6 million GVA and 15 jobs in Scotland (including Highland); and
- £2.3 million GVA and 25 jobs across the UK (including Scotland).

6.2.31 In line with Scottish Government recommendations, the Applicant has committed to offering £5,000 per MW per year in community benefits for the local area. This is equal to around £288,000 annually, or £10.1 million during a 35-year operational lifetime. How that money is spent will ultimately be a matter for local communities to decide. The Applicant has undertaken extensive discussions with local stakeholders about community needs and aspirations for the

local area. There is a desire to use funds for long-term sustainable projects – such as the development of affordable housing and investing in community buildings. Should consent be granted, the Applicant would work with local communities to ensure the most appropriate structures are set up to ensure that the community benefits fund can be used in a way that meets with local community expectations and ultimately helps to facilitate community wealth building (see also later commentary on NPF4 Policy 25).

6.2.32 Over and above these benefits, it is important to recognise the strategic importance of the Proposed Development (as a defined National Development) to the provision of a more secure supply of energy for the UK, which in itself will have important economic benefits for society by reducing our exposure to fluctuating energy supplies on the global market.

6.2.33 Taking the above into account, it is considered that the Applicant has done what it reasonably can at this stage to maximise the socio-economic benefits of the Proposed Development consistent with Policy 11 part (c), noting the commitment to working closely with stakeholders further should consent be granted to ensure the community benefit is targeted to those projects and initiatives with clear community backing.

6.2.34 Part (d) of Policy 11 confirms that proposals that impact on international or national designations will be assessed in relation to Policy 4. Commentary on Policy 4 is set out below.

6.2.35 Part (e) of Policy 11 sets out a list of factors to be considered in the assessment of renewable energy and zero emissions proposals. This list is very similar to that set out in paragraph 169 of SPP and in some cases includes identical language to paragraph 169 of SPP. Part (e) of Policy 11 requires applicants to demonstrate how various factors have been addressed through design and mitigation. The Proposed Development is assessed against these factors in Table 2 below.

6.2.36 In discussing the criteria in Policy 11(e), the Reporter in the Glendye Wind Farm report (DPEA Reference WIN-110-3, 2 May 2023) noted in paragraph 9.129 that:-

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

***Table 2: Commentary on NPF4 Policy 11 Part (e)***

| *Policy Criteria* | *Commentary* |
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| Policy 11(e)(i)<br><br>Impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker. | The effects of the Proposed Development on these receptors are considered in EIA Report Chapters 6 'Landscape and Visual' and 11 'Noise and Vibration'. Due to the distances between turbines and residential properties, shadow flicker was scoped out of the EIA Report, as explained in EIA Report Chapter 4 'Approach to EIA'.<br><br>EIA Report Chapter 11 states that the closest noise sensitive receptor (NSR) to construction and decommissioning activities, is located 3.6km away. As such, noise effects associated with construction and decommissioning of the Proposed Development were scoped out of assessment. The operational noise assessment considered noise arising from operation of the wind turbines in line with ETSU-R-97. The assessment concludes that predicted wind turbine noise levels associated with operation of the Proposed Development meet derived day and night-time noise limits at all the identified representative NSRs, for all wind speeds. Noise effects due to operation, including cumulative, are therefore not significant |

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| | and no specific mitigation is proposed beyond appropriate specification of the final turbine model.<br><br>EIA Report Chapter 6 (the LVIA) confirms that a residential visual amenity assessment (RVAA) was not undertaken because the closest residential property is located 3.6km from the nearest turbines, beyond the distant at which the relevant Landscape Institute Technical Guidance Note recommends an RVAA be undertaken (2km). Of all the settlements within the vicinity of the site considered in the preliminary assessment in the LVIA, Table 6.9, only Fort Augustus was taken forward for detailed assessment. All other settlements either had no theoretical visibility of the Proposed Development or limited such that there is no potential for significant effects to arise.<br><br>Viewpoints (VPs) 6 and 7 were used as locations from which to assess the impact upon Fort Augustus, both located approximately 8km away from the nearest turbines. That assessment concluded that there would be no significant effects (including cumulative) upon residents at these two locations arising from the Proposed Development. |
| Policy 11(e)(ii)<br><br>Significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. | This part of Policy 11 notes that proposals will generally be acceptable where **significant** landscape and visual effects are localised and/or appropriate design mitigation has been applied. The policy does not require that all landscape and visual effects need to be localised to be acceptable. Where appropriate design mitigation has been applied and effects extend beyond what may be considered localised, then these too will generally be found to be acceptable.<br><br>Secondly, this part of Policy 11 makes it clear that where significant landscape and visual effects are localised and/or design mitigation has been applied, the expectation is that these effects will generally be considered acceptable. The corollary is that it would be unusual for such effects to be considered unacceptable.<br><br>The LVIA in EIA Report Chapter 6 explains the approach to site design and demonstrates that appropriate design mitigation has been applied, in order to avoid where possible and then reduce in extent the spread of landscape and visual effects. The following key points are worthy of note:<br><br>• The Proposed Development design is compact and contained within a single upland landscape plateau;<br><br>• The turbine layout has been designed to minimise significant effects on landscape and visual receptors by setting turbines back from the Great Glen and settled landscape of Fort Augustus;<br><br>• The compact nature of the layout means it would appear as a relatively small component of the very wide skyline formed by the broad upland plateau on which it is located; and<br><br>• An agreed reduced aviation lighting strategy has been agreed which means that visible aviation lighting is needed on four of the wind turbines only: T1, T2, T7 and T8. The effects of visible aviation lighting have been minimised to very few locations where they would be visible by the local population including on nearby settlements and roads |

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| | As a result of these measures it is concluded in the LVIA that significant landscape and visual effects of the Proposed Development would be contained within a **localised area** around the site, as summarised in paragraph 6.1.2 of EIA Report Chapter 6. Significant landscape character effects are assessed to occur within a maximum of 5km from the nearest turbine of the Proposed Development. Significant visual effects have been identified as occurring out to a range of 5.5km, however the majority of significant visual effects are contained within around 4km of the nearest turbines.<br><br>EIA Report Figure 6.5 shows the location of the site relative to designated landscapes and WLAs. This shows that the site is not located within any designated landscape area, but the turbines are located within the Braeroy-Glenshirra-Creag Meagaidh WLA. There are several Special Landscape Areas (SLAs) with 15km of the site, while the boundary of the Cairngorms National Park is located approximately 12.5km to the east. The Glen Affric and Ben Nevis and Glen Coe NSAs are located further away again.<br><br>The impacts of the Proposed Development upon these designations and WLAs is discussed against NPF4 Policy 4 (c) and (g), but in summary no significant effects upon any landscape designation are identified. Some localised effects upon parts of the WLA19 are noted.<br><br>The visual effects of the Proposed Development were considered from 21 representative viewpoints (VPs) where photomontages were produced and a further four wireline only VPs, see EIA Report Tables 6.3 and 6.4. The LVIA concluded that significant visual effects have been identified at six of these representative VPs, with significant effects found to extend to around 5.5km to the south and 4.5km to the north. The significant visual effects are largely as a result of closer proximity views from higher sensitivity recreational receptors, such as the Corrieyairack Pass and General Wades Military Road.<br><br>Significant visual effects as a result of aviation lighting are identified at VP21 only, located 0.92km from the nearest turbine and representative of recreational walkers. The LVIA considers that this would arise only in the scenario where the 2,000 candela (cd) lights are in operation, although in reality it is extremely unlikely that 2,000 cd will ever be experienced at its full intensity as it will only operate when visibility is reduced by climatic conditions. No significant effects would arise in the 200cd scenario. A detailed aviation lighting assessment is set out in EIA Report Appendix 6.3.<br><br>EIA Report Figure 6.4 shows the site relative to Landscape Character Types (LCTs). This shows that all turbines are located within the LCT 236 Smooth Moorland Ridges. Site access infrastructure extends northwards across LCT221 Rolling Uplands-Inverness and into LCT 225 Broad Steep-Sided Glen. The LVIA undertook an initial appraisal of the likely visibility of the Proposed Development across LCTs before selecting ten LCTs for detailed assessment, as presented in EIA Report Table 6.7. That detailed assessment found that significant effects on landscape character would arise across two LCTs, namely LCT221 and LCT236. These significant effects on landscape character extend to a localised area extending to a maximum of 5km only, beyond which effects are not considered significant. |

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| | Overall, as is to be expected for a commercial scale wind farm some significant landscape and visual effects will arise with the Proposed Development. As a result of the application of mitigation by design, the LVIA concludes that these effects can reasonably be described as 'localised'. There is no guidance as to what constitutes 'localised' in the context of this policy, and it will be for the decision maker to consider this on a case by case basis but further commentary on this is set out in the later discussion on NPF4 Policy 4. In this case, the LVIA considers that these effects are localised and limited in severity. As such, the LVIA considers that the landscape is capable of accommodating the Proposed Development where the ZTV shows that the extent of landscape and visual effects is not widespread, see EIA Report Figure 6.10. |
| Policy 11(e)(iii)<br><br>Public access, including impact on long distance walking and cycling routes and scenic routes. | There are several long-distance walking routes in the LVIA study area including The Affric Kintail Way; Cape Wrath Way; The East Highland Way; Great Glen Way; Scottish National Trail; South Loch Ness Trail; and West Highland Way. These are shown on EIA Figures 6.7 and 6.8. These Figures also shown the routes of Core Paths. As these two Figures show, no route or access traverses the site, with the exception of a small section of the Scottish National Trail which overlaps with the site boundary to the north, near the access. In addition, to the west of the proposed site access junction there is a path known as the Corrieyairack Pass which runs between Laggan and Fort Augustus, following the path of the old General Wade Military Road.<br><br>Appendix 12.1 'Transport Assessment' notes that a Path Planning Study can be undertaken post consent, if required, leading to the production of an Outdoor Access Management Plan, which would specify mitigation measures deemed necessary to avoid any conflict between construction traffic and path users, e.g. crossing points, diversions, barriers, advanced warning signs etc. An Outline Outdoor Access Management Plan is submitted as EIA Report Appendix 3.2.<br><br>All potential effects upon these receptors are of an indirect nature, arising as a result of potential visibility of the Proposed Development. Of the routes within the LVIA Study Area, two were taken forward for detailed assessment in the LVIA following preliminary assessment, namely the Great Glen Way and the Scottish National Trail. All other routes were discounted from detailed assessment due to there being no theoretical visibility of the Proposed Development or the Proposed Development was considered to have a limited level of influence or would not give rise to potentially significant effects, see EIA Report Table 6.11.<br><br>The LVIA concludes that for the Great Glen Way (VP11), the effect on recreational receptors at this viewpoint is considered to be moderate and not significant. Effects upon the Scottish National Trail are assessed as part of the assessment of the Corrieyairack Pass assessment as the route through the Corrieyairack Pass is recognised as part of the Scottish National Trail. VPs1 and 2 were used to inform this assessment. The effect on recreational receptors at these two VPs and on this stretch of the Scottish National Trail is considered to be major and significant, given their proximity to the Proposed Development, both under 2km from the nearest turbines. |

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| | EIA Report Chapter 13 'Socio-economics' considers the effects of the Proposed Development upon a range of recreational and tourism receptors, including the two aforementioned routes. That assessment draws in part upon the findings of the LVIA. The Chapter 13 assessment considers that while visual impacts may be important, the use of the routes is not dependent on them. It considers that the identified significant visual effects will not have permanent or long-term effects on the routes and no significant effects are predicted in terms of recreational usage of the routes. No significant effects upon the recreational value of other walking or cycling routes were identified in EIA Report Chapter 13. |
| Policy 11(e)(iv)<br><br>Impacts on aviation and defence interests including seismological recording. | EIA Report Chapter 14 'Aviation' considers impacts of the Proposed Development upon these interests. As that assessment confirms, engagement with aviation stakeholders has been undertaken through the design evolution phase. The nearest significant aerodrome to the site is Inverness Airport over 63km to the north-east. As such, the site is located beyond the limits of physical safeguarding surfaces for all aerodromes. There are also no potential impacts to key military or civil radar installations.<br><br>Consultation with the MOD confirmed that wind turbines require to be fitted with MOD accredited lighting. A lighting design which has been approved by all aviation stakeholders is set out in EIA Report Appendix 14.1. In summary, this involves the installation of visible aviation lighting on turbines 1, 2, 7 and 8. In addition, infra-red lights to MOD specification will be installed on the nacelles of all eight turbines.<br><br>As a result of this mitigation, there will be no residual effects upon aviation or defence interests. |
| Policy 11(e)(v)<br><br>Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised. | EIA Report Chapter 4 confirms that impacts upon telecommunications interests were scoped out of the EIA following early engagement with telecommunication link operators. EIA Report Table 4.2 provides a summary of the consultation responses from these consultees. As such, no impacts upon any telecommunications or broadcasting installations are predicted. |
| Policy 11(e)(vi)<br><br>Impacts on road traffic and on adjacent trunk roads, including during construction. | Impacts of the Proposed Development arising as a result of traffic generation are considered in EIA Report Chapter 12 'Traffic and Transport'. The associated Study Area is shown on EIA Report Figure 12.1.<br><br>All abnormal indivisible loads (AIL) traffic will access the Proposed Development via the A82(T) from the Port of Entries (POEs) at Kyle of Lochalsh Harbour and Corpach Harbour, utilising proven abnormal load routes. These routes to site are shown on EIA Report Figure 12.4, while the Route Survey Report (Appendix 12.1) indicates that the AIL delivery route from the POEs will require small scale and temporary remedial works at a number of locations along the identified delivery route to facilitate delivery of the turbine components.<br><br>The traffic assessment finds that the maximum traffic impact associated with the construction phase is predicted to occur in Month 10. During this month, an average of 72 HGV movements is predicted per day and it is estimated that there will be a further 46 car and light van movements per day to transport construction workers to and from the site. Table |

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| | 12.10 in Chapter 12 provides a summary of the projected total number of vehicles that will arise during the construction phase, with percentage increases at various locations along the road network also identified. Predicted percentage increases on the road network during the construction phase are less than 3.5%, except on the on the U1667 Ardachy Road, where the site access will be located. Here, total traffic movements are predicted to increase by 181.2%. Whilst this increase is high, it is generally caused by the relatively low HGV flows on the road at this location.<br><br>Table 12.11 of the EIA Report sets out a review of the existing theoretical road capacity at the survey locations within the Study Area. The results of this indicate there are no road capacity issues with the addition of construction traffic and significant spare capacity exists within the trunk and local road network to accommodate all construction phase traffic, including on the U1667 Ardachy Road. These findings also relate to a scenario when the construction phases of cumulative wind farms may overlap – in such cases, the assessment found that there would be more than sufficient spare road capacity to accommodate all schemes being constructed at the same time.<br><br>Traffic levels during the operational phase of the Proposed Development will be very low, anticipated to be up to two vehicles per week for operation and maintenance purposes.<br><br>With the implementation of appropriate mitigation, such as a Construction Traffic Management Plan (CTMP), no significant residual effects are anticipated in respect of traffic and transport issues. |
| Policy 11(e)(vii)<br><br>Impacts on historic environment. | EIA Report Chapter 10 'Cultural Heritage' considers potential impacts arising from the construction and operational phases of the Proposed Development. It considers potential direct impacts (e.g. disturbing archaeology) as well as indirect effects (impacts upon the setting of historic environment assets). The assessment considers potential impacts within an Inner Study Area (ISA) and an Outer Study Area (OSA). The ISA corresponds with the Culachy Estate boundary, encompassing the site boundary, as shown on EIA Report Figure 10.1. The OSA is based on a ZTV of the proposed turbines, as shown on Figure 10.4.<br><br>Following mitigation, the assessment concludes that there will be no significant direct or indirect (setting) residual effects upon any cultural heritage interests. A direct physical impact is predicted upon one heritage asset of post-medieval date within the site itself. The asset comprises a bank associated with a farmstead; however, the assessment concludes that the effect upon this receptor would be of no greater than minor significance.<br><br>There are a number of Listed Buildings, Conservation Areas, Scheduled Monuments and non-designated assets within the ISA and OSA as described in Section 10.6 of EIA Report Chapter 10. A Stage 1 Setting Assessment was carried out in order to consider whether further detailed assessment would be required for heritage assets based on whether they may be affected by the Proposed Development, through changes withing their setting. This Stage 1 Setting Assessment was discussed with consultess and found that there may be effects through changes within their setting on the significance of five |

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| | Scheduled Monuments which comprise sections of the Corrieyairack Pass:<br>• SM6140 Corrieyairack Pass, military road, watershed to Allt Lagan a'Bhainne;<br>• SM6141 Corrieyairack Pass, military road, Allt Lagan a'Bhainne to Black Burn;<br>• SM6142 Corrieyairack Pass, military road, Black Burn to Connachie Burn;<br>• SM6143 Corrieyairack Pass, military road, Connachie Burn to Culachy; and<br>• SM6128 Corrieyairack Pass, military road, Allt Ruadh to watershed.<br>No other heritage assets such as Listed Buildings or Conservations Areas were considered likely to experience significant effects upon their settings.<br>Each of these sections of the Pass were subject to detailed assessment. The assessment found effects of negligible significance upon two Scheduled Monuments:-<br>• SM6143 Corrieyairack Pass, military road, Connachie Burn to Culachy; and<br>• SM6128 Corrieyairack Pass, military road, Allt Ruadh to watershed.<br>Effects of minor significance were found upon three Scheduled Monuments:-<br>• SM6140 Corrieyairack Pass, military road, watershed to Allt Lagan a'Bhainne;<br>• SM6141 Corrieyairack Pass, military road, Allt Lagan a'Bhainne to Black Burn; and<br>• SM6142 Corrieyairack Pass, military road, Black Burn to Connachie Burn.<br>All of these effects are considered not significant in EIA terms. The assessment further considers that taking these scheduled sections of the Corrieyairack Pass together as one asset, an overall residual adverse operational effect of minor significance is predicted. This is also not considered significant in EIA terms. |
| Policy 11(e)(viii)<br>Effects on hydrology, the water environment and flood risk. | EIA Report Chapter 9: 'Hydrology, Geology and Hydrogeology', considers the potential impacts of the Proposed Development upon these receptors, including peat. It is accompanied by associated appendices addressing peat landslide risk; peat management; watercourse crossings, private water supply etc. Potential effects upon peat are discussed in the later commentary on NPF4 Policy 5 'Soils'.<br>A comprehensive suite of embedded mitigation and best practice measures has been incorporated into the design of the Proposed Development, referred to as 'embedded mitigation' and summarised in Section 9.9 of EIA Report Chapter 9. In addition, it is proposed that a range of good practice measures will be adopted during construction to further minimise the potential for significant effects upon hydrology and the water environment. These measures are set out in an Outline Construction Environmental Management Plan (OCEMP), submitted as Appendix 3.1. Should consent be granted, it is expected a detailed CEMP would be |

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| | submitted for approval prior to the commencement of development.<br><br>While the SEPA Flood Maps do show the likelihood of fluvial and pluvial flood risk across parts of the site, the assessment in Chapter 9 considers that the risk of significant impacts from flooding is very unlikely. A separate Flood Risk Assessment is not considered necessary and flood risk was scoped out of further assessment (See Section 9.7 of EIA Report Chapter 9). Notwithstanding, best practice measures to prevent the increase of flood risk are included within the submission, including appropriate design of watercourse crossings.<br><br>Two private water supplies (PWS) were identified on site which were scoped into the assessment, see EIA Report Table 9.6. These are located at Ard Aluinn and Culachy Estate. An assessment of the potential effects on these receptors is set out in Appendix 9.6 'Private Water Supply Risk Assessment'. A potentially significant effect was identified upon the PWS at Ard Aluinn, which necessitates additional mitigation including water quality monitoring of the PWS at its source and supply for the duration of the construction period. Details of these additional mitigation measures are set out in Appendices 3.1 and 9.6. Following the adoption of mitigation measures, no significant residual effects upon PWS are anticipated.<br><br>Overall, Chapter 9 concludes that residual effects on geology, hydrology and hydrogeology receptors following the implementation of mitigation measures range between minor and negligible and are therefore not significant |
| Policy 11(e)(ix)<br><br>Biodiversity including impacts on birds. | Effect upon biodiversity and birds are considered EIA Report Chapters 7 'Ornithology' and 8: 'Ecology'. Both chapters confirm that the Proposed Development has been designed to minimise impacts upon ornithological and biodiversity interests, (including protected species and designated sites) as far as practicable, achieved through embedded mitigation and an iterative design process.<br><br>In terms of bird interests, EIA Report Chapter 7 confirms that as a result of the implementation of these embedded mitigation measures the only species taken forward for detailed assessment were black grouse, golden eagles and golden plover. The only potentially significant effect that was identified in the assessment was disturbance/displacement to black grouse during the construction phase. All other effects during construction or operation on black grouse, golden eagle and golden plover are predicted to be not significant. No significant effects upon statutory designated sites were identified either.<br><br>To address these significant effects upon black grouse, the OBEMP submitted as Appendix 8.6, sets out a range of measures to enhance the habitat for this species within Management Unit B (see EIA Report Figure 3.2), involving the planting of native broadleaved woodland to optimise habitat for black grouse. The assessment in EIA Report Chapter 7 concludes that adverse effects on black grouse would be expected to reduce to non-significant levels. The assessment also concludes that the BEMP will provide enhanced habitat for foraging golden eagles and breeding golden plover. |

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| | Overall, no significant adverse residual effects would arise from any phase of the Proposed Development upon any ornithological species.<br><br>EIA Report Chapter 8 considered potential impacts upon biodiversity, including protected species and statutory designated sites. As with Chapter 7, that assessment noted that as a result of the implementation of embedded mitigation and a careful approach to an iterative design, it was possible to scope-out many receptors from detailed assessment. No protected species were taken forward for detailed assessment and the assessment concluded that there would be no significant effects upon statutory designated sites. The receptors taken forward for detailed assessment were ancient woodland, blanket bog and wet modified bog. Impacts upon ancient woodland are discussed below in criteria (e)(x) and also later in response to NPF4 Policy 6 'Forestry, Woodland and Trees'.<br><br>Chapter 8 confirms that there is the potential for effects upon these three receptors during the construction phase, as a result of habitat loss and some indirect drainage effects. However, even before the implementation of mitigation measures, these effects would not be significant in EIA terms (see EIA Report Table 8.10). Mitigation measures set out in the OBEMP are considered to be positive overall for blanket bog and wet modified bog. To compensate for effects on ancient woodland, the Applicant is proposing new woodland creation as detailed in Appendix 3.3. The details of this are discussed below in in criteria (e)(x), but in summary the area proposed for new planting would exceed that lost to the Proposed Development. |
| Policy 11(e)(x)<br><br>Impacts on trees, woods and forests. | There is limited woodland within the site that could be potentially affected by the Proposed Development. As the Proposed Development proposes to utilise existing tracks the level of disturbance to woodland is considered to be negligible. For the purposes of the EIA, a 20m operational disturbance corridor has been adopted, which results in an area of 1.53ha of woodland that has the potential to be affected by the construction phase works. This area comprises an element of ancient woodland, 0.32ha of which would potentially be affected by construction works. Due to the sparse layout of trees in this area, the actual number of trees likely to be felled from within the ancient woodland is expected to be two or three mature trees. EIA Report Figure 3.1 shows the location of a small area of designated Ancient Woodland potentially affected by construction works, within the northern part of the site, and close to the route of the proposed access track.<br><br>There is the potential for the direct loss of and disturbance to parts of this ancient woodland for permanent track infrastructure, leading to a reduction in the extent of ancient woodland habitat and associated biodiversity.<br><br>Overall, EIA Report Chapter 8 considers the effect of woodland felling to be a minor adverse and not significant effect. To compensate for this area of potential felling, an area of compensatory planting is proposed on land adjacent to the Glen Tarf SSSI (see Map 8 in Appendix 3.3). This area extends to 3.88ha and woodland creation would be achieved through natural regeneration. This area of compensatory planting exceeds the area potentially affected by construction |

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| | works and exceeds compensatory planting guidelines in the Control of Woodlands Policy. |
| Policy 11(e)(xi)<br>Proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration. | These matters can be covered by planning conditions as deemed necessary. |
| Policy 11(e)(xii)<br>The quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans. | This matter can be covered by planning conditions consistent with other projects across the country. |
| Policy 11(e)(xiii)<br>Cumulative impacts. | Each chapter of the EIA Report considers the potential for and significance of cumulative impacts associated with the Proposed Development. These are summarised in Table 16.3 of EIA Report Chapter 16 'Residual Effects'. As this Table confirms, very few cumulative effects are identified in the EIA Report and none of these are cumulatively significant.<br>The LVIA does however, identify some potential cumulative effects and these are summarised in EIA Report Table 16.4. The LVIA in EIA Report Chapter 6 notes that there are no consented or application cumulative wind energy developments in close proximity to the Proposed Development. Where consented cumulative schemes are visible from key landscape and visual receptors, they would appear within a context and backdrop of existing wind energy development, substantially limiting their cumulative influence when considering the additional effect of the Proposed Development.<br>It is, however, recognised that for landscape and visual receptors the Proposed Development would contribute more notably to an increased awareness of cumulative wind energy development. Significant landscape and visual cumulative effects are identified for one LCT (LCT221) and some VPs (VPs 1, 3, 4, 5, 13 and 20). There would be no significant cumulative effects upon any landscape designation.<br>The LVIA cumulative assessment states that in the authors opinion, the addition of the Proposed Development would result in the redefining of a localised area of upland landscape (focussed around the site area), including the northern part of WLA 19 as a 'wind farm landscape character type' at a localised level but not in the wider landscape context where the 'landscape with wind farms' characteristic would be maintained at the regional level and as such would not give rise to a perception of a 'wind farm landscape' in the central highlands. |

6.2.37 As this commentary demonstrates the Proposed Development can be positively considered against the Policy 11 part (e) criteria.

6.2.38 NPF4 Policy 11 now explicitly recognises in national planning policy that significant landscape and visual impacts *'are to be expected for some forms of renewable energy'*. Policy 11 also notes that proposals will generally be acceptable where significant landscape and visual effects are localised **and/or** appropriate design mitigation has been applied.

6.2.39 In the absence of any guidance on what defines 'localised' within the context of Policy 11(e)(ii), the Applicant's position is that the significant landscape and visual effects of the Proposed Development could reasonably be described as localised (that is the term used in the LVIA), most being confined to within approximately 5.5km of the site. In support of this position, reference is made to the Reporters Report in respect of the Glendye Wind Farm. In that case, the majority of significant landscape and visual effects were confined to 5km of the closest turbines. In paragraph 3.284 the Reporters stated that:-

*'We consider these effects to be localised'.*

6.2.40 Scottish Ministers agreed with those conclusions in their decision letter (27 October 2023) noting that these localised significant landscape and visual effects, do not outweigh the overall benefits of the proposal.

6.2.41 Positive effects would arise as a result of the Applicant's proposed compensation and enhancement activities, which are spread across four key areas and cover an area of 678ha. These matters are discussed further below in relation to NPF4 Policy 3.

6.2.42 To add to this commentary, it is relevant to note that at the end of the part (e) assessment criteria after part (xiii), Policy 11 states that:-

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

6.2.44 Whereas previously it was down to the discretion of individual decision makers about what weight they decided to give to a particular matter, Policy 11 now explicitly states that as a matter of national planning policy, they must give significant weight to the renewable energy benefits (including storage) of a scheme in the planning balance (this is also set out in Policy 1 which also addresses the nature crisis and is discussed below).

6.2.45 The strength of this new policy has been demonstrated in the aforementioned Shepherds Rig and Clashindarroch II Wind Farm cases, where previous recommendations too refuse permission were amended to recommendations for approval, following the adoption of NPF4 and those Reporters giving 'significant weight' to the project benefits in the planning balance.

6.2.46 In considering Policy 11 overall, it is important to remember that the stated policy Outcome is:-

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

6.2.47 Following the policy summary in Table 2 it is considered that the Proposed Development can be positively assessed against the individual criteria of Policy 11 individually and when the policy is considered in the round.

### *Policy 1: Tackling the Climate and Nature Crises*

6.2.48 Policy 1 states in full that:-

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

6.2.49 The Policy Intent is to *'encourage, promote and facilitate development that addresses the global climate emergency and nature crises'*. The Policy Outcomes are *'zero carbon, nature positive places'.*

6.2.50 This policy applies to all forms of development and not just renewable energy and infrastructure proposals. The reference to the need to give 'significant weight' to the global climate and nature crises in this overarching policy aligns with but goes further than Policy 11, which does not specifically mention the nature crisis.

6.2.51 The language of this overarching policy is very clear and shows the seriousness with which Ministers are treating these two fundamental issues.. Combined with the Policy Intent and Policy Outcomes, there can be no doubt about what this policy is designed to achieve and what it requires of decision makers. It clear that there is no longer any discretion about what weight should be given to these matters in the planning balance, and this marks a notable and significant shift in national planning policy which has been put into practice by Reporters and Ministers on recent wind farm cases.

6.2.52 For example, in their assessment of Policy 1 in the Glendye Wind Farm case, the Reporters noted in paragraph 9.100 that:-

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

6.2.53 In discussing NPF4 Policy 1 they continued in paragraph 9.109 and stated that:-

> '*The national development status of the proposed development, which clearly identifies that the proposal is capable of providing strategic-scale renewable energy generation, leads us to conclude that its contribution to the achievement of net zero must be given significant weight under the terms of the policy'.*

6.2.54 The proposed wind turbines will generate around 57.6MW of renewable electricity supported by a 10MW BESS, a national scale development. Combined, these two elements will help meet the Scottish Government's renewable energy generation targets in the post 2020 period and the net zero legal obligations by 2045. The inclusion of a BESS will also help facilitate the creation of a more flexible energy system, helping the development of more 'home grown' energy and ultimately moving towards a more secure energy supply in the future. The Proposed Development is a National Development as defined in Annex B of NPF4.This is discussed below.

6.2.55 Biodiversity improvements are an integral part of the Proposed Development, not an afterthought. The principles of the Applicant's biodiversity improvements are set out in the OBEMP and are discussed below on Policy 3. The dual benefits of the Proposed Development will ultimately make a positive contribution to the Policy Outcomes of Policy 1 which is to deliver 'Zero carbon, nature positive places'. These factors allow the Applicant to draw strong support from Policy 1 for the Proposed Development.

### *Policy 3: Biodiversity*

6.2.56 The Intent of Policy 3 is *'to protect biodiversity, reverse biodiversity loss, deliver positive benefits from development and strengthen nature networks'*. The Policy Outcomes are that *'biodiversity is enhanced and better connected including through strengthened nature networks and nature-based solutions'.*

6.2.57 Policy 3 sets out a range of criteria that vary depending upon the scale and type of development proposed. Part (a) applies to all scales of development and states that proposals will contribute to the enhancement of biodiversity including, inter alia, restoring degraded habitats and building and strengthening nature networks and the connections between them. Part (b) relates to *'national or major development or for development that requires an Environmental Impact Assessment'*. This part of Policy 3 states that proposals will only be supported where they will

conserve, restore and enhance biodiversity *'so that they are in a demonstrably better state than without intervention'*. Part (b) continues and sets five criteria that proposals will be expected to meet. These are discussed in Table 3 below.

6.2.58 Before commenting on Policy 3(b), it is worth noting that the Scottish Government's Chief Planer issued a letter on 22 November 2023 providing an update on various planning issues. Within that letter, the Chief Planner confirms that NatureScot will shortly commence work to develop an adapted biodiversity metric suitable for use in supporting delivery of NPF4 policy 3b. For the time being therefore, there is no standard agreed national metric for considering schemes against NPF4 Policy 3b.

6.2.59 Nevertheless, a Biodiversity Net Gain (BNG) toolkit was used to quantify the scale of biodiversity improvements following implementation of the measures set out in the OBEMP, the findings of which are summarised in Table 3 below and can be reviewed in EIA Report Appendix 8.6.

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

| *Policy Criteria* | *Commentary* |
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| Policy 3(b)(i)<br>'The proposal is based on an understanding of the existing characteristics of the Site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats'. | The EIA Report accompanying the application for the Proposed Development is based upon a thorough understanding of the site and its ecological context, obtained through desk-based assessment, field work and consultation. The assessment of the impacts of the Proposed Development, mitigation measures and enhancement proposals have been informed by a significant understanding of the site built up over several years of surveys, consistent with this policy requirement. |
| Policy 3(b)(ii)<br>'Wherever feasible, nature-based solutions have been integrated and made best use of.' | NPF4 defines nature-based solutions as '…*actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits'.*<br><br>The Proposed Development proposes the creation of four key areas for improvement, three of which are discussed in detail in the OBEMP and the other in the Forestry Assessment (Appendix 3.3). The detailed commentary against the three management units in the OBEMP specifies individual aims for each area which can be summarised as:-<br><br>1. Unit A – compensate for the loss of bog habitats and include further enhancements by improving the condition of existing peatland habitat and restoring damaged habitat;<br>2. Unit B – enhancement area of black grouse, by providing suitable habitat for breeding and foraging; and<br>3. Unit C – provide improved foraging habitat conditions for the benefit of biodiversity and golden eagle.<br><br>In addition to these three management units, the Proposed Development also involves the establishment of an Ancient Woodland Expansion and Natural Regeneration Area, located outside the site to the east. This proposal is to compensate for the potential loss of trees and woodland that may be felled along the access route to facilitate delivery of wind turbine components. |

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| | It is expected that these proposals would be subject to further detailed work and development, should consent be granted and this will be secured through an appropriated worded planning condition. At this stage, it is considered that the measures outlined above are consistent with the objectives of this criterion. |
| Policy 3(b)(iii)<br>'An assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements'. | The design of the Proposed Development has sought to implement the mitigation hierarchy (NPF4 definition, page 153) and avoid features of biodiversity importance wherever possible. This approach has allowed the assessments presented in EIA Report Chapters 7 and 8 to scope out a large number of potential receptors from detailed assessment on the basis that there is no likelihood of significant environmental effects arising. Where adverse effects were identified, mitigation and enhancement measures are identified. Following implementation of these measures, both chapters conclude no significant residual effects will arise upon any receptor or designation. |
| Policy 3(b)(iv)<br>'Significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate'. | The OBEMP proposes details of measures which will conserve, restore and enhance biodiversity including nature networks. The measures go beyond mitigating the effects of the Proposed Development and include details of the measures to be adopted for each Management Unit along with proposals for future management and monitoring. It is anticipated that the final BEMP will be finalised in consultation with relevant stakeholders and landowners post consent and prior to the commencement of development.<br>A Biodiversity Net Gain (BNG) toolkit was used to quantify the biodiversity value of habitats which demonstrates net positive enhancements for biodiversity following implementation of the measures set out in the OBEMP. This calculates that there will be a 12% increase in biodiversity units gained, following the implementation of measures set out in the OBEMP when compared to the baseline situation (see Table 6.1 of the OBEMP). |
| Policy 3(b)(v)<br>'Local community benefits of the biodiversity and/or nature networks have been considered'. | The focus of the Applicant's enhancement measures have been on securing biodiversity and nature conservation benefits through the OBEMP and additional tree planting areas. Potential community benefits including wider access to the countryside were considered but feedback from the local community was a desire for community benefits to be targeted towards other types of existing initiatives and which are concerned with the development of affordable housing and investing in community buildings etc. |

### *Policy 4: Natural Places*

6.2.60 This policy sets the basis for assessing applications that affect European natural heritage designations, such as Special Protection Areas (SPAs), as well as proposals affecting National Parks and NSAs and also local level natural heritage and landscape designations. The Policy Intent is to *'protect, restore and enhance natural assets making best use of nature-based solutions*'. There are two Policy Outcomes namely (i) *'natural places are protected and restored' and (ii) 'natural assets are managed in a sustainable way that maintains and grows their essential benefits and services'.*

6.2.61 Part (a) states that proposals that have an 'unacceptable' impact on the natural environment will not be supported. Parts (b), (c) and (d) relate to European, national and local level designations. As far as natural heritage designations are concerned, EIA Report Chapters 7 and 8 concludes that there would be no adverse effects upon any natural heritage designations. The location of these designations are shown on EIA Report Figures 7.1 and 8.1 respectively. As such, no conflicts arise with these parts of Policy 4 in respect of these designations.

6.2.62 Part (c) also relates to national level landscape designations, specifically National Parks and NSAs. The policy states that proposals will only be supported where the objectives of the designation and overall integrity of the area will not be compromised, or, any significant adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

6.2.63 The site is not located within a National Park or NSA. EIA Report Figure 6.5 shows the location of these designations relative to the site. The LVIA in EIA Report Chapter 6 undertook a preliminary assessment of all landscape designations (including the National Park and NSAs) within the LVIA Study Area, to identify which should be taken forward for detailed assessment. This summary is presented in EIA Report Table 6.8. This confirms that there is no theoretical visibility from inside the National Park and from within two NSAs. While there is some theoretical visibility from within five other NSAs, EIA Report Table 6.8 considers that the extent of theoretical visibility and/or the distance over which the Proposed Development would be viewed is such that there is no potential for significant effects. The Cairngorms National Park and the various NSAs were not taken forward for detailed assessment and, as such, there are no effects on either of these national tier landscape designations to consider and no conflict with this part of Policy 4.

6.2.64 Part (d) deals with local landscape areas. This part of Policy 4 sets two considerations for decision makers when assessing proposals that affect local landscape designations. The policy states that such proposals will only be supported where:-

*'Development will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified*; *or* (underlining added)

*'Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance'* (underlining added).

6.2.65 Within Highland, local landscape designations are referred to as Special Landscape Areas (SLAs). The site is not located within a SLA but there are several in the vicinity of the site as shown on EIA Report Figure 6.5. The preliminary assessment of potential impacts upon landscape designations presented in the EIA Report Chapter 6 also included consideration of SLAs. As EIA Report Table 6.8 confirms, the potential for significant effects were identified at two SLAs which were taken forward for detailed assessment, namely:-

- Loch Lochy and Loch Oich SLA; and
- Loch Ness and Duntelchaig SLA.

6.2.66 The detailed assessment of these two SLAs in the LVIA concluded that in both cases effects would be moderate and not significant.

6.2.67 For Loch Lochy and Loch Oich SLA, the assessment concludes that the magnitude of change is predicted to be Medium-Low. It states that the experience of the key characteristics and special qualities of the SLA would only be affected to a small degree and changes would occur within the context of existing electricity infrastructure and influence of existing wind farm development.

6.2.68 For the Loch Ness and Duntelchaig SLA the magnitude of change is also predicted to be Medium-Low. The effects on the SLA special qualities would be moderate and not significant. The experience of the key characteristics and special qualities would be restricted for the vast majority of the SLA.

6.2.69 On the basis of these findings, it is considered that the Proposed Development can be positively considered against Policy 4(d). If these conclusions are not accepted, the wording of Policy 4(d)(ii) allows decision makers to still approve developments which may have a significant effect on the integrity of a local landscape designation where these effects are clearly outweighed by social, environmental or economic benefits **of at least local importance**.

6.2.70 In this instance, it is considered that the benefits of the Proposed Development are considered to outweigh any adverse effects upon the two SLAs and that these are demonstrably of at least local importance. The fact that the Proposed Development falls into the category of National Development 3 in NPF4 supports this position. The Reporters considered this issue in the Glendye Wind Farm case in relation to impacts upon an Aberdeenshire SLA. In assessing that proposal against this part of Policy 4(b), the Reporters noted in paragraph 10.7 of their report that:-

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

6.2.71 This supports the assessment above against NPF4 Policy 4(d)(ii).

6.2.72 Part (f) relates to protected species and states that the level of protection required by legislation must be factored into the planning and design of development and potential impacts must be fully considered prior to the determination of any application. As demonstrated in the EIA Report Chapters 7 and 8 subject to mitigation, no significant adverse effects on any protected species are identified.

6.2.73 Part (g) of Policy 4 is relevant as all of the turbines are located in WLA 19, although most of the access track is not. Policy 4(g) states that proposals that support meeting renewable energy targets are one of the few potentially acceptable uses in a WLA. Each proposal needs to be subject to a wild land assessment, to consider how impacts on the qualities of the WLA in question have been minimised through design, siting or other mitigation measures. A Wild Land Assessment is submitted as EIA Report Appendix 6.2 which considers the Proposed Development against each of the Wild Land Qualities (WLQs) having regard to NatureScot Technical Guidance.

6.2.74 The conclusions of the Wild Land Assessment are that the Proposed Development would give rise to some significant effects upon the WLA, but these would occur within the northern part of WLA 19 localised to within 3.5km south of the site. These effects are considered to be moderated by the existing influence of the existing BDOHL which already has an influence on the wild land qualities of a similar area that the Proposed Development would affect.

6.2.75 As EIA Report Chapter 2 'Site Selection and Design Iterations' confirms, one of the key objectives of the design process was to create as compact a wind form layout as possible to contain effects on wildness qualities to the northern corner of WLA 19, which largely aligns with areas where the BDOHL already exerts an influence. Chapter 2 notes that the BDOHL crosses the same area in which the Proposed Development turbines are located, and its large scale infrastructure already strongly influences the sense of naturalness and remoteness in the northern parts of WLA 19.

6.2.76 EIA Report Figure 2.11 shows theoretical visibility of the Proposed Development as well as the BDOHL, and combined theoretical visibility in the context of local receptors and designations, including WLA19. This Figure shows that where there is theoretical visibility of the Proposed

Development within WLA19, this largely coincides with that of the BDOHL, with some smaller pockets of theoretical visibility of the Proposed Development only. The compact design of the Proposed Development has minimised additional areas of theoretical visibility within WLA 19, such that beyond approximately 3.5km there are very limited areas within WLA19 where there is theoretical visibility of the Proposed Development only. As a result, effects on the wildness qualities of this WLA have been minimised through design consistent with Policy 4(g).

### *Policy 5: Soils*

6.2.77 The Intent of Policy 5 is to *'protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development'*. One of the Policy Outcomes seeks that *'valued soils are protected and restored'.*

6.2.78 Part (a) notes that proposals should be designed in accordance wit the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils. Part (c)(ii) notes that proposals for the generation of energy from renewable sources that optimise the contribution of the area to GHG emissions reduction targets are one of the identified land uses potentially permitted on areas of peatland, carbon-rich soils and priority peatland.

6.2.79 EIA Report Figure 6.2 shows the NatureScot Carbon & Peatland Map, which indicates the mapped presence of Class 1 and 2 nationally important priority peatlands within the site boundary. NatureScot's website[2] states that:-

*'The map is a high-level planning tool created to promote consistency and clarity in the preparation of spatial frameworks by planning authorities. The map is a predictive tool which provides an indication of the likely presence of peat on each individually-mapped area, at a coarse scale'.*

6.2.80 Part (d) sets out a requirement for a detailed site specific assessment to help understand the presence of peat and carbon-rich soils on site and to enable the likely effects of a development proposal on these resources to be considered. It continues and states that this should inform careful project design and that impacts should first be avoided and then minimised through best practice. The requirement for a peat management plan is also noted.

6.2.81 To inform the site design process the Applicant undertook extensive peat probing across the site, the results of which are shown on EIA Report Figures 9.6a to 9.6c. The surveys revealed that there are peat deposits across the site much of which is either drained (artificial drainage) or modified. Habitat surveys identified the peatland to be in degraded condition, with no specific areas of better quality near-natural peatland identified.

6.2.82 EIA Report Chapter 8 'Ecology' calculates that the Proposed Development would impact approximately 24.65 ha of degraded peatland habitat combining blanket bog and wet modified bog. An area of 424.6 ha (i.e. 17 times this amount) is proposed for restoration, which will be achieved through drain blocking and hagg stabilising.

6.2.83 EIA Report Chapter 9 is supported by a Draft Peat Management Plan (Appendix 9.2), which demonstrates in Table 4.3 that based on current calculations there is likely to be the demand for more peat for reinstatement purposes than will be generated by peat arising from construction works. While these calculations need to be revisited following site investigation works prior to the commencement of development, it is predicted that the Proposed Development will not generate surplus peat.

6.2.84 With regard to Policy 5 (d)(iii), the results of the carbon calculator (see Appendix 9.4) indicate

[2] https://soils.environment.gov.scot/maps/thematic-maps/carbon-and-peatland-2016-map/

that the Proposed Development is expected to pay back its debt from manufacture, construction, impact on habitat and decommissioning within 2 years if it replaced fossil fuel-mix electricity generation. This figure increases to 4.5 years when compared to a grid-mix scenario.

6.2.85 As noted in EIA report Chapter 3, the Proposed Development would be expected to result in a saving of approximately 86,101 tonnes of carbon dioxide ($tCO_2$) per annum when compared to a fossil fuel mix, meaning a total of over 3 million tonnes over the 35-year operational lifetime through displacement of carbon-emitting generation.

6.2.86 Overall, the Applicant's approach to site design, combined with the implementation of mitigation measures during the construction and decommissioning phases, means that the Proposed Development can be positively considered against the Outcome of Policy 5.

### *Policy 6: Forestry, Woodland and Trees*

6.2.87 The Intent of Policy 6 is to *'protect and expand forests, woodland and trees'*. One of the Policy Outcomes is '*Existing woodland and trees are protected, and cover is expanded'*.

6.2.88 While there is limited woodland cover within the site, there are pockets along the access route to the north, associated with the Connachie Burn and its minor tributaries. As the Proposed Development makes use of existing access tracks, impacts upon woodland are considered to be negligible; however, the forestry assessment presented in Appendix 3.3 assumes a 20m operational disturbance corridor along within which there is the potential to impact 1.53 ha of woodland.

6.2.89 To compensate for this area of potential felling, an area of compensatory planting is proposed on land adjacent to the Glen Tarf SSSI (see Map 8 in Appendix 3.3). This area extends to 3.88ha and woodland creation and exceeds the area of potential felling within the operational disturbance corridor. So, while some felling is necessary, overall tree cover will expand as a result of the Proposed Development which will also increase habitat connectivity within the wider Culachy Estate. This approach finds favour in Policy 6.

### *Policy 7: Historic Assets and Places*

6.2.90 This policy sets out the framework for assessing the impact of development proposals on a wide range of cultural heritage receptors. The Intent is *'to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places*'. Policy Outcomes include that *'the historic environment is valued, protected, and enhanced, supporting the transition to net zero and ensuring assets are resilient to current and future impacts of climate change'.*

6.2.91 As required by part (a), an historic environment assessment has been undertaken and the conclusions are presented in EIA Report Chapter 10 'Cultural Heritage'. As discussed in the earlier commentary on NPF4 Policy 11, the assessment presented in EIA Report Chapter 10 identified the potential for a direct physical impact upon one heritage asset of post-medieval date within the site itself, namely a bank associated with Knollbuck farmstead. The effects are not considered significant. Mitigation in the form of a watching brief during construction works is proposed, the scope of which would be agreed in advance with Highland Council. This would ensure works in the area of this asset and more generally across the site in areas of archaeological potential will be carried out under supervision. This is consistent with the approach set out in Policy 7(o).

6.2.92 The same assessment identified the potential for significant effects upon the setting of sections of the Corrieyairack Pass Military Road, which is scheduled in parts. No Listed Buildings, Conservation Areas, Garden and Designed Landscapes or other heritage receptors would experience potentially significant effects upon their setting.

6.2.93 Five scheduled sections of the Corrieyairack Pass were taken forward for detailed assessment, the results of which concluded effects upon their settings would either be minor or negligible and not significant in EIA terms.

6.2.94 With regards to NPF4 Policy 7(h), the assessment presented in EIA Report Chapter 10 concludes that the integrity of the setting of the five Scheduled Monuments would not be significantly adversely affected as a result of the Proposed Development. This is the key policy test for considering impacts upon the setting of Scheduled Monuments. There is therefore no need to demonstrate any exceptional circumstances as required by part (iii) of the Policy.

6.2.95 The findings of EIA report Chapter 10 as regards impacts upon the integrity of the setting of the Scheduled Monument are consistent with the findings of the Reporter who considered the appeal into the previous Culachy Wind Farm. In paragraph 115 of that decision the Reporter noted that the issues raised by that proposal were:-

*'primarily of visual amenity rather than of impact upon the setting of the road as a historical artefact. I am not persuaded that the proposed development would have a significant effect upon the setting of the scheduled ancient monument'.*

6.2.96 While each application must be treated on its own merits, there is nothing in the assessment presented in EIA Report Chapter 10 to suggest that the previous conclusions of the Reporter on this matter in the earlier case are no longer valid.

### *Policy 23: Health and Safety*

6.2.97 The Intent of Policy 23 is *'to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing*'. There are three Policy Outcomes including that *'safe places protect human health and the environment'*.

6.2.98 Part (d) confirms that *'development proposals that are likely to have significant adverse effects on air quality will not be supported'*, while part (e) states that *'development proposals that are likely to raise unacceptable noise issues will not be supported*'.

6.2.99 Commentary in relation to Noise and Vibration is set out in EIA Report Chapter 11. As noted in the earlier commentary on Policy 11, the closest NSR to construction and decommissioning activities is located 3.6km away. As such, noise effects associated with construction and decommissioning of the Proposed Development were scoped out of assessment. The operational noise assessment concludes that predicted wind turbine noise levels associated with operation of the Proposed Development meet derived day and night-time noise limits at all the identified representative NSRs, for all wind speeds and no significant effects are predicted.

6.2.100 Chapter 11 concludes that vibration associated with construction of the Proposed Development will be negligible at sensitive receptors given the distance between construction locations and receptors and this topic was scoped out of the EIA, in consultation with the Council.

6.2.101 In relation to air quality, the Applicant is committed to adopting good practice measures for dust management during construction and will implement these through a CEMP, thereby controlling and reducing any potential effects that dust generation may have on health. The CEMP will also set out a range of measures that the Applicant's contractor will adopt on site during construction to avoid wider environmental impacts, for example through waste storage and collection, water management, pollution prevention and incidence response measures.

6.2.102 Overall, given the location of the site remote from residential properties and the commitment to the adoption of best practice construction measures, no conflicts arise with regards to Policy 23.

### *Policy 25: Community Wealth Building*

6.2.103 The Intent of Policy 25 seeks '*To encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels'*. Policy Outcomes include '*support local employment and supply chains*' and '*support community ownership and management of buildings and land'.*

6.2.104 Part (a) of the Policy states that proposals that contribute to local or regional community wealth building strategies will be supported and part (b) states that development proposals linked to community ownership of land and buildings will be supported.

6.2.105 As already discussed in relation to Policy 11 (c), the Proposed Development will give rise to local economic benefits during the construction and operational periods. The Applicant is committed to contributing to a community benefit fund and should consent be granted, the Applicant would work with local communities to ensure the most appropriate structures are set up to ensure the fund is used in a manner that meets local community expectations.

6.2.106 EIA Report Chapter 13 concludes that the socio-economic effects arising during the construction and operational periods would be important to the local and national economies, contributing to sustainable economic growth. As such, it is considered the Proposed Development can draw support from Policy 25 and would contribute to the Policy Outcomes.

### *NPF4 Part 3 - Annex A 'Outcomes'*

6.2.107 Part 3, Annex A confirms that NPF4 is required by law to contribute to six Outcomes. These Outcomes are set out in Section 3 of the Town and Country Planning (Scotland) Act 1997 (as amended), having been amended by Section 2 of the Planning (Scotland) Act 2019. The six Outcomes are:-

(a) meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people,

(b) improving the health and wellbeing of people living in Scotland,

(c) increasing the population of rural areas of Scotland,

(d) improving equality and eliminating discrimination,

(e) meeting any targets relating to the reduction of emissions of GHGs, within the meaning of the Climate Change (Scotland) Act 2009, contained in or set by virtue of that Act, and

(f) securing positive effects for biodiversity.

6.2.108 The Proposed Development can contribute positively to Outcomes (e) and (f) through the generation of a significant amount of renewable electricity while delivering biodiversity improvements through the OBEMP and forestry creation proposals. The inclusion of a battery storage facility helps the move to a more flexible and resilient energy system by storing electricity at times when generation is high, but demand is low. This helps deliver wider targets for lower greenhouse gas emissions, more renewable energy generation and more secure energy supplies. These are material factors in support of the case for granting consent.

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

6.2.109 This part of NPF4 identifies eighteen national developments which are described as '*significant developments of national importance that will help to deliver our spatial strategy'.*

6.2.110 Of relevance to the Proposed Development is National Development 3 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. NPF4 confirms that this class of national development '*supports renewable electricity generation, repowering, and expansion of*

*the electricity grid'*. It incorporates three types of development, including '*on and off shore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity'*. The Proposed Development therefore falls within National Development 3.

6.2.111 Within the commentary under National Development 3, NPF4 states that '*a large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets'*. Under the commentary on 'Need', NPF4 states that '*additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy…*' (underlining added).

6.2.112 NPF4 also confirms that proposals within this national development category will '*improve security of supply'* (page 7). While not every national development will be granted permission, the fact that the Proposed Development falls within this category is significant in the evolution of national planning policy. This class of national development did not feature in the previous NPF3 and its inclusion in NPF4 is a clear sign that the Scottish Government clearly sees this type and scale of development as being 'of national importance' and necessary to help deliver the national spatial strategy (NPF4, page 97).

6.2.113 The national development status of the Proposed Development must be accorded considerable weight in consideration of the application, as has been applied in some recent cases where Reporters and Scottish Ministers have recognised the importance of National Development 3 to achievement of the legally binding net -zero targets. These cases include the aforementioned Glendye Wind Farm and also Shepherds Rig Wind Farm In the Reporter's Supplementary Report into this latter project, they stated in paragraph 3.13 that:-

> *'delivery of renewable energy, a national development, would clearly be a significant benefit, and one which gains significant weight from NPF4 policy 1 in relation to the climate crisis'.*

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

### *NPF4 Part 3 – Annex C 'Spatial Planning Priorities'*

6.2.115 The National Spatial Strategy is supported by commentary on five Regional Spatial Strategies, each of which will contribute in their own different ways to achievement of the National Spatial Strategy.

6.2.116 The Highland Council falls within the 'North' Regional Area and NPF4 states that this part of Scotland can continue to make a strong contribution towards meeting our ambition for a net zero and nature positive country. Page 125 of NPF4 recognises that a programme of investment in, inter alia, peatland restoration will play a key role in reducing our national emissions and supporting biodiversity. The same page notes that as renewable energy technologies continue to develop, storage and other forms of generation will grow.

6.2.117 One of the priorities for this area identified on page 26 of NPF4 is to *'Protect environmental assets and stimulate investment in natural and engineered solutions to climate change and nature restoration, whilst decarbonising transport and building resilient connections*.' The Proposed Development can assist in achieving these regional objectives, while making a positive contribution to wider national efforts to combat the climate emergency and nature crisis.

## 6.3 The Highland-Wide Local Development Plan (HwLDP) 2012

6.3.1 This Section of the Planning Statement considers those HwLDP policies of most relevance to the Proposed Development. As already noted in the event of any incompatibility (which is not defined) between a NPF4 provision and a LDP provision, whichever of them is later in date shall prevail. The LDP is now over 10 years old, having been adopted in 2012. In the case of

the Proposed Development therefore, in the event of any policy incompatibility, NPF4 carries greater weight in the planning balance as the more recent document.

6.3.2 Inevitability there is some overlap between the aims and objectives of some HwLDP policies and the previously discussed NPF4 policies. To avoid unnecessary duplication, where HwLDP policies raise matters already discussed in relation to NPF4, cross reference will be made to the earlier national policy appraisal.

6.3.3 HwLDP Policy 67 'Renewable Energy Developments' is the 'lead' policy for the assessment of Proposed Development. It is acknowledged that the Proposed Development requires to be assessed 'in the round' against all policies in the HwLDP, however HwLDP Policy 67 is the key topic specific policy against which to assess the Proposed Development, noting also its criteria are wide ranging.

6.3.4 Policy 67 contains a number of criteria used to assess renewable energy applications and duplicates many of the aims and objectives of other planning policies within the HwLDP. As the Reporters report into the Limekiln Wind Farm from October 2018 (WIN-270-8) notes in paragraph 9.37:

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

6.3.5 The HwLDP policies most relevant to the Proposed Development are addressed below. These policies are:

- Policy 67 - Renewable Energy Developments;
- Policy 28 - Sustainable Design;
- Policy 29 - Design Quality and Placemaking;
- Policy 36 - Development in the Wider Countryside;
- Policy 52 - Principle of Development in Woodland;
- Policy 55 - Peat and Soils;
- Policy 56 - Travel;
- Policy 57 - Natural, Built and Cultural Heritage;
- Policy 58 - Protected Species;
- Policy 61 - Landscape;
- Policy 63 - Water Environment; and
- Policy 64 - Flood Risk.

### *Policy 67 - Renewable Energy Developments*

6.3.6 At its core, Policy 67 is a policy that supports the continued development of renewable energy developments, where a range of locational and environmental criteria can be met. It states that renewable energy proposals should be well related to the source of the primary renewable resources needed for their operation. The Applicant has obtained wind speed monitoring on site which confirms that the average wind speeds allow for the development of a viable wind farm.

6.3.7 The Policy further states that the Council will take account of the contribution proposals make towards meeting renewable energy generation targets and any positive or negative effects they are likely to have on the local and national economy. Proposals will be assessed against other relevant development plan policies as well as other material considerations. These policy

criteria seek to ensure that a proposal is located, sited and designed such that they will not be significantly detrimental overall, individually or cumulatively with other developments having regard to specified criteria listed on page 123 within the HwLDP.

6.3.8 The bulleted criteria set out on page 123 largely reflect those set out in NPF4 Policy 11(e). The Proposed Development's compliance with NPF4 Policy 11(e) is discussed in Table 2 above and is not repeated here. That assessment demonstrates that the significant residual landscape and visual effects are localised and do not affect the Cairngorms National Park or NSAs. There will be some impacts upon SLAs, but as discussed in relation to NPF4 Policy 4 these impacts are more than outweighed by the benefits, which are by definition of national importance.

6.3.9 The Proposed Development sits in an area already affected by energy infrastructure in the form of the BDOHL. That development and the Proposed Development share a very similar extent of theoretical visibility in the northern part of WLA 19, within approximately 3.5km.

6.3.10 The EIA Report submitted to support this application has found that the Proposed Development has no significant adverse impacts on the cultural, historical or environmental designations or protected species that cannot be overcome through further mitigation. Peatland restoration and habitat creation, including additional woodland, form integral components of the Proposed Development and ensure that benefits go beyond just renewable energy generation, and will help address the nature crisis too.

6.3.11 It is recognised that some significant visual effects will arise that cannot be mitigated. The LVIA considers that significant visual effects will arise at six of the 21 representative VPs, with significant effects found to extend to around 5.5km to the south and 4.5km to the north of the site. These effects are relatively localised and are not unusual for a commercial scale wind farm. Indeed, the more recent NPF4 and OWPS explicitly recognise that some significant effects will arise from wind farms and landscape change is to be expected. There is therefore nothing unusual about the Proposed Development's impacts that require consideration against Policy 67, or more broadly against the wider Development Plan.

6.3.12 It is also recognised that some other impacts will arise including short term during the construction phase such as increased traffic movements, but in each case mitigation has either been applied through application of the mitigation hierarchy or can be further mitigated post consent, to ensure no significant effects will arise (excepting the earlier noted localised significant landscape and visual effects, which includes visual impacts on walking routes).

6.3.13 The key test set by Policy 67 is whether having considered all material factors, a proposal is considered to be *'significantly detrimental overall'*, individually and cumulatively. In considering this key question, it is imperative to note the following:

- The positive assessment against the NPF4 Policy 11 (e) criteria, which largely reflect the Policy 67 criteria;
- The Proposed Development will play an important role in helping to achieve net zero targets by 2045 as well as the move to a more flexible and resilient energy system, which will increasingly be dominated by renewable energy technologies over the coming years;
- The Proposed Development will help contribute to more secure energy supplies by increasing the proportion of 'home grown' electricity, reducing our reliance on imported fuels and through the BESS having the ability to store electricity at time when generation is high, but demand is low;
- The carbon payback period is calculated at 2 years, meaning that for 33 years of the proposed operational life, the Proposed Development will generate carbon-free energy compared to a fossil-fuel mix;
- No natural heritage or landscape designations would experience significant adverse effects from the Proposed Development once operational;
- There would be no significant effects upon any protected species following mitigation;

- There would be no significant direct effects upon archaeology or significant effects upon the setting of any cultural heritage assets, including the nearby scheduled sections of General Wades Military Road;
- The site is remote from residential properties and there will be no significant adverse effects upon any residential properties or settlements; and
- There is now a requirement under NPF4 Policy 11 to give 'significant weight' to the contribution a proposal makes to addressing the climate emergency and nature crisis. This is not specified in HwLDP Policy 67, but it is a fundamental element of NPF4 Policies 1 and 11 and must affect the planning balance in this case.

6.3.14 In light of these factors, it is considered that the small number of adverse impacts associated with the Proposed Development, which are generally not significant and which are also localised to the site, are acceptable and there is no conflict with HwLDP Policy 67.

### *Other HwLDP Policies*

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

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

6.3.16 Policies 28 and 29 set out the requirement for all development to be designed in the context of sustainable development and climate change whilst making a positive contribution to the architectural and visual quality of the place in which it is located. The policy sets out various principles relating to, inter alia, the use and management of land; protection of both natural (landscapes, habitats and species) and built/cultural resources; preservation of air and water quality; and, minimisation of waste.

6.3.17 All development proposals must demonstrate compatibility with the Sustainable Design Guide: Supplementary Guidance, which requires that all developments should:

- conserve and enhance the character of the Highland area; use resources efficiently;
- minimise the environmental impact of development;
- enhance the viability of Highland communities.

6.3.18 As detailed in EIA Report Chapter 3 'Site Selection and Design' and Chapter 6 'Landscape and Visual', the iterative design process has resulted in an appropriately located and designed wind farm that successfully limits the geographical spread of environmental effects to an area that can reasonably be described as localised. There are no significant environmental effects beyond localised landscape and visual effects that would arise and the construction and operation of the Proposed Development can proceed in a manner that minimises waste and preserves air and water quality. Details of construction techniques and site management practices would be developed through a CEMP should consent be granted. The Applicants approach to iterative and careful site design is consistent with Policies 28 and 29.

### *Policy 36 – Development in the Wider Countryside*

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

### *Policy 52 – Principle of Development in Woodland*

6.3.20 This policy places an onus upon a developer to justify development on a wooded site and sets out the Council's presumption in favour of protecting woodland. It also notes that proposals will only be supported where they offer clear and significant public benefit.

6.3.21 As discussed earlier in the NPF4 commentary, the site is not heavily wooded. There are pockets of woodland, including ancient woodland, within the site located mainly to the north around the access. Applying the precautionary principle, a 20m operational disturbance corridor was applied along the site access to assess potential impacts on woodland. That assessment concludes that an area of 1.53ha of woodland that has the potential to be affected by the construction phase works. Replacement planting exceeding this amount is proposed as outlined in EIA Report Appendix 3.3. When this increase in the wooded area is combined with the renewable energy, peatland restoration and habitat creation works, it is clear the Proposed Development complies with Policy 55.

### *Policy 55 – Peat and Soils*

6.3.22 Policy 55 requires that development proposals demonstrate how they have avoided the unnecessary disturbance, degradation or erosion of peat and soils. It continues and states that unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly outweighed by the social, environmental or economic benefits of the development.

6.3.23 This issue is discussed in relation to NPF4 Policy 5, which demonstrates that the Applicant has adopted an iterative approach to site design and applied the mitigation hierarchy to avoid unnecessary disturbance of peat. This approach is delated in Section 2.4 of EIA Report Chapter 2 which sets out the evolution of the site layout. The final design will result in the disturbance of approximately 24.65 ha of degraded peatland habitat combining blanket bog and wet modified bog. The important point here is that this peat is degraded. This is not considered to be unacceptable and an assessment against Policy 55 needs to recognise that an area of 424.6 ha (i.e. 17 times the amount disturbed) is proposed for peatland restoration, which will be achieved through drain blocking, hagg stabilising and other measures. This is considered to be a positive aspect of the Proposed Development and there is no conflict with Policy 55.

### *Policy 56 – Travel*

6.3.24 Development proposals that involve travel generation must include sufficient information with the application to enable the Council to consider any likely on-and off- site transport implications of the development.

6.3.25 EIA Report Chapter 12 'Traffic and Transport' considers the impacts of the Proposed Development during the construction and operational phases, recognising that most traffic generation will arise during the construction phase with only negligible amounts of traffic generated during the operational phase. Details of key traffic generation figures are set out in Table 2 and not repeated here except to note that following mitigation no significant residual effects are anticipated in respect of traffic and transport issues. The residual effects are all assessed to be slight and will arise during the operational phase only.

6.3.26 It is therefore concluded that the Proposed Development is in line with Policy 56.

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

6.3.27 Policy 57 'Natural, Built and Cultural Heritage' sets a hierarchy of policy considerations for proposals depending upon whether they have impacts upon features, or their settings, of local/regional, national or international importance. The scale of protection provided by the policy is reflective of whether the asset is of local/regional, national or international importance

6.3.28 As already discussed in relation to NPF4 Policy 11, there will be no significant effects upon natural heritage designations such as SPAs or SSSIs and no natural heritage designations will be adversely affected by the Proposed Development.

6.3.29 There will be no adverse impacts upon the Cairngorms National Park nor any of the NSAs identified in the LVIA. There will be some impacts upon SLAs, local landscape designations, but these are not considered to be significant and the national scale benefits of the Proposed Development outweigh these impacts, as discussed in respect of NPF4 Policy 4.

6.3.30 There is the potential for some direct impacts upon archaeology during construction works, but this can be mitigated through the adoption of a watching brief during works. Potential effects upon the setting of scheduled sections of General Wades Military Road were identified, but these were all considered to be non-significant and the key test set in NPF4 Policy 7(h) has been met, as there is no significant adverse effect upon the integrity of the setting of these monuments. No other cultural heritage receptors would experience significant adverse affects associated with the Proposed Development.

6.3.31 While Policy 57 refers to impacts upon wild land, the national policy picture with regards to renewable energy development in wild land area has altered between when the HwLDP was prepared and now, through the relatively recent adoption of NPF4. Impacts upon wild land are discussed in relation to NPF4 Policy 4(g) which recognises that renewable energy developments are potentially acceptable land uses in these areas. The earlier commentary against NPF4 Policy 4(g) explains how the Applicant has sought to minimise impacts on the qualities of WLA19 through site design, which results in a positive assessment against that policy.

6.3.32 Taking all of the above into account, the Proposed Development complies with Policy 57.

### *Policy 58 – Protected Species*

6.3.33 Policy 58 sets out the Council's approach to the protection of species and habitats that may be affected by a development proposal. The policy effectively provides a 'catch all' approach to protecting species and habitats of varying levels of importance, to ensure an adequate degree of protection through the planning process. The policy reflects the hierarchical approach to protecting species and habitats and sets out the circumstances where development may be permitted, even where an adverse effect is identified

6.3.34 As discussed in the earlier assessment against NPF4 Policies 3 and 11 the Proposed Development will not give rise to any significant effects upon protected species, following mitigation. Peatland restoration and habitat creation and improvement works as set out in the OBEMP will replace lost habitats with new habitats, resulting in a 12% increase in biodiversity units gained, following the implementation of measures set out in the OBEMP when compared to the baseline situation. The Proposed Development therefore complies with the requirements of Policy 58.

### *Policy 61 – Landscape*

6.3.35 Policy 61 states that proposed developments should be designed to reflect the characteristics and special qualities recognised in the Landscape Character Assessment of the area in which they are proposed. The Council will consider the appropriateness of the scale, form, pattern and construction materials and the cumulative impacts of the development. Policy 61 applies to all forms of development and does not add policy considerations of substance not otherwise addressed in Policy 67.

6.3.36 The LVIA in EIA Report Chapter 6 extensively considers the landscape and visual effects upon a range of designations, visual receptors and landscape character, through reference to the host and nearby LCTs. These issues are discussed in relation to NPF4 Policy 11(e)(ii), which

summarises the findings of the LVIA that significant effects on landscape character would arise across two LCTs, namely LCT221 and LCT236. These significant effects on landscape character extend to a localised area extending to a maximum of 5km only, beyond which effects are not considered significant. This is not unusual for a commercial scale wind farm and the OWPS notes that in order to ensure climate change targets are met, taller and more efficient turbines will be required and that *'this will change the landscape'* .

6.3.37 In considering impacts upon landscape character and landscape and visual effects more generally, it is important to note that since the HwLDP was adopted the need for more renewable energy and the increased urgency of addressing the climate emergency means that there needs to be a greater acceptance of the inevitability of landscape and visual effects associated with the roll out of further renewable energy development. In a number of cases these effects will be significant in EIA terms (as recognised by NPF4 Policy 11) but what has changed is the point at which such effects become unacceptable. This is well summarised in the Reporter's Supplementary Report into the Shepherds Rig Wind Farm, where in paragraph 3.4 the Reporter concluded:-

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

6.3.38 In this case, the landscape effects are considered to be acceptable and overall, the LVIA concludes that the '*landscape is capable of accommodating the Proposed Development and that wider landscape and visual effects are relatively limited in extent and severity'.* The landscape effects that are identified in the LVIA are considered to be acceptable in the context of Policy 61.

### *Policy 63 – Water Environment*

6.3.39 This policy states that the Council will support proposals for development that do not compromise the objectives of the Water Framework Directive (WFD), which is aimed at the protection and improvement of Scotland's water environment. Potential effects of the Proposed Development upon the water environment are considered in EIA Report Chapter 9 'Hydrology, Geology and Hydrogeology'. The greatest potential for effects upon the water environment are likely to occur during the construction phase and could potentially arise from sedimentation or pollution of the water environment from surface run-off, compaction of soils, peat landslide hazard etc.

6.3.40 The assessment in EIA Report Chapter 9 confirms that with the implementation of mitigation measures, to be include in a detailed CEMP the potential for significant effects on the water environment are not significant. This includes potential impacts upon the PWS at Ard Aluinn where a potentially significant effect was identified, pre mitigation. With the implementation of mitigation measures, the assessment concludes that this effect would reduce to non-significant levels. No other significant pre-mitigation effects were identified upon any water related receptor.

6.3.41 The Proposed Development therefore complies with Policy 63.

### *Policy 64 – Flood Risk*

6.3.42 This policy states that development proposals should avoid areas susceptible to flooding and promote sustainable flood management. SEPA Flood Maps do show the likelihood of fluvial and pluvial flood risk across parts of the site. However, as noted in the above commentary on NPF4 Policy 11, EIA Report Chapter 9 considers that the risk of significant impacts from flooding is very unlikely. A separate Flood Risk Assessment is not considered necessary and flood risk was scoped out of further assessment (See Section 9.7 of EIA Report Chapter 9).

Notwithstanding, best practice measures to prevent the increase of flood risk are included within the OCEMP, submitted as EIA Report Appendix 3.1.

## 6.4. HwLDP, Onshore Wind Energy Supplementary Guidance (OWESG): (2016)

6.4.1 The OWESG has been adopted by the Council as part of the HwLDP. It pre-dates adopted of NPF4 and therefore it includes an Onshore Wind Spatial Framework map on page 13, as was required at the time by SPP. That Framework indicates Group 1, Group 2 and Group 3 areas, as follows:

- Group 1: Areas where wind farms will not be acceptable;
- Group 2: Areas of significant protection; and
- Group 3: Areas with potential for wind farm development.

6.4.2 It is important to note that NPF4 no longer continues with the Spatial Framework approach for onshore wind farms. While there is reference to the Spatial Framework in the OWESG, an assessment of the Proposed Development should not seek to apply the Spatial framework as this is no longer supported by national planning policy. Other aspects of the OWESG remain relevant and these are discussed in the LVIA in EIA Report Chapter 6, supported by Appendix 6.4 which considers the Proposed Development against the ten landscape and visual criteria set out in the OWESG, see Table TA6.3-1 in Appendix 6.4. That assessment shows that the Proposed Development can be positively considered against each of these ten criterion.

### *Development Plan Conclusions*

6.4.3 The Statutory Development Plan now comprises NPF4 as well as the HwLDP and Inner Moray Firth Local Development Plan, albeit this latter Plan contains no policies or proposals of relevance to the Proposed Development and is not considered in this Statement. As noted, in the event of any incompatibility between NPF4 and the HwLDP, NPF4 carries greater weight in the planning balance as the more recent document.

6.4.4 This Section of the Planning Statement has considered the Proposed Development against the relevant policies of NPF4 and the HwLDP drawing upon the findings of each of the EIA Report Chapters. Policy 11 is the main NPF4 policy against which the Proposed Development is to be assessed with Policy 67 of the HwLDP the corresponding local policy. Other policies are relevant and in each case the detailed appraisal has demonstrated that through careful site selection and design, the Proposed Development will give rise to very few significant adverse environmental effects. Those effects that are identified are either localised in the case of landscape and visual effects or not significant and can be subject to further mitigation through the adoption of best practice construction techniques, to be specified in a detailed CEMP post consent.

6.4.5 As discussed, NPF4 Policies 1 and 11 require decision makers to give 'significant weight' to the extent to which a Proposed Development contributes to the climate emergency and nature crisis. For the reasons already discussed the Proposed Development will make a positive contribution to both these national initiatives and this provides significant support in policy terms.

6.4.6 The appraisal against other relevant NPF4 policies adds further substance to the case for the Proposed Development. The Proposed Development has been positively assessed against NPF4 Policy 4(g) in terms of wild land and the extensive peatland restoration and biodiversity improvements proposed by the Applicant allow strong support to be drawn from other Development Plan policies, notably NPF4 Policy 1.

6.4.7 NPF4 states on page 98 that '*The policies should be read as a whole'*. This is reiterated in the Chief Planners letters from 8 February 2023 and recently again in the 22 November 2023 Chief Planners letter, which noted that '*There remains a need to weigh up all relevant policies and factors in applying planning judgement….'*

6.4.8 Looking at NPF4 as a whole, and particular the key twin objectives of tackling the climate emergency and the nature crisis, a reasonable assessment of the Proposed Development concludes that it does accord with the document as a whole and can contribute positively to the Intent and Outcomes of key policies.

6.4.9 The primary HwLDP policy of relevance is Policy 67, Renewable Energy Developments. That policy clearly recognises that renewable energy developments can give rise to significant environmental effects; as such, the key test in assessing the extent of compliance with the policy is to ascertain whether a proposal is *'significantly detrimental overall'*. Inbuilt into the policy is the need to have regard to the extent to which the proposal contributes to renewable energy targets, the location of the site relative to the primary source of energy and the extent of any positive or negative effects on the local and national economy.

6.4.10 The appraisal against HwLDP Policy 67 has demonstrated that significant environmental effects have been kept to a minimum by careful application of the mitigation hierarchy across all technical and environmental disciplines, such that significant environmental effects are few in number and generally localised in nature. Demonstrable and measurable environmental benefits will arise through measures set out in the OBEMP and Appendix 3.3. The inclusion of a BESS facility within the Proposed Development will contribute to a more flexible and robust energy system for the UK, with wider benefits for security of future energy supplies.

6.4.11 When these benefits are taken into account, it is considered that the Proposed Development can be positively assessed against HwLDP Policy 67, and other relevant HwLDP policies. Where adverse effects are identified, these are outweighed by the benefits of the Proposed Development, such that any policy tension or conflict with individual criteria is outweighed by the wider contribution that the Proposed Development makes to the achievement of sustainable development. Overall, therefore it is considered that the HwLDP is supportive of the Proposed Development

# 7. Conclusions

7.1.1. As an application for S36 consent and deemed planning permission, the Development Plan does not have primacy in this case. The Development Plan is an important material consideration, but the principal issue to be considered in determining this application is for Scottish Ministers to have regard to Schedule 9 of the Electricity Act.

7.1.2. Schedule 9 refers to the requirement for Scottish Ministers to '*have regard to the desirability'* of preserving natural beauty, of conserving flora, fauna etc. when determining S36 applications. Scottish Ministers have no duty to ensure these environmental qualities are preserved, but to have regard to the desirability of doing so. Schedule 9 does not, therefore, set strict development management tests.

7.1.3. In arriving at conclusions on the Proposed Development overall, Scottish Ministers can give weight to a range of matters such as national planning policy set out in NPF4, the extent to which it aligns with the objectives of the OWPS 2022, the socio-economic benefits of the Proposed Development and the contribution that it would make towards attainment of GHG reduction and renewable energy generation targets.

7.1.4. The Scottish Government has legislated to achieve net-zero GHG emissions by 2045. To achieve these legally binding targets will require a significant change in the way we generate electricity. While a range of renewable energy technologies will all play an important part in achieving these targets, the OWPS describes the deployment of onshore wind as '*mission critical for meeting our climate targets'.* The need for more onshore wind is not in doubt and the documents referenced in Section 5 of this Planning Statement demonstrate the Scottish Government's strength of commitment to tackling the climate emergency and the nature crisis. Indeed, these are the two key themes that run through NPF4 in particular and also the OWPS and Draft Scottish Energy Strategy and Just transition Plan.

7.1.5. In response, it is important to reiterate that the Proposed Development essentially comprises three component parts, with ancillary works, namely:-

- Up to eight wind turbines, each up to a maximum of 200m AGL;
- a BESS with an output capacity of approximately 10 MW; and
- four areas for compensation and enhancement activities, addressing peatland restoration, habitat creation and woodland planting. Combined, these areas total 678ha.

7.1.6. It is clear therefore that the Proposed Development would help meet the Scottish Government's net zero GHG emission target by 2045 while also leading to demonstrable biodiversity improvements. The inclusion of a BESS facility will facilitate the creation of a more flexible energy system, helping the development of more 'home grown' energy and ultimately moving towards a more secure energy supply in the future.

7.1.7. The BNG toolkit which forms part of the OBEMP demonstrates that the Proposed Development will result in a 12% increase in biodiversity units gained, following the implementation of measures set out in the OBEMP when compared to the baseline situation.

7.1.8. In light of these factors, the key issue to consider is whether the identified environmental impacts of the Proposed Development as set out in the EIA Report are so significant as to outweigh these clear benefits. For the reasons set out in the detailed commentary in Section 6, the planning balance in this case clearly favours permission being granted. While some significant environmental effects have been identified, these are few in number and localised in extent. They are not unusual for a commercial scale wind farm development.

7.1.9. The Applicant has adopted an iterative and detailed approach to site design, applying the mitigation hierarchy with the objective of avoiding significant environmental effects from arising

where possible. Where this has not been possible, the design process has sought to reduce these to non-significant levels through mitigation and to then consider opportunities for compensation and enhancement.

7.1.10. As the LVIA in Chapter 6 of the EIA Report concludes, significant landscape and visual effects have been contained to within approximately 5.5km. Having regard to recent Reporters reports on similar developments, these effects can reasonably be described as 'localised' in the context of NPF4 Policy11(e)(ii) and should therefore be considered acceptable. There are no significant effects upon any national level natural heritage, landscape or cultural heritage designations and no significant adverse effects upon any protected species. Some significant effects upon SLAs are identified, as well as some cumulative effects but these effects are considered to be outweighed by the benefits of the scheme, which are demonstrably of more than local importance, courtesy of the Proposed Development's National Development status.

7.1.11. While acknowledging these residual landscape and visual effects, the LVIA considers that the overall the landscape is capable of accommodating the Proposed Development and that wider landscape and visual effects are relatively limited in extent and severity.

7.1.12. While the EIA Report identifies some residual operational effects upon the setting of five scheduled sections of the Corrieyairack Pass, Military Road these are not considered to be significant in EIA terms. Importantly, the assessment in EIA Report Chapter 10 concludes that these identified impacts would not significantly affect the integrity of the setting of these Scheduled Monuments, which is the key test in NPF4 Policy 7(h).

7.1.13. As the nearest noise sensitive property is 3.6km from the nearest wind turbine, no significant adverse effects upon residential amenity are anticipated through noise, shadow flicker or wider residential visual amenity matters.

7.1.14. While it is relevant to note the previous refusal of planning permission in 2018 for a wind farm on this site, it is imperative that an assessment of the current application recognises the vastly different planning and energy policy context that now exists. These changes include the introduction of legally binding GHG reduction targets and the 2045 net zero target in 2019, the 2019 'climate emergency' declaration by the Scottish Government and the Highland Council and the introduction of NPF4 and the OWPS. The OWPS specifically acknowledges the move to taller turbines as technology advances and states that the requirement for taller and more efficient turbines '*will change the landscape'*.

7.1.15. While noting the above key changes that have taken place since 2018, it is recognised that a decision on this application will still come down to a balance between benefits on one hand and adverse effects on the other. The need to apply planning judgement has always existed, and this remains the case. What has changed in recent years, however, is the need for decision makers to give 'significant weight' to the contribution a proposal can make towards attainment of renewable energy generation and GHG reduction targets (NPF4 Policy 11), as well as the extent to which a development can help combat the nature crisis (NPF4 Policy 1).

7.1.16. The Proposed Development will clearly make a positive and significant contribution to attainment of these goals. For the reasons previously discussed, the Proposed Development can be positively considered against the terms of NPF4 Policy 3. In this respect, an OBEMP (EIA Report Appendix 8.6) has been prepared that outlines a series of proposed enhancement measures, over and above those required to mitigate the effects of the Proposed Development.

7.1.17. Turning to the Local Development Plan, the lead wind energy policy (Policy 67) confirms that proposals will be supported where they are not *'significantly detrimental overall'*. There is nothing in the appraisal against the criteria of this policy that would suggest the Proposed Development could be described as *'significantly detrimental overall'.*

7.1.18. Taking account of these various matters, it is considered that the Proposed Development is the *'right development in the right place'*, and it is therefore respectfully requested that S36 consent and deemed planning permission is granted.