

EARBA STORAGE

A GILKES ENERGY COMPANY

Earba Pumped Storage Hydro Scheme EIA Report

Chapter 5: Planning and Energy Policy Context

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5. Planning and Energy Policy Context

5.1 Introduction

- 5.1.1 This chapter of the EIA Report describes the legislative and policy background relevant to the Proposed Development. A standalone Planning Statement, separate to the EIA Report, has been prepared to support the application which assesses the Proposed Development against planning and energy policy.

5.2 Electricity Act 1989

- 5.2.1 This application is submitted to the Scottish Ministers under Section 36 (S36) of the *Electricity Act 1989*¹ (*the Electricity Act*). At the same time, the Applicant is also seeking that Scottish Ministers issue a Direction under Section 57(2) of the *Town and Country Planning (Scotland) Act 1997*² (*the 1997 Planning Act*), as amended, that deemed planning permission also be granted for the Proposed Development.
- 5.2.2 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.
- 5.2.3 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.
- 5.2.4 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 *1997 Planning Act*. 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. Notwithstanding, *National Planning Framework 4* as the national element of the Development Plan should be accorded significant weight, given it was adopted earlier in 2023.

5.3 International Climate Change and Energy Policy

- 5.3.1 Energy legislation and policy in the United Kingdom (UK) is driven by international co-operation to cut greenhouse gas (GHG) emissions, as a means of combating climate change. This includes the '*Paris Agreement*', established through the 21st

¹ UK Government (1989). Electricity Act 1989. Available at: <https://www.legislation.gov.uk/ukpga/1989/29/contents>

² Scottish Government (1997). Town and Country Planning Act (Scotland) Act 1997. Available at: <https://www.legislation.gov.uk/ukpga/1997/8/contents>

session of the Conference of Parties ('COP21')³. Ratified in the UK on 17th November 2016, the Paris Agreement sets out the ambition of holding the increase of global average temperature to “well below 2°C” and pursuing efforts to limit temperature increase to 1.5°C. While the Outcomes of COP28 in Dubai in December 2023 did not call for a full phasing out of the use of fossil fuels, there was a call for countries to transition away from fossil fuels with some noting that this marks the *'beginning of the end'*⁴ of the fossil fuel era. COP28 also recognised that the aforementioned target of limiting global temperature increases to 1.5°C warming is at risk, with countries way behind where they need to be to reach this goal.

- 5.3.2 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 world fails to cut emissions (again)', was published on 23 November 2023.
- 5.3.3 The 2023 Gap Report notes in the Foreword that GHG emissions 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”*.
- 5.3.4 The Report notes in the Executive Summary that *“Not only was September 2023 the hottest month ever, it also exceeded the previous record by an unprecedented 0.5°C, with global average temperatures at 1.8°C 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”*.
- 5.3.5 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”*.

5.4 Scottish Climate Change and Energy Legislation and Policy

- 5.4.1 The Scottish Government has legislated to achieve net zero carbon emissions by 2045 and therefore five years earlier than the rest of the UK. Legislation, policy

³ United Nations (2015). COP21 Paris Agreement. Available at:
https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

⁴ <https://unfccc.int/news/cop28-agreement-signals-beginning-of-the-end-of-the-fossil-fuel-era>

and other documents of most relevance to the application include:

- *Climate Change (Scotland) Act 2009 and Climate Change (Emissions Reduction Targets) (Scotland) Act 2019*;
- *The Climate Change (Scotland) Act 2009 (Interim Target) Amendment Regulations 2023*;
- *Scottish Emissions Targets - First Five-yearly Review & Progress in Reducing Emissions in Scotland – 2022 Report to Parliament (2022)*;
- *Equality, Opportunity, Community - Our Programme for Government September 2023 (2023)*;
- *Update to the Climate Change Plan 2018 - 2032: Securing a Green Recovery on a Path to Net Zero (2020)*; and
- *Scottish Energy Strategy (2017) and Draft Energy Strategy & Just Transition Plan (2023)*.

Legislation

5.4.2 *Climate Change (Emissions Reduction Targets) (Scotland) Act 2019*⁵ (*Climate Change Act 2019*) amends the *Climate Change (Scotland) Act 2009*⁶ and sets a target date of 2045 for reaching net zero emissions. *The Climate Change Act 2019* states that the Scottish Ministers must ensure that the net Scottish emissions account for the year (with 1990 being the baseline year):

- *2020 is at least 56% lower than the baseline*;
- *2030 is at least 75% lower than the baseline*; and
- *2040 is at least 90% lower than the baseline*.

5.4.3 Coming into force on 31 May 2023, the *Climate Change (Scotland) Act 2009 (Interim Target) Amendment Regulations 2023*⁷ 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 solely in response to a change in international carbon reporting practice.

Policy and other Documents

Scottish Emissions Targets – First Five-yearly Review and Progress in Reducing Emissions in Scotland – 2022 Report to Parliament

5.4.4 Published on 7th December 2022⁸, these joint reports (required under the *Climate Change (Scotland) Act 2009*) provide the Scottish Ministers with advice on Scottish

⁵ Scottish Government (2019). *Climate Change (Emissions Reductions Targets) (Scotland) Act 2019*. Available at: <https://www.legislation.gov.uk/asp/2019/15/enacted>

⁶ Scottish Government (2009). *Climate Change (Scotland) Act 2009*. Available at: <https://www.legislation.gov.uk/asp/2009/12/contents>

⁷ Scottish Government (2023). *Climate Change (Scotland) Act 2009 interim target amendment regulations 2023*. Available at: [https://www.gov.scot/publications/climate-change-scotland-act-2009-interim-target-amendments/#:~:text=The%20Climate%20Change%20\(Scotland\)%20Act%202009%20\(Interim%20Target\),for%20the%202020%20interim%20target.](https://www.gov.scot/publications/climate-change-scotland-act-2009-interim-target-amendments/#:~:text=The%20Climate%20Change%20(Scotland)%20Act%202009%20(Interim%20Target),for%20the%202020%20interim%20target.)

⁸ Committee on Climate Change (2022). *Scottish Emissions Targets – first five-yearly review & Progress in reducing emissions in Scotland – 2022 Progress Report to Parliament*. Available at: <https://www.theccc.org.uk/publication/scottish-emission-targets-progress-in-reducing-emissions-in-scotland-2022-report-to-parliament/#downloads>

GHG emission targets and assess progress on reducing emissions to date. Written by the Committee on Climate Change (CCC), the advice is set out in two parts:

- The first provides a review of Scotland's targets in view of recent methodology changes for estimating emissions; and
- The second looks at Scotland's progress in emissions reduction, policy plans and delivery of those plans over the last year.

5.4.5 The analysis shows that the 2020 interim target was achieved. In this respect, Scotland's GHG emissions fell by 12% from 2019 and by 51% since 1990. However, the report noted that *"the fall in emissions in 2020 was largely due to travel restrictions in place during the Covid-19 pandemic, without which it is unlikely the interim target would have been met"*. The CCC note that the annual targets in the 2020s will be much harder to achieve as emissions rebound.

5.4.6 There are a number of key messages including inter alia:

- *Changes in emissions accounting methodology do not imply the need to change the legislated net zero and interim targets for 2030 and 2040; and*
- *Meeting the 2030 interim target remains extremely challenging. The analysis suggests that a 65-67% reduction in emissions is feasible. Policies must therefore go further to meet the legislated 75% reduction by 2030.*

5.4.7 The CCC makes a series of recommendations to the Scottish Government, including an urgent need to *"provide a quantified plan for how its policies will combine to achieve the emissions reduction required to meet the challenging 2030 target. The plan must detail how each of Scotland's ambitious milestones will be achieved"*⁹. It also urges working more closely with the UK Government given that many aspects of policy, especially in the industry and energy supply sectors, are reserved to Westminster (Executive Summary).

Equality, Opportunity, Community – Our Programme for Government, September 2023

5.4.8 *The Programme for Government*¹⁰ was published in September 2023 and therefore represents a recent statement of the Scottish Government's priorities on a range of issues. While the Programme for Government is not an energy policy specific publication, it does set out important statements about how the Scottish Government intends to address various matters relating to the climate emergency, nature crisis and renewable energy, amongst other issues.

5.4.9 The First Minister's Foreword notes that the Programme for Government *"puts responding to the climate crisis at the very heart of this government"*. This theme is revisited throughout the document and mirrors the foreword to NPF4 (discussed below) which puts the twin global climate and nature crisis at the heart of the future vision for Scotland. On page 6, the Programme for Government notes that it is a *"moral duty to respond to the climate and nature crises"*.

5.4.10 In the commentary on 'Opportunity: Building a fair, green and growing economy', the Programme for Government notes that *"Responding to the climate crisis is a*

⁹ Climate Change Committee (2022). 2022 Progress Report to Parliament. Available at: <https://www.theccc.org.uk/wp-content/uploads/2022/06/Progress-in-reducing-emissions-2022-Report-to-Parliament.pdf>

¹⁰ Scottish Government (2023). Programme for Government 2023 to 2024. Available at: <https://www.gov.scot/publications/programme-government-2023-24/>

fundamental priority for this government” and central to achievement of that is “scaling up renewables”.

- 5.4.11 Commentary in the Programme for Government from the Cabinet Secretary for Transport, Net Zero and Just Transition recognises that *“Climate change presents an existential threat to all our features”*. There is recognition that action is required now and that *“change is necessary”* which can deliver a more diverse environment, cleaner air, greater energy security and new sources of economic vitality. The programme for Government also states that *“tackling the climate crisis also means protecting our natural environment by halting the loss of habitat and biodiversity”*.

Update to the Climate Change Plan (CCP) 2018 – 2032: Securing a Green Recovery on a path to Net Zero.

- 5.4.12 In December 2020, the ‘Update to the Climate Change Plan 2018 – 2032: Securing a Green Recovery on the Path to Net Zero’¹¹ (CCP Update) was published. The CCP Update sets the Scottish Government’s legislative commitment to reducing emissions by 75% by 2030 (compared with 1990) and to net zero by 2045 in the context of a post-COVID green recovery.
- 5.4.13 The CCP Update highlights that a key part of the green recovery is a co-ordinated approach across sectors. The CCP Update emphasises the growth and success to date of Scotland’s renewable energy generation as well as stating strongly the determination that this growth must continue stating that *“Pumped storage also has an important role to play, as it can release stored electricity when the demand is high, and the system needs it most (e.g. when there is less wind energy available)”*.

Scottish Energy Strategy (SES) (2017) and Draft Energy Strategy and Just Transition Plan (2023)

- 5.4.14 *The Scottish Energy Strategy (SES)*¹² was published in December 2017 and sets out the Scottish Government’s strategy through to 2050, marking a major transition over the next three decades in terms of energy management, demand reduction and generation.
- 5.4.15 The Strategy sets a new 2030 ‘all energy’ target for the equivalent of 50% of Scotland’s heat, transport and electricity consumption to be supplied from renewable sources. The Strategy also targets an increase by 30% in the productivity of energy use across the Scottish economy.
- 5.4.16 Page 57 acknowledges that the possible electrification of heat and transport on a large scale could place much greater demand on the renewable electricity sector. Accordingly, page 33 notes that achieving the equivalent of 50% of Scotland’s heat, transport and electricity consumption to be supplied from renewable sources by 2030 will be challenging but the target *“demonstrates the Scottish*

¹¹ Scottish Government (2020). Securing a green recovery on a path to net zero: climate change plan 2018 – 2032 – update. Available at: <https://www.gov.scot/publications/securing-green-recovery-path-net-zero-update-climate-change-plan-20182032/pages/2/#:~:text=Sector%20Emissions%20Envelopes-,Executive%20Summary,to%20net%20zero%20by%202045.>

¹² Scottish Government (2017). The Scottish Energy Strategy. Available at: <https://www.gov.scot/publications/scottish-energy-strategy-future-energy-scotland-9781788515276/>

Government's commitment to a low carbon energy system and to the continued growth of the renewable energy sector in Scotland" (underlining added).

- 5.4.17 Page 41 notes that renewable and low carbon energy will provide the foundation of our future energy system, offering Scotland a huge opportunity for economic and industrial growth.
- 5.4.18 While the SES acknowledges that all renewable energy technologies will have a role to play in the future energy system, it notes the importance of pumped storage hydro (PSH) developments, stating that *"investment in new PSH capacity in Scotland could greatly enhance the flexibility and resilience of our electricity network and power supplies. These are major infrastructure projects, with considerable economic and industrial value attached"* (page 23).
- 5.4.19 The Scottish Government published the 'Draft Energy Strategy & Just Transition Plan' (the Draft SES) for consultation purposes in January 2023.
- 5.4.20 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.
- 5.4.21 *The Draft SES* states the importance of pumped hydro storage developments stating *"as we transition to a net zero energy system, renewables and other zero-carbon technologies, including pumped hydro storage, will need to provide all the services required to ensure a secure energy system."* It continues noting that *"PHS also continues to play a pivotal role in Scotland's energy system providing long-term storage and reserve for the electricity networks. PHS accounts for 740 MW of Scotland's 864 MW of energy storage"*¹³ (page 129).

5.5 UK Climate Change and Energy Legislation and Policy

- 5.5.1 Energy Policy in Scotland is a matter that is reserved to the UK Parliament. However, as the above section notes, the Scottish Government has published several of its own energy policy and strategy documents that apply to Scotland only and these are material to the determination of this application. Following comments on the legislative position, other key documents are considered in chronological order, the most recent first.

Legislation

The Energy Security Act 2023

- 5.5.2 *The Energy Security Act 2023*¹⁴ received Royal Assent on the 26th October 2023. Originally introduced as the *Energy Security Bill* in 2022, it seeks to build on the

¹³ Scottish Government (2023). Draft Energy Strategy and Just Transition Plan. Available at: <https://www.gov.scot/publications/draft-energy-strategy-transition-plan/>

¹⁴ UK Government (2023). Energy Act 2023. Available at: <https://www.legislation.gov.uk/ukpga/2023/52/enacted>

commitment set out in the April 2022 *British Energy Security Strategy*¹⁵ to reduce the UK's dependence on volatile fossil fuel markets, by improving domestic energy production and make the UK more self-sufficient when it comes to the energy it uses.

- 5.5.3 Following the introduction of the Act into law, the Energy Security Secretary Claire Coutinho commented that *"The Energy Act is the largest piece of energy legislation in a generation. It will boost investment in clean energy technologies and support thousands of skilled jobs across the country. It lays the foundations for greater UK energy independence, making us more secure against tyrants like Putin, and helps us to power Britain from Britain"*.

Climate Change Act 2008 (as amended)

- 5.5.4 *The Climate Change Act 2008*¹⁶ became law on the 26th November 2008 and introduced a legally binding target for the UK to reduce CO₂ emissions by at least 80% by 2050, relative to the 1990 levels.
- 5.5.5 In June 2019, the *Climate Change Act 2008 (2050 Target Amendment) Order 2019*¹⁷ was introduced which amended the *Climate Change Act 2008*, by introducing a target for at least a 100% reduction of GHG emissions in the UK, compared to 1990 levels. This order follows on from the recommendations presented by the Committee on Climate Change (CCC) 2019 publication '*Net Zero, the UK's Contribution to Stopping Global Warming*¹⁸'.
- 5.5.6 Efforts to reduce GHG in Scotland contribute to achievement of the UK wide targets, as well as meeting Scotland specific targets.

Policy and Other Documents

Climate Change Committee – Progress in Reducing Emissions – 2023 Progress Report to Parliament

- 5.5.7 *The 2023 CCC Joint Progress Report to Parliament*¹⁹ was published in June 2023 and considers the global picture with regards to emissions reductions and adaptation to climate change. It discusses the UK's role in a global context before discussing a range of sectors such as transport, building, manufacturing, electricity supply, fuel supply, aviation and shipping etc. Each sector is looked at in terms of emission trends and drivers, indicators of progress, next steps and major risks.
- 5.5.8 In the foreword, the Chair of the CCC notes that the UK has shown leadership in accepting a legal obligation to deliver net zero. However, he is "*worried*" about the commitment of the Government to act to deliver these legally binding targets since

¹⁵ UK Government (2022). *British Energy Security Strategy*. Available at: <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>

¹⁶ UK Government (2008). *Climate Change Act 2008*. Available at: <https://www.legislation.gov.uk/ukpga/2008/27/contents>

¹⁷ UK Government (2019). *The Climate Change Act 2008 (2050 Target Amendment) Order 2019*. Available at: <https://www.legislation.gov.uk/ukdsi/2019/9780111187654>

¹⁸ Committee on Climate Change (2019). *Net Zero, the UK's Contribution to Stopping Global Warming*. Available at: <https://www.theccc.org.uk/wp-content/uploads/2019/05/Net-Zero-The-Uks-contribution-to-stopping-global-warming.pdf>

¹⁹ Committee on Climate Change (2023). *2023 Progress report to Parliament*. Available at: <https://www.theccc.org.uk/wp-content/uploads/2023/06/Progress-in-reducing-UK-emissions-2023-Report-to-Parliament-1.pdf>

the COP26 presidency. He notes there is “*hesitation*” from Government to commit fully to delivering key pledges.

- 5.5.9 In the introductory section, the report notes that 2022 was the UK’s warmest recorded year and one of six warmest years on record globally. The record-breaking temperatures seen in the UK summer 2022 brought unprecedented numbers of heat-related deaths, wildfire incidents and significant infrastructure disruption. Human activities are causing our climate to change. The report considers that only decisive action will slow further changes.
- 5.5.10 The report notes that the UK has “*backtracked*” on fossil fuel commitment and considers it is critical that it re-establishes its climate leadership with a clearer strategy to deliver net zero. The report notes that the transition to net-zero is scheduled to take around three decades, “*but to do so requires a sustained high-intensity of action*”, made all the more critical due to the slow start to policy development so far.
- 5.5.11 On Planning, the report notes that the planning system must have an “*overarching requirement that all planning decisions must be taken giving full regard to the imperative of net zero*”. In Scotland, these principles are now set by *National Planning Framework 4*, discussed below.

British Energy Security Strategy – Secure, Clean and Affordable British Energy for the Long Term

- 5.5.12 In April 2022, the UK Government published the above Strategy, primarily in response to rising global energy prices and following the Russian invasion of Ukraine. The key aim of the Strategy²⁰ is to reduce our dependence on imported oil and gas and to help decarbonise the energy sector, by achieving net zero by 2050.
- 5.5.13 The introduction notes that “*the transition away from oil and gas then depends critically on how quickly we can roll out new renewables*”. It continues and notes that “*the growing proportion of our electricity coming from renewables reduces our exposure to volatile fuel markets*”.
- 5.5.14 The strategy discusses a range of technologies including onshore and offshore wind, solar, hydrogen and nuclear. The document does not mention PSH specifically, but recognises that “*...we need to be bolder in removing the red tape that holds back new clean energy developments and exploit the potential of all renewable technologies*”. (underlining added).

Committee on Climate Change – The Sixth Carbon Budget, the UK’s path to Net Zero

- 5.5.15 In December 2020, the CCC published ‘The Sixth Carbon Budget’ which comprises three documents: ‘*The UK’s Path to Net Zero*’²¹; ‘*Methodology Report*’; and ‘*Policies for the Sixth Carbon Budget and Net Zero*’. The 2020 CCC Report describes what the potential path options to net zero look like and what steps must be taken to achieve this. A key recommendation of the Report is that

²⁰ UK Government (2022). British Energy Security Strategy. Available at: <https://www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy>

²¹ Committee on Climate Change (2020). The Sixth Carbon Budget, the UK’s path to Net Zero. Available at: <https://www.theccc.org.uk/wp-content/uploads/2020/12/The-Sixth-Carbon-Budget-The-UKs-path-to-Net-Zero.pdf>

the UK Government requires a reduction in UK GHG emissions of 78% by 2035 relative to 1990 and that this should be coupled with a pledge by 2030 to reduce emissions by at least 68% from 1990 levels.

- 5.5.16 The Foreword by Lord Deben highlights the importance of taking decisive action in the 2020s, noting that if efforts are not scaled up in this “*decisive decade*” then the UK will not deliver net zero by 2050. The Foreword notes that “*utmost focus is required from government over the next ten years*” and that policy now needs to be “*scaled up across every sector*” to deliver net zero.
- 5.5.17 The Report recognises that reducing emissions from electricity generation to near-zero will require significant expansion of low-carbon generation. Emphasis is also placed on the increasing demand for electricity through the electrification of the economy.

5.6 Planning Policy

- 5.6.1 The Proposed Development lies within the boundary of The Highland Council. The statutory Development Plan comprises *National Planning Framework 4 (NPF4²²)*, the *Highland Wide Local Development Plan (HwLDP²³)*, the *West Highland and Islands Local Development Plan (WestPlan²⁴)* and a suite of adopted Supplementary Guidance.

National Planning Framework 4 (NPF4)

- 5.6.2 *National Planning Framework 4 (NPF4)* was adopted on 13th February 2023. It replaces both *NPF3* and *Scottish Planning Policy* in their entirety. The following paragraphs provide a brief summary of the most salient parts of *NPF4* only, with further detailed commentary set out in the supporting Planning Statement.
- 5.6.3 The opening paragraphs of *NPF4* state, “*the global climate emergency means that we need to reduce greenhouse gas emissions and adapt to the future impacts of climate change. We will need to respond to a growing nature crisis, and to work together to enable development that addresses the social and economic legacy of the coronavirus pandemic, the cost crisis and longstanding inequality*” (page 3).
- 5.6.4 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. The Proposed Development site is located within the ‘North’ Regional Area, shown indicatively on the map on page 27. *NPF4* notes under the ‘Priorities’ sub-heading that “*this part of Scotland can continue to make a strong contribution towards meeting our ambition for a net zero and nature positive country...*”.
- 5.6.5 *NPF4* notes that “*a large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets*”. National Development 2 ‘Pumped Hydro Storage’ sets out a list of

²² Scottish Government (2023). National Planning Framework 4. Available at; <https://www.gov.scot/publications/national-planning-framework-4/>

²³ The Highland Council (2012). Highland-wide Local Development Plan. Available at: https://www.highland.gov.uk/info/178/development_plans/199/highland-wide_local_developmen_plan

²⁴ The Highland Council (2019). West Highland and Islands Local Development Plan. Available at: https://www.highland.gov.uk/downloads/file/21199/westplan_adopted_september_2019

developments that have National Development Status including “*new and/ or expanded and/or upgraded water holding reservoir and dam*” and “*new and/or expanded and/or upgraded water inlet and outlet pipework...*” and where the scheme is classified as a ‘major’ development (20 MegaWatts (MW) and above). The Proposed Development with a generating capacity of up to 1800 MW significantly exceeds this threshold and falls within this National Development category.

- 5.6.6 *NPF4 states that these schemes will help the transition to a net zero economy “through the ability of pumped storage hydro schemes to optimise electricity generated from renewables by storing and releasing it when it is required”. It clarifies that the National Development status applies to new PSH sites as well as increasing the capacity at existing sites.*
- 5.6.7 *NPF4 confirms on page 97 that National Development status means “the principle of the development does not need to be agreed later in the consenting process, providing more certainty for communities, business and investors”.*
- 5.6.8 *Policy 11: Energy is particularly relevant to the Proposed Development. Its objective is to “encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure and emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage (CCUS)”.*
- 5.6.9 *It confirms that all forms of renewable, low carbon and zero emission technology will be supported. These include “energy storage such as battery storage and pumped storage hydro...”. Policy 11 also states that inter alia “development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities”.*
- 5.6.10 *Other NPF4 policies potentially of relevance to the Proposed Development are briefly summarised in Table 5.1 below.*

Table 5.1 – Summary of Relevant National Planning Framework 4 Policies

NPF4 Policy	Policy Summary
Policy 1: Tackling the Climate and Nature Crises	When considering development proposals, this policy confirms that significant weight will be given to the global climate and nature crises.
Policy 3: Biodiversity	The aim of this policy is to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. It confirms that proposals for national/major or EIA scale development will only be supported where it can be

NPF4 Policy	Policy Summary
	demonstrated that the proposal will conserve, restore and enhance biodiversity.
Policy 4: Natural Places	The intent of this policy is to protect, restore and enhance natural assets, making best use of nature-based solutions. It confirms that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. It sets out specific requirements and assessment criteria in relation to European, national and local natural heritage and landscape designations. The policy sets out further criteria for proposals that will affect a National Park. In relation to Wild Land Areas, it confirms that development proposals will only be supported where they <i>inter alia</i> support meeting renewable energy targets.
Policy 5: Soils	The aim of this policy is to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. Development proposals on peatland, carbon-rich soils and priority peatland habitat will only be supported for <i>inter alia</i> essential infrastructure (where there is a specific locational need and no other suitable site) or, the generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets.
Policy 6: Forestry, Woodland and Trees	Development proposals will not be supported where they will result in <i>inter alia</i> i) any loss of ancient woodlands, ii) adverse impacts on native woodlands or, iii) fragmenting or severing woodland habitats.
Policy 7: Historic Assets and Places	The intent of this policy is to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. It sets out specific requirements and assessment criteria in relation to <i>inter alia</i> listed buildings, conservation areas, gardens and designed landscapes, scheduled monuments, and non-designated historic assets.
Policy 22: Flood Risk and Water Management	This policy intends to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flood risks. The policy confirms that proposals at risk of flooding or in a flood risk area will only be supported where they are for <i>inter alia</i> i. essential infrastructure where the location is

NPF4 Policy	Policy Summary
	required for operational reasons or, ii. Water compatible uses.
Policy 23: Health and Safety	This policy covers <i>inter alia</i> air quality and noise. It confirms that development proposals likely to have significant adverse effects on air quality or, raise unacceptable noise issues will not be supported.
Policy 25: Community Wealth Building	The intent of this policy is 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. Proposals that contribute to these objectives will be supported.

Highland Wide Local Development Plan (HwLDP) (2012)

5.6.11 The Scottish Government's Chief Planner issued a letter²⁵ on 8th February 2023 relating to 'Transitional Arrangements' and to provide advice on *NPF4* becoming part of the statutory Development Plan. The letter reiterated that, as per Section 13 (2) (3) of the *Planning (Scotland) Act 2019*, in the event of any incompatibility between a provision of *NPF4* and a provision of a *LDP*, whichever is later in date shall prevail. In the case of the Proposed Development therefore, in the event of any incompatibility, *NPF4* is to prevail as the more recent document.

5.6.12 The key 'lead' policy in relation to the Proposed Development is *HwLDP* Policy 67: Renewable Energy Developments. It is replicated in full below:

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

- the contribution of the proposed development towards meeting renewable energy generation targets; and*
- any positive or negative effects it is likely to have on the local and national economy;*

²⁵ Scottish Government (2023). Chief Planner letter transitional arrangements for National Planning Framework 4 – February 2023. Available at: <https://www.gov.scot/publications/chief-planner-letter-transitional-arrangements-for-national-planning-framework-4/#:~:text=Publication%20%2D%20Correspondence-,Transitional%20arrangements%20for%20National%20Planning%20Framework,Chief%20Planner%20letter%20%2D%20February%202023&text=Planning%20Minister%20Tom%20Arthur%20and,and%20on%20some%20policy%20considerations.>

and will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy and Planning Guidelines and have regard to any other material considerations, including proposals able to demonstrate significant benefits including by making effective use of existing and proposed infrastructure or facilities.

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

- natural, built and cultural heritage features;*
- species and habitats;*
- visual impact and impact on the landscape character of the surrounding area (the design and location of the proposal should reflect the scale and character of the landscape and seek to minimise landscape and visual impact, subject to any other considerations);*
- amenity at sensitive locations, including residential properties, workplaces and recognised visitor sites (in or out with a settlement boundary);*
- the safety and amenity of any regularly occupied buildings and the grounds that they occupy- having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw;*
- ground water, surface water (including water supply), aquatic ecosystems and fisheries;*
- the safe use of airport, defence or emergency service operations, including flight activity, navigation and surveillance systems and associated infrastructure, or on aircraft flight paths or MoD low-flying areas;*
- other communications installations or the quality of radio or TV reception;*
- the amenity of users of any Core Path or other established public access for walking, cycling or horse riding;*
- tourism and recreation interests; and*
- land and water-based traffic and transport interests.*

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

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

The Onshore Wind Energy Supplementary Guidance will replace parts of the Highland Renewable Energy Strategy. It will identify: areas to be afforded protection from wind farms; other areas with constraints; and broad areas of

search for wind farms. It will set out criteria for the consideration of proposals. It will ensure that developers are aware of the key constraints to such development and encourage them to take those constraints into account at the outset of the preparation of proposals. It will seek to steer proposals, especially those for larger wind farms, away from the most constrained areas and ideally towards the least constrained areas and areas of particular opportunity. It will also set out criteria which will apply to the consideration of proposals irrespective of size and where they are located, enabling proposals to be considered on their merits. It will seek submission as part of the planning application of key information required for the assessment of proposals and provide certainty for all concerned about how applications will be considered by the Council".

- 5.6.13 Other HwLDP policies potentially of relevance to the Proposed Development are summarised in Table 5.2 below.

Table 5.2: Summary of Relevant Highland Wide Local Development Plan Policies

HwLDP	Policy Summary
Policy 28 - Sustainable Design	Sustainable design, sensitive siting and climate change are to be taken into consideration in all development schemes. Proposals are to be assessed having regard to inter alia impacts on habitats, species, landscape, cultural heritage and scenery.
Policy 30 – Physical Constraints	Sets out how various physical and technical factors, including those that affect public health and safety, need to be assessed when considering development proposals.
Policy 51 – Trees and Development	States that the Council will support development which promotes significant protection to existing hedges, trees and woodlands on and around development sites. The Council will secure additional tree/hedge planting within a tree planting or landscape plan to compensate removal and to enhance the setting of any new development.
Policy 55 - Peat and Soils	Relates to the unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance has to be outweighed by a development's social, environmental or economic benefits.
Policy 56 - Travel	Development proposals that involve travel generation must include sufficient information to enable THC to consider any likely on-site and off-site transport implications.
Policy 57 - Natural, Built and Cultural Heritage	All development proposals are to be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, any impacts on the feature and its

HwLDP	Policy Summary
	setting, in the context of a detailed policy framework and considering the following criteria: • <i>Local and regionally important features (mostly identified by the Council);</i> • <i>Nationally important features (identified by national organisations or by the Council under national legislation); or</i> • <i>Internationally important features (identified under government directives and European conventions).</i>
Policy 58 - Protected Species	Concerns a development's individual or cumulative effects on European Protected Species (EPS) and protected bird species. Development likely to have an adverse effect will only be permitted where there is no satisfactory alternative, there is an overriding public interest and, the favourable conservation status of the species concerned will be maintained.
Policy 59 - Other Important Species	Concerns a development's individual or cumulative effects on species listed in Annexes II and V of the EC Habitats Directive (92/43/EEC), priority species listed in the UK and Local Biodiversity Action Plans and species included on the Scottish Biodiversity List. Detrimental effects will be avoided through the use of planning conditions and agreements.
Policy 60 - Other Important Habitats	Considers features of major importance because of their linear and continuous structure, or as a habitat 'stepping stone'. It also relates to those habitats not protected through a nature conservation site designation, namely habitats listed in Annex I of the EC Habitats Directive, habitats of priority and protected bird species, priority habitats listed in the UK and Local Biodiversity Action Plans, and habitats included on the Scottish Biodiversity List. Planning conditions, agreements or mitigation measures, such as compensatory habitat enhancement, will be used where necessary.
Policy 61 - Landscape	Requires new development to be designed to reflect the landscape characteristics and special qualities identified in the relevant Landscape Character Assessment. This includes consideration of appropriate scale, form and pattern, as well as potential cumulative effects.

HwLDP	Policy Summary
Policy 63 - Water Environment	The objectives of the Water Framework Directive (2000/60/EC) to protect and improve the water environment should not be compromised.
Policy 64 – Flood Risk	Seeks to direct development proposals to avoid areas susceptible to flooding, and promote sustainable flood management.
Policy 66 - Surface Water Drainage	All development proposals must be suitably drained in accordance with the SuDS Manual (CIRIA C697).
Policy 72 – Pollution	Development proposals that may result in significant pollution such as noise, air, water and light will only be approved where information is provided to demonstrate that the pollution can be appropriately avoided and, if necessary, mitigated.
Policy 77 - Public Access	Requires development proposals to either retain Core Paths and access points to water or to provide suitable alternative access arrangements.

- 5.6.14 A review of the *HwLDP* commenced in 2016 when consultation was held on a Main Issues Report to inform the first stage of the replacement LDP process. However, work was paused in late 2017 when the Council confirmed its intention to wait until the Scottish Government's review of the planning system was complete. As details of the new arrangements for the preparation of LDPs are now known, the Council has recommenced the *HwLDP* review process with formal work anticipated to start shortly.

West Highland and Island Local Development Plan (WestPlan) (2019)

- 5.6.15 *The West Highland and Islands Local Development Plan (WestPlan)* focuses on regional and local services and facilities, renewable energy developments are briefly mentioned within the settlement strategies. The Plan focuses on the placemaking priorities for the settlements and as such, the content of *WestPlan* is not directly relevant to the Proposed PSH Development.

Supplementary Guidance

- 5.6.16 There is a suite of statutory and non-statutory guidance available on Highland Council's website including Highland Renewable Energy Strategy and Planning Guidelines. As the Scoping Opinion makes clear, these Guidelines are not statutory guidance and do not form part of the Development Plan. Supplementary Guidance potentially of most relevance to the Proposed Development is the Highland Flood Risk and Drainage Impact Assessment Supplementary Guidance (2013), Sustainable Design Supplementary Guidance (2013), and the Highland Statutory Protected Species SG (2013). Where relevant, Supplementary Guidance is referred to within individual chapters.

- 5.6.17 The Council's *Draft Biodiversity Planning Guidance (BPG)*²⁶ was approved for consultation on 16th November 2023 and at the time of writing remains subject to consultation. The Guidance aims to secure positive effects for biodiversity and deliver the biodiversity requirements as set out in *NPF4* Policy 3: Biodiversity. The Guidance aims to ensure that biodiversity enhancements take place on site or close to the development area to ensure the local communities will benefit from the compensation and enhancement.
- 5.6.18 The *Draft BPG* states that major developments are required to provide a minimum of 10% enhancement (more where the development impacts locally protected areas, such as Ancient Woodland, Local Nature Reserves etc).

Other Development Plans

- 5.6.19 The EIA Scoping Opinion, date 27 April 2023, considers that the Cairngorms National Park Local Development Plan 2021 and the Perth and Kinross Local Development Plan 2019 are potentially relevant publications due to the location of these authorities to the site. Where appropriate, those aspects of these two documents are discussed in the supporting Planning Statement, having regard to the findings of the EIA Report chapters, especially the landscape and visual impact assessment and the predicted degree of theoretical visibility of the Proposed Development from within these two administrative areas.

5.7 Summary

- 5.7.1 This chapter has set out the legislative background, a summary of the renewable energy policy framework, and the Development Plan policies and guidance relevant to the consideration of the Proposed Development. It provides a summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report. The accompanying Planning Statement considers the Proposed Development against the energy and planning policy framework drawing conclusions about the extent of policy compliance based on the residual effects of the Proposed Development set out in the other technical and environmental chapters of the EIA Report.

²⁶ The Highland Council (2023). Economy and Infrastructure Committee – Draft Biodiversity Planning Guidance. Available at: https://www.highland.gov.uk/meetings/meeting/4880/economy_and_infrastructure_committee