

EIA Report Chapter 4 Regulatory and Policy Context

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4 Regulatory and Policy Context

4.1 Introduction

Chapter 4 of the Environmental Impact Assessment (EIA) Report presents a review of the local and national policy context and legislative framework underpinning the Proposed Development. The EIA Report has been produced to detail the potentially significant environmental impacts identified during the EIA process under EIA Regulations. Further legislation and policies specific to each EIA topic are outlined in the relevant technical chapters of the EIA Report.

Chapter 4 does not assess the Proposed Development under the terms of the Town and Country Planning (Scotland) Act 1997¹ as a separate Planning Statement has been provided with an appraisal of whether the Proposed Development accords with the Development Plan, and whether other material considerations indicate otherwise, in line with Section 25 of the Planning Act 1997.

4.2 Requirement for Environmental Impact Assessment

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (EIA Regulations 2017)² sets out the selection criteria for a development to be considered an 'EIA development.' Under Regulation 6 of the EIA Regulations, a developer can request the Local Planning Authority (LPA) to provide a Screening Opinion to determine whether a development, of the types listed in Schedule 2 of the Regulations, is required to undergo an EIA prior to the submission of a planning application.

In this instance, no Screening Opinion has been requested as it is understood that the Proposed Development would be an EIA Development under the Regulations.

4.3 Climate Change and Energy

4.3.1 International Context

4.3.1.1 *United Nations Framework Convention on Climate Change*

The UK is a signatory to the Kyoto Protocol that is linked to the United Nations Framework Convention on Climate Change (UNFCCC) and provides commitments for the State parties to reduce Greenhouse Gas (GHG) emissions. The Kyoto Protocol was adopted in Kyoto, Japan on 11 December 1997 and entered into force on 16 February 2005. The Protocol was amended in Doha, Qatar on 8 December 2012 and entered into force on 31 December 2020. Its commitments are reflected in The Climate Change Act 2008 and The Climate Change (Scotland) Act 2009 which includes interim targets. (Section 2.3.2.1 and Section 2.3.3.1 respectively).

COP21 took place in December 2015 in Paris in which 195 countries, including the UK, adopted the Global Climate Deal (The Paris Agreement). The Paris Agreement sets out the global action plan of limiting global temperature increase to below 2°C, while pursuing efforts to limit the increase to 1.5°C above pre-industrial average temperature.

COP26 took place in November 2021 in Glasgow where parties concluded that with current climate policies the world was not on track to meet the long-term temperature goal set out in the Paris Agreement, with a 2.7° C increase predicted following COP26.

¹ [Town and Country Planning \(Scotland\) Act 1997](#) – Accessed 08/12/2023.

² [The Town and Country Planning \(Environmental Impact Assessment\) Regulations 2017](#) – Accessed 08/12/2023.

COP27 took place in November 2022 in Sharm el-Sheikh, where countries agreed to return each year to strengthen commitments on cutting GHG emissions to pursue efforts to keep the increase in temperature below 1.5°C.

COP28 concluded on December 7 2023 in the United Arab Emirates, where the first global stocktake took place, the stocktake concluded that we are not on track to limit global warming to 1.5° C. COP 28 also facilitated discussions around helping vulnerable communities deal with immediate climate impacts, accelerating both an energy and just transition, and closing the massive emissions gap.

4.3.2 Wider UK Legislation and Policy

4.3.2.1 *The Climate Change Act 2008*

The Climate Change Act 2008³ (as amended by The Climate Change Act 2008 (2050 Target Amendment) Order 2019) sets out the framework for the UK to transition to a low-carbon economy. It places a duty on the UK government to ensure their net carbon account and GHG emissions are reduced by 100% – by 2050 relative to 1990 levels (Net Zero) as legally underpinned by international agreements and commitments.

The Act includes a requirement for the Committee on Climate Change to report to the UK Parliament and each of the devolved administrations on:

- The progress that has been made towards meeting the carbon budgets that have been set under Part 1 and the target in Section 1 (the target for 2050).
- The further progress that is needed to meet those budgets and that target.
- Confirmation as to whether those budgets and that target are likely to be met.

4.3.2.2 *The Energy Act 2023*

The Energy Act 2023⁴ received Royal Assent in October 2023 and is one of the largest pieces of energy legislation in a generation. The Act focuses on:

- The storage, transport, and capture of carbon.
- The storage, transport, and production of hydrogen.
- The establishment of a future systems operator which will have control over the electricity and gas systems.
- Granting power to the Secretary of State to establish regulations regarding heat networks.
- Competition within the electricity and gas markets to better serve the ultimate consumer.

The Act will help the government deliver net zero by 2050 in a pragmatic, proportionate, and realistic way.

4.3.2.3 *Energy White Paper: Powering Our Net Zero Future*

The White Paper⁵ establishes the UK's goal of a decisive shift from fossil fuels to clean energy in power, buildings, and industry, while creating jobs and growing the economy.

In order to achieve the aims of the White Paper, a series of commitments are identified against the 6 chapters: consumers, power, energy system, buildings, industrial energy, and oil and gas.

³ [Climate Change \(Scotland\) Act 2009](#) – Accessed 08/12/2023.

⁴ [Search Legislation](#) – Accessed 08/12/2023.

⁵ [Energy White Paper](#) – Accessed 08/12/2023.

4.3.2.4 *Net Zero Strategy: Build Back Greener*

The Net Zero Strategy⁶ from the UK Government is a strategy that sets out policies and proposals for decarbonising all sectors of the UK economy to meet the UK's Net Zero target by 2050.

The Net Zero Strategy promotes a green industrial revolution and a green economic recovery from the impact of COVID-19 with a focus on the position of the UK in the global green economy. It aims to keep the UK on track for the UK carbon budgets, the 2030 Nationally Determined Contribution, and Net Zero by 2050. It includes:

- Decarbonisation pathways to Net Zero by 2050, including illustrative scenarios.
- Policies and proposals to reduce emissions for each sector.
- Cross-cutting action to support the transition.

4.3.2.5 *British Energy Security Strategy*

The British Energy Security Strategy⁷ was published in April 2022, and sets out how Britain will accelerate homegrown power for greater energy independence, in response to energy pressures and the cost-of-living crisis caused by the COVID-19 pandemic and Russia's invasion of Ukraine in 2022.

The British Energy Security Strategy seeks to accelerate the deployment of Wind, New Nuclear, Solar, and Hydrogen Power, whilst supporting the production of domestic Oil & Gas (O&G) in the nearer term – which could see 95% of electricity by 2030 being low-carbon.

4.3.2.6 *Powering-Up Britain: Energy Security Plan*

The Powering Up Britain: Energy Security Plan⁸ (March 2023) from the UK Government complements the earlier Powering Up Britain and sits alongside Powering Up Britain: Net Zero Growth Plan. The Energy Security Plan outlines the steps that the UK Government's Department for Energy Security and Net Zero is taking to ensure the UK is more energy independent, secure, and resilient.

4.3.3 **National Context**

4.3.3.1 *The Climate Change (Scotland) Act 2009*

The Climate Change (Scotland) Act 2009⁹ (CC(S)A 2009) is legislation specifically implemented to reduce the GHG emissions in Scotland. The CC(S)A 2009 requires an interim reduction of GHG emissions by 42% and an 80% reduction target for 2050. This also required that the Scottish Ministers set annual targets, in secondary legislation, from 2010–2050. To satisfy this requirement, the Climate Change (Annual Targets) (Scotland) Order 2010 outlined the first set of annual GHG emissions reduction targets for the period of 2010–2022. Following this period, The Climate Change (Annual Targets) (Scotland) Order 2011 outlines the targets for 2023–2027. Following EU Exit, accountability under EU Regulations, including the Renewable Energy Directive, no longer apply to the UK as a withdrawn EU Member State. The CC(S)A 2009 and The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (Scottish Government, 2019) enact Scotland's legal commitments to reducing GHG emissions.

4.3.3.2 *The Climate Change (Emissions Reductions Targets) (Scotland) Act 2019*

The Scottish Government is committed to ensuring secure, reliable, and affordable energy supplies within the context of long-term decarbonisation of energy generation. Continued growth of the renewable energy sector in Scotland is an essential feature of the future clean energy system and a key driver of future economic growth. The

⁶ [Net Zero Strategy: Build Back Greener](#) – Accessed 08/12/2023.

⁷ [British Energy Security Strategy](#) – Accessed 08/12/2023.

⁸ [Powering Up Britain](#) – Accessed 08/12/2023.

⁹ [Climate Change \(Scotland\) Act 2009](#) – Accessed 08/12/2023.

Scottish Government has set a range of targets and ambitions to cut GHG emissions and to generate more energy from renewable sources. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019¹⁰ commits the Scottish Government to reach Net Zero emissions of all GHGs by 2045. It also sets out interim targets of to cut emissions by 75% by 2030, and 90% by 2040, against the 1990 baseline. Additionally, The Scottish Government has set a target to generate 50% of Scotland’s overall energy consumption from renewable sources by 2030.

4.3.3.3 National Planning Framework 4 (NPF4)

The National Planning Framework 4¹¹ (NPF4) is discussed in detail in **Section 4.4.2.1** below but in terms of Climate Change and energy, at the core of the framework are the twin global crises relating to climate and nature – Policy 1 of the framework states *“When considering all development proposals significant weight will be given to the global climate and nature crises.”* Policy 2 further develops this theme, and requires the minimisation of lifecycle GHG emissions, adaptation to the current and future risks from climate change, and proposals for retrofit measures to existing developments in order to reduce emissions or support adaptation to climate change. Policy 11 regards energy which encourages, promotes, and facilitates all forms of renewable energy development, including onshore wind.

4.3.3.4 The Electricity Generation Policy Statement 2013

The Electricity Generation Policy Statement 2013¹² (EGPS 2013) examines the way in which Scotland generates electricity and considers the changes which will be necessary to meet the targets that the Scottish Government has established. The Scottish Government’s policy on electricity generation is that Scotland’s generation mix should deliver:

- A secure source of electricity supply;
- At an affordable cost to consumers;
- That is largely decarbonised by 2030; and
- Achieves the greatest possible economic benefit and competitive advantage for Scotland, including opportunities for community ownership and community benefits.

4.3.3.5 Scotland’s Energy Strategy

In 2017, the Scottish Government published Scotland’s Energy Strategy: The Future of Energy in Scotland¹³ that set a vision for how the energy system in Scotland would look in 2050. That vision was to see: *“A flourishing, competitive, local and national energy sector, delivering secure, affordable, clean energy for Scotland’s households, communities and businesses.”*

Since the publication of the 2017 Strategy, the Scottish Government has committed to achieving ambitious targets of Net Zero GHG emissions by 2045, and a 75% reduction by 2030. The 2017 Strategy involves supplying 50% of Scotland’s energy requirements from renewable sources and increasing energy productivity by 30% across the Scottish economy by 2030. The latest report by the Climate Change Committee (CCC, 2022) identifies that emissions in 2021 rose to some extent after the COVID-19 Pandemic but remain 10% below 2019 levels.

¹⁰ [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) – Accessed 08/12/2023.

¹¹ [National Planning Framework 4](#) – Accessed 08/12/2023.

¹² [Electricity Generation Policy Statement 2013](#) – Accessed 08/12/2023.

¹³ [Scottish Energy Strategy](#) – Accessed 08/12/2023.

4.3.3.6 *Draft Energy Strategy and Just Transition Plan – Delivering a fair and secure zero carbon energy system for Scotland 2023*

The Draft Energy Strategy and Just Transition Plan¹⁴ was introduced in a ministerial statement in Parliament in January 2023. It brings together plans for a Just Transition and the existing Energy Strategy from 2017. It is anticipated that this plan will supersede the Scottish Energy Strategy once adopted.

The draft Plan sets out actions to ensure that:

- People have access to affordable clean energy.
- Communities and places can participate and benefit from the Net Zero energy transition.
- Scotland has a supportive policy environment, maximising the impact of government expenditure, and attracting private investment.
- Scotland is home to a multi-skilled energy workforce, boosting our domestic supply chain and manufacturing capabilities.
- Scotland's Net Zero energy system is continuously innovative and competitive in domestic and international markets.

The Proposed Development aims to support each of those goals and the wider movement towards a Just Transition.

4.3.3.7 *Onshore Wind Policy Statement 2022*

The Scottish Government published an updated version of the Onshore Wind Energy Statement¹⁵ (OWPS) in December 2022; this document highlights that Scotland has approximately 8.4GW of installed capacity of onshore wind. The new target for 2030 is for 12GW of additional onshore wind deployment.

The Proposed Development would aid in the delivery of this target deployment.

The OWPS includes in section 5.3 that there will be opportunities for the repowering of existing wind farms, and this Proposed Development is one of those opportunities. It notes the significant support in Scotland for replacement of old turbines with new ones once they reach the end of the lifespan.

The OWPS notes that the planning system is supportive of repowering development proposals, and that these cases must be considered on a case-by-case basis taking into account relevant local and national planning policies.

4.4 Policy Context

4.4.1 Town and Country Planning (Scotland) Act 1997

The principal planning act, and the act under which this application will be determined, is the Town and Country Planning (Scotland) Act 1997¹⁶ as amended.

Section 25 of the Planning Act 1997 requires that when: *“making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.”*

4.4.2 The Development Plan

The Site is wholly within the Comhairle nan Eilean Siar (Council of the Western Isles) (CnES) and therefore, the Development Plan relevant to the Proposed Development is the National Planning Framework 4 (NPF4), and the

¹⁴ [Draft Energy Strategy and Just Transition Plan](#) – Accessed 08/12/2023.

¹⁵ [Onshore Wind Policy Statement 2022](#) – Accessed 08/12/2023.

¹⁶ [Town and Country Planning \(Scotland\) Act 1997](#) – Accessed 08/12/2023.

Outer Hebrides Local Development Plan¹⁷. The Development Plan was adopted prior to NPF4 therefore, where any contradictions exist between the two plans, NPF4 takes precedence as the latter document.

4.4.2.1 *National Planning Framework 4*

The fourth National Planning Framework (NPF4) was adopted by the Scottish Government on 13 February 2023; its adoption has superseded the National Planning Framework 3 and Scottish Planning Policy.

NPF4 brings together the long-term spatial strategy with national planning policies as part of the statutory Development Plan. NPF4 contains six overarching spatial principles, as below, that are key to achieving the goal of sustainable, liveable, and productive places:

- Just transition
- Conserving and recycling assets
- Local living
- Compact urban growth
- Rebalanced development
- Rural revitalisation

Policy 1 of NPF4 gives a clear direction by stating that significant weight should be given to tackling the climate and nature crises. This statement recognises the important role of NPF4 in achieving the ambitious targets for climate change and sets out the significant shifts in policies that are required to achieve net-zero emissions by 2045. This is further developed by Policy 2 which promotes climate mitigation and adaptation; policies 1, 2, and 3 (Biodiversity) are applicable to all development proposals.

NPF4 Policy 11 highlights specific policy support for low-carbon and zero emissions technologies for wind farms including repowering, extending, expanding and extending the list of existing wind farms. The policy includes a wide range of factors to be taken into account in the decision making process. The policy notes that the impact of the policy be to assist with the Just Transition, the conserving and recycling assets and rebalancing of development.

NPF4 includes pertinent planning policies that should be taken into consideration as part of the assessment and determination processes, subsequently, the below policies will be considered:

- Policy 1: Tackling the climate and nature crises
- Policy 2: Climate mitigation and adaptation
- Policy 3: Biodiversity
- Policy 4: Natural Places
- Policy 6: Forestry, woodland and trees
- Policy 7: Historic assets and places
- Policy 11: Energy
- Policy 22: Flood risk and water management
- Policy 23: Health and safety

¹⁷ [Outer Hebrides Local Development Plan](#) – Accessed 13/12/2023

4.4.2.2 *Outer Hebrides Local Development Plan 2018*

The Outer Hebrides Local Development Plan, adopted in 2018, is the established planning policy for the Western Isles. The plan allows for ready identification of development proposals affecting individual settlements. The plan sets out a vision and objectives for the Western Isles for the next 10-20 years. The vision for the local development plan is;

“To encourage and facilitate sustainable economic growth and help build confident and resilient communities, the Plan will provide planning policy that delivers long term benefits to the communities of the Outer Hebrides by ensuring development contributes to the creation of well designed and attractive places, and that our natural, marine, and cultural resources are valued and utilised efficiently and sustainably.”

The planning policies taken into consideration as part of the assessment process include:

- Policy DS1: Development Strategy
- Policy PD1: Placemaking and Design
- Policy PD6: Compatibility of Neighbouring Uses
- Policy EI1: Flooding
- Policy EI3: Water Environment
- Policy EI5: Soils
- Policy EI8: Energy and Heat Resources
- Policy EI11: Safeguarding
- Policy NBH1: Landscape
- Policy NBH2: Natural Heritage
- Policy NBH4: Built Heritage
- Policy NBH5: Archaeology
- Policy NBH6: Historic Areas

4.4.2.3 *Outer Hebrides Local Development Plan: Supplementary Guidance for Wind Energy Development*

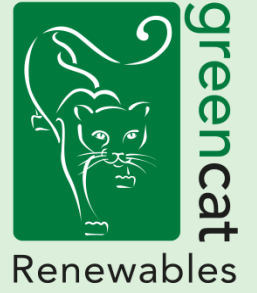
Supplementary Guidance for Wind Development¹⁸ accompanies the Outer Hebrides Local Development Plan and provides guidance on the principles that should be considered when locating, siting, and designing a wind energy development in the Outer Hebrides area. This guidance has been used to inform the EIA.

4.5 Conclusion

Planning Permission is sought from CnES, as the determining authority, for the erection of 3 wind turbines as a repowering of the existing Monan Community Wind Farm, under Section 28 of the Town and County Planning (Scotland) Act 1997, as amended.

This chapter has set out a summary of the Proposed Development in the context of the relevant regulatory and policy context. The supplementary Planning Statement provides a detailed assessment of the Development Plan and carries out an appraisal of whether the Proposed Development complies with the Development Plan and assesses other material considerations.

¹⁸ [Supplementary Guidance for Wind Energy Development](#) – Accessed 13/12/2023



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