

APPENDIX C
LEGISLATIVE AND POLICY CONTEXT

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Introduction

This section describes the statutory framework within which the application will be submitted and outlines relevant policy and guidance documents that will be taken into consideration to help inform the design of the Proposed Development.

The EIAR will set out the relevant policies that have been considered as part of the assessments undertaken throughout the EIA. A separate Planning Statement will provide a detailed appraisal of the Proposed Development against the relevant Development Plan policies, national planning and energy policy and other relevant considerations.

The Statutory Framework

The Proposed Development will have an installed capacity of over 50 MW and as such will require consent from the Scottish Ministers under the Electricity Act 1989 (the 'Electricity Act'). In such cases the Local Planning Authority is a statutory consultee in respect of the application.

For an application under Section 36 of the Electricity Act, the Development Plan does not have primacy in the decision-making process.

The provisions of Schedule 9 of the Electricity Act are relevant to the assessment of the Proposed Development as these set out a number of features to which regard must be had by the Scottish Ministers in reaching their decision on an application and such features are most appropriately addressed as part of the EIA process.

The Scottish Ministers will determine the application having regard to the statutory duties in Schedule 9 of the Electricity Act, so far as relevant, and any other relevant considerations, one of which will be the relevant aspects of the statutory Development Plan (as defined within sections 2.2.4 and 2.2.5 below).

Reforms are proposed to the Electricity Act and these were published in the Planning and Infrastructure Bill on 11 March 2025. The Bill is currently at the Committee stage in the Parliamentary process. If the Bill is enacted, the relevant new provisions would come into force in due course.

Renewable Energy Policy: Overview

The Proposed Development relates to the generation of electricity from renewable energy sources and represents a direct response to national planning and energy policy objectives. The Scottish Government have published a number of policy documents and have set legally binding emission reduction targets. The most relevant policy, legislative documents and more recent policy statements published by the Scottish Government include:

- The Scottish Energy Strategy (December 2017);
- The Climate Change (Scotland) Act 2009 and The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 (as amended) which contain the legally binding net zero target for 2045 as well as interim targets;
- The Onshore Wind Policy Statement (December 2022);
- The Draft Energy Strategy and Just Transition Plan (January 2023); and
- The Green Industrial Strategy (2024).

The Planning Statement will address the legislative provisions and policy objectives of the UK and Scottish Governments in relation to emissions reduction and encouraging increased deployment and application of renewable energy technologies, consistent with sustainable development policy principles and national and international obligations on climate change.

The Proposed Development would make a contribution to the attainment of emissions reduction, renewable energy and electricity targets at both the Scottish and UK levels. Detailed reference to the renewable energy policy framework will be provided in the Planning Statement.

National Planning Policy and Guidance

Section 24 of the Town and Country Planning (Scotland) Act 1997 (the '1997 Act') provides that the statutory Development Plan for an area consists of:

- the National Planning Framework (NPF4)¹⁶²;
- any Local Development Plan (LDP); and
- any supplementary guidance issued in connection with an LDP.

NPF4 introduced development management policies to be applied Scotland wide and also provides guidance to Planning Authorities with regard to the content and preparation of LDPs.

NPF4 continues the approach set out in NPF3 of identifying national developments. Proposed National Development 3 (ND3) is entitled 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. Strategic Renewable Electricity Generation and Transmission Infrastructure includes renewable energy developments of over 50 MW in installed capacity. The Proposed Development would therefore have national development status. The principal policy of NPF4 used in the assessment of wind energy developments is Policy 11: Energy. Other policies that may apply include:

- Policy 1: Tackling the climate and nature crisis;
- Policy 3: Biodiversity;
- Policy 4: Natural places;
- Policy 5: Soils;
- Policy 7: Historic assets and places; and
- Policy 22: Flood risk and water management.

NPF4 will be one of the key policy considerations in the determination of the application for the Proposed Development.

Local Development Plan

The local planning policy framework applicable to the Site and relevant to the EIA process will be taken into account and will be described in the EIAR and the Planning Statement.

The LDP for the site includes the South Lanarkshire Local Development Plan 2 (LDP2) (adopted 9th April 2021) and associated non-statutory Supporting Planning Guidance (SPG).

The LDP2 documentation includes two Volumes as follows:

- LDP2 Volume 1: which contains a Vision and Strategy and development management policies; and
- LDP2 Volume 2: which contains additional policies and furthermore detailed criteria against which development proposals are to be considered.

¹⁶² Available at <https://www.gov.scot/publications/national-planning-framework-4/> [Accessed May 2025]