

CHAPTER 6 PLANNING POLICY AND CONTEXT

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6. Planning Policy and Context

6.1 Executive Summary

- 6.1.1 This Chapter provides a summary explanation of the legislative and policy position of relevance to the Proposed Development, as well as outlining those material considerations which are relevant to the determination by Scottish Ministers of the applications for consent under Section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997.
- 6.1.2 This Chapter does not provide an assessment of the Proposed Development against the legislation, Planning Policies or other material planning considerations. Such an assessment is provided within a separate standalone Planning Statement which assists in the decision making process. The Planning Statement does not form part of this EIA Report.

6.2 Introduction

- 6.2.1 This Chapter of the EIA Report will seek to provide an outline of the legislative context, as well as national policy and advice including the National Planning Framework and Scottish Planning Policy, the local development plan policies, guidance and other material considerations which have been taken into account by the EIA and to set out the considerations relevant to the determination of the Section 36 application for the Proposed Development.
- 6.2.2 This Chapter will also set out relevant national and international legislation and policies which confirm the UK and Scottish Government's current targets and policy position on energy and climate change commitments which are considered important material planning considerations.
- 6.2.3 As an application made under Section 36 of the Electricity Act 1989 (HM Government, 1989), the application does not fall to be determined in accordance with the requirements of Section 25 of the Town and Country Planning (Scotland) Act 1997. Notwithstanding this, the development plan and associated guidance, is considered to be a material consideration in the determination of the application.
- 6.2.4 A separate Planning Statement, which does not form part of this EIA Report has been prepared which interprets the relevant provisions of legislation, the development plan and other material considerations and provides a comprehensive assessment to confirm if the Proposed Development accords with those provisions (SSE, 2021).

6.3 Legislative Context

- 6.3.1 The Proposed Development would comprise 20 Wind Turbine Generators ('WTG') and would be an extension to the existing 19 WTG of the operational Achany Wind Farm. The installed generation capacity of the existing operational wind farm is 38 megawatts (MW) and the proposed installed capacity of the Proposed Development alone is anticipated to be in excess of 80MW, providing a combined capacity in excess of 118MW. It therefore requires to be determined under Section 36 of the Electricity Act 1989 ('the Act'), which establishes that where generating stations will result in a capacity over 50MW that they shall not be constructed, extended or operated except in accordance with a consent granted by Scottish Ministers and subject to serving notice on the relevant Planning Authority (the Highland Council ('THC')), in accordance with Schedule 8(2) of the Act.
- 6.3.2 Section 36 of the Act sets out a list of environmental matters in Schedule 9 (paragraph 3(1)(a)) which Scottish Ministers must have regard to in reaching a decision. This includes having a regard to:
- "the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest".*
- 6.3.3 Schedule 9 Paragraph (3)(1)(b) also places a duty on the person formulating the proposals to do what he reasonably can to mitigate the effects of the proposal on the matters outlined within Schedule 9 Paragraph (3)(1)(a).
- 6.3.4 In considering Section 36 proposals, paragraph 3(2) of Schedule 9 requires Scottish Ministers to have regard to: (1) the desirability of the matters mentioned in paragraph 3(1)(a) of Schedule 9; and (2) the extent to which the person by whom the proposals were formulated has complied with his duty.

- 6.3.5 Section 57(2) of The Town and Country Planning (Scotland) Act 1997 (as amended) ('1997 Act') states that:

"On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction".

- 6.3.6 Therefore, Section 36 applications do not need to be separately assessed under the provisions of the 1997 Act which require decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding this, the planning system plays a key role in protecting these very interests and this Chapter will outline the relevant policy and guidance, including the development plan which, although are not of the same weight as those considered under S.25 of the 1997 Act, are nonetheless material considerations relevant to the determination of the Proposed Development. The separate Planning Statement will consider the weight which should be afforded to the development plan policy and guidance in the overall planning balance. This will take account of the age of the development plan (adopted 2012) and the presumption provided in Scottish Planning Policy 2020, in favour of sustainable development (Scottish Government, 2020, *Scottish Planning Policy, Revision*).
- 6.3.7 The EIA has been prepared in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (Scottish Government, Scottish Statutory Instrument, 2017 & 2020).

6.4 Policy

International and UK-wide Energy and Climate Change Legislation, Policy and Guidance

- 6.4.1 The most relevant renewable energy and climate change legislation, policy and guidance at an international, UK and national levels to the Proposed Development are summarised within Section 6.4, paragraphs 6.4.2 to 6.4.23.

The United Nations Adoption of the Paris Agreement COP21 (December 2015)

- 6.4.2 197 countries, including the UK, adopted the Paris Agreement at the 21st Conference of the Parties (COP21) in Paris in 2015 (United Nations, 2015). This is an agreement which seeks to reduce global greenhouse gas emissions and to limit the global temperature increase in this century to 2 degrees Celsius, while pursuing the means to limit this to 1.5 degrees Celsius. This was ratified by the UK in November 2016 and now forms part of UK Government Policy.

The UK Climate Change Act 2008 (and amendment 2019)

- 6.4.3 In November 2008, the Climate Change Act became law requiring the UK to reduce Carbon Dioxide (CO₂) emissions which was updated in 2019 to provide a legal basis for the target of securing a 100% reduction of greenhouse gas emissions to be reduced by 2050 (compared to 1990 levels) (HM Government, The Stationary Office Limited, 2008 and 2019).

The HM Government Energy White Paper Powering our Net Zero Future (December 2020)

- 6.4.4 Following the Prime Minister's 10-point plan for a green revolution and National Infrastructure Strategy (November 2020), the White Paper marks a significant milestone in the UK's net zero transition, setting a net-zero target by 2050 and outlining how this may be achieved (HM Government, 2020). It relates to the generation, supply and use of energy with the drive towards net zero by 2050 at its core, along with energy efficient buildings and lower household bills. It signals a decisive move away from fossil fuel generation and highlights how planned Government investment has the potential to leverage billions more in private sector funding and support over 250,000 jobs in the green economy by 2030.

HM Government Build Back Better Policy Paper (March 2021)

- 6.4.5 This policy paper reflects the significant economic impact of Covid-19 and the requirement to build our economy back in a way which levels up prosperity and opportunity through appropriate investment (HM Government, 2021). A key element is the delivery of the 10-point plan for a green revolution, leveraging significant private sector investment and supporting up to 250,000 highly-skilled jobs to support the transition to net zero. It aspires for the UK to continue to be at the forefront of tackling climate change and a world leader in clean growth.

Scotland Energy and Climate Change Legislation, Policy and Guidance

- 6.4.6 Although energy policy is reserved to Westminster, climate change and planning policy is devolved to the Scottish Government and moreover, the UK legislation, policy and guidance recognises the national contributions and separate strategies set out by devolved nations. Accordingly, the Scottish Energy and Climate Change Legislation, Policy and Guidance is a material consideration in the determination of the Section 36 application by Scottish Ministers. The Scottish Government have sought to reflect the suitability of this technology to meet the energy and climate change targets in Scotland, within their national legislation, policy and guidance.

The Scottish Electricity Generation Policy Statement (2013)

- 6.4.7 The 2013 statement set out the pathway to meeting the Scottish Government target of delivering the equivalent of at least 100% gross electricity consumption from renewables by 2020¹ as part of a wider, balanced energy mix (Scottish Government, 2013). The main purpose was to seek to ensure a secure source of electricity supply at an affordable cost to consumers, which can be largely decarbonised by 2030 and which achieves the greatest possible economic benefit and competitive advantage for Scotland including opportunities for community ownership and community benefits.

Letter of 11 November 2015 from John McNairney to all Heads of Planning in relation to energy targets and SPP

- 6.4.8 This letter set out the Scottish Government's response in 2015 to the UK Energy Secretary confirming that there is adequate onshore wind to meet the 11-13 Gigawatt (GW)

¹ Provisional figures show that the equivalent of 97.4% of gross electricity consumption was made by renewables in 2020. (Scottish Government, March 2021)

requirement for electricity from onshore wind by 2020 (Scottish Government Chief Planner, 2015). The letter confirms that the Scottish Planning Policy ('SPP') 2014 and the Electricity Generation Policy Statement (2013) set out Scottish Government position. This position was outlined as:

- 6.4.9 *"The Scottish Government target is to generate at least the equivalent of 100% of gross electricity consumption from renewables by 2020. The Electricity Generation Policy Statement is clear that this target is a statement of intent and that it is known Scotland has the potential resource to deliver and exceed it.*
- 6.4.10 *Scottish Planning Policy on delivering heat and electricity is clear that the planning system should support the transformational change to a low carbon economy, consistent with national objectives and targets, including the 100% target mentioned above. This does not place a cap on the support for renewable energy developments, including on-shore wind once the target has been reached".*

The Scottish Government: Scottish Energy Strategy (December 2017)

- 6.4.11 As well as previous energy and climate change targets this strategy set two new targets for the Scottish Energy system by 2030 to meet emission reduction targets. These targets were:
- The equivalent of 50% of the energy for Scotland's Heat, transport and electricity consumption to be supplied from renewable sources (Scottish Government, 2017); and
 - An increase by 30% in the productivity of energy use across the Scottish economy.
- 6.4.12 The strategy confirmed a vision underpinned by three core principles:
- A whole system view which included heat and transport alongside electricity and energy efficiency into Energy policy;
 - An inclusive energy transition which tackles inequality and poverty and promotes a fair and inclusive job market, seeking to support consumers to reduce energy bills whilst reducing their carbon footprint and secure reduced costs for Scottish Business to ensure competitiveness; and
 - A smarter local energy model which secures coordinated energy systems to plan and deploy energy on an area-by-area basis.

The Scottish Government: Onshore Wind Policy Statement (December 2017)

- 6.4.13 This 2017 Policy Statement seeks to outline the ongoing benefits of onshore wind for Scotland stating:
- 6.4.14 *"There is no question that onshore wind is a vital component of the huge industrial opportunity that renewables more generally creates for Scotland. The sector supports an estimated 7,500 jobs in Scotland, or 58% of the total for onshore wind across the UK, and generated more than £3 billion in turnover in 2015."* (Scottish Government, 2017).
- 6.4.15 It further advises that:
- 6.4.16 *"onshore wind will continue to play a vital role in Scotland's future - helping to decarbonise our electricity supply, heat and transport systems, thereby boosting our economy and meeting local and national demand."*

The Scottish Government: Climate Change Plan (February 2018)

- 6.4.17 This 2018 Climate Change Plan sets out the ambition of Scottish Government plans to decarbonise to 2032, confirming within the Ministerial foreword that:

“our ambitions must live up to the scale of the challenge, and our actions must live up to our ambitions.” (Scottish Government, 2018).

- 6.4.18 It confirms that the plan seeks to build on Scotland’s success in sectors such as renewable energy to secure further transformational change. The plan sets a target to deliver 50% of all Scotland’s energy needs from renewables by 2030, with a target of 100% of electricity to be generated by renewables by 2020². It confirms that amongst other measures this will require ongoing support throughout government policy to increase the amount of electricity generated from renewable sources in Scotland to achieve the requirement of installed capacity of between 12GW and 17GW of renewable electricity generation by 2030.

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

- 6.4.19 Following the announcement of a climate emergency by Scottish Government, this Act introduces further targets than those of the preceding Climate Change (Scotland) Act 2009, seeking to commit to become a net-zero society by 2045 and sets interim targets of:

- At least 56% lower than baseline by 2020³ (Scottish Parliament, 2019);
- At least 75% lower than baseline by 2030; and
- At least 90% lower than baseline by 2040.

Scotland’s Climate Change Plan (2020)

- 6.4.20 This Climate Change plan update confirms how Scotland will achieve the new emissions reduction targets to 2032 and outlines the requirement to secure a green recovery from Covid-19 that requires a co-ordinated collaborative approach to achieve net zero targets (Scottish Government, 2020, *Update to the Climate Change Plan: third report on proposals and policies 2018 – 2032*). The plan sets out a pathway to deliver the ambitious climate change targets and confirms that the policies mean that by 2032 there will a substantial increase in renewable generation, particularly onshore wind capacity and a need to invest in onshore electricity. It also confirms the requirement for adoption of electricity based solutions for heat and transport, to take advantage of the large potential for growth of onshore wind capacity in Scotland.

Scotland’s Energy Strategy Position Statement March 2021

- 6.4.21 The Statement sets out how the Scottish Government intends to build upon the recent Programme for Government to focus on addressing climate change and recovering from the economic crisis brought about by Covid-19. It recognises the achievement of Scotland in reaching a 50% reduction (from 1990) of greenhouse gas emissions. It follows the recent Climate Change Plan Update which sets out the pathway to 2032 targets and

² Provisional figures show that the equivalent of 97.4% of gross electricity consumption was made by renewables in 2020 (Scottish Government, 2021).

³ The impact of the lockdown means that the 2020 target will almost certainly be met (to be confirmed in summer 2022) but the key structural changes that will drive emissions reductions in sectors outside of electricity generation have not yet been achieved (Scottish Government, October 2020).

includes policies further to the 2018 Climate Change Plan. It also sets out the pathway toward net zero ahead of the UN Framework Convention on Climate Change Conference of the Parties ('COP26'). It notes the requirement for a refresh of the Onshore Wind Policy Statement ahead of COP26.

- 6.4.22 It emphasises the continued commitment to supporting onshore renewables in the right places to help meet net zero targets, stating that the continued growth of Scotland's renewable energy industry is fundamental to enabling us to achieve our ambition of creating sustainable jobs as we transition to net zero.

National Planning Policy and Guidance

National Planning Framework 3

- 6.4.23 National Planning Framework 3 ('NPF3'), Scottish Government, June 2014 does not form part of the development plan, but does provide the Scottish Government's strategic spatial policy context and strategy for decisions and actions by Scottish Ministers (Scottish Government, 2014, *National Planning Framework 3*). NPF3 has a requirement for its contents to be reflected by Local Planning Authorities within their local development plans. As such, whilst it has no site specific policies, it does contain general policies which confirm the requirements: to reduce reliance on fossil fuels; and to transition towards a low carbon economy. It recognises that whilst there is a need to protect and sustain our environmental assets; that onshore wind development can improve the long-term resilience of rural communities (paragraph 3.7). It confirms that energy has a continued role in securing this transition to a low carbon economy (paragraph 3.23), as it continues to make a significant contribution to the diversification of Scotland's energy supply.

Fourth National Planning Framework: Position Statement

- 6.4.24 The Fourth National Planning Framework ('NPF4') 'Positions Statement' was published to provide an indication of the Scottish Government's current thinking on issues to be addressed by the emerging NPF4 (Scottish Government, 2020, *The Highland Wide Local Development Plan*). It is not a policy document, but a consultation was undertaken on the document to inform the development of NPF4, which once published will become part of the Development Plan. It confirms the necessary shift required to achieve net zero-emissions by 2045. It identifies key opportunity 8 as requiring support for renewable energy, including extensions of existing wind farms and states:

"we will have to rebalance the planning system so that climate change is a guiding principle for all plans and decisions. We will need to focus our efforts on actively encouraging all developments that help to reduce emission."

- 6.4.25 Moreover, the emerging NPF4 confirms it will build on the Climate Change Plan, advice from the UK Climate Change Committee and recommendations of the Just Transition Commission and result in actively facilitating decarbonised heating and electricity generation and distribution and states:

"We expect that NPF4 will confirm our view that the Global Climate Emergency should be a material consideration in considering applications for appropriately located renewable energy developments."

- 6.4.26 It advises that there are a number of potential policy changes which will be introduced through NPF4 which includes:

- Strengthening support for expanding existing wind farms; and
- Upgrading the spatial framework for onshore wind to protect National Parks and National Scenic Areas, allowing development elsewhere subject to site specific assessment.

6.4.27 The draft NPF4 is due to be published in autumn 2021.

Scottish Planning Policy

6.4.28 Scottish Planning Policy ('SPP') 2014 (revised December 2020) sets out national planning policies, which reflect Scottish Government Ministers' priorities for the operation of the planning system and for the development and use of land (Scottish Government, 2020, *Scottish Planning Policy*). The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed.

6.4.29 Paragraph (iii) states that as a statement of Ministers' priorities, the content of the SPP is a material consideration that carries significant weight, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.

6.4.30 The SPP identifies four key Planning outcomes for Scotland:

- A successful sustainable place – supporting economic growth, regeneration and the creation of well-designed places;
- A low carbon place – reducing our carbon emissions and adapting to climate change;
- A natural resilient place – helping to protect and enhance our natural cultural assets and facilitating their sustainable use; and
- A connected place – supporting better transport and digital connectivity.

6.4.31 Paragraph 17 confirms that to achieve a low carbon economy, NPF3 will facilitate the transition to a low carbon economy, particularly by diversification of the energy sector and including a spatial strategy which as a whole aims to reduce greenhouse gases and facilitate adaption to climate change. Paragraph 18 advises that the relevant targets for reducing emissions are set out within the Climate Change (Scotland) Act 2009 (although it should be noted that these targets have now been superseded by more recent targets as noted in the Energy Policy Section 6.4.20 above which seek to deliver net zero carbon emissions in Scotland by 2045). Paragraph 19 confirms that it is the role of SPP to set out how this should be delivered on the ground by the planning system to secure the transformational change required.

6.4.32 SPP contains two Principal Policies: 'sustainability' and 'placemaking'.

6.4.33 With regard to Sustainability the Policy Principle on Page 9 states:

"The SPP introduces a presumption in favour of sustainable development"

6.4.34 Paragraph 29 advises that planning policies and decision should support sustainable development and therefore, to assess sustainability, the following principles relevant to the Proposed Development must be taken into account:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategy;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure;

- supporting delivery of accessible business;
 - supporting delivery of infrastructure including energy;
 - supporting climate change mitigation and adaptation including taking account of flood risk;
 - Improving health and well-being by offering opportunities for social interaction and physical activity including sport and recreation;
 - having regard to the principles of sustainable land use set out in the Land Use Strategy;
 - protecting, enhancing and promoting access to cultural heritage, including the historic environment;
 - protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
 - reducing waste, facilitating its management and promoting resource recovery; and
 - avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.
- 6.4.35 With regard to delivery, paragraph 30 confirms that development plans should be consistent with SPP, including a presumption in favour of sustainable development and be up-to-date, place-based and enabling with a spatial strategy that is complemented through policies and proposals.
- 6.4.36 Placemaking is addressed from paragraph 36 and confirms that high quality places should be promoted by taking a design-led approach. It also requires a sustainable pattern of development, which optimises the use of existing resource capacities. For energy generation, it advocates locating development where it delivers the greatest benefit for the amenity of local people and the vitality of the local economy.
- 6.4.37 In the promotion of Rural Development, paragraph 75 confirms that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area. It encourages rural development that supports prosperous and sustainable communities and business, whilst protecting and enhancing environmental quality. Paragraph 77 also confirms that:
- 6.4.38 *“In remote and fragile areas and island areas outwith defined small towns, the emphasis should be on maintaining and growing communities by encouraging development that provides suitable sustainable economic activity, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place”.*
- 6.4.39 Further advice which is relevant to the Proposed Development, relating to remote rural areas is provided in paragraph 83 which states that:
- “where development can help sustain fragile communities, plans and decision making should generally:*
- *Encourage sustainable development that will provide employment; and*
 - *support and sustain fragile and dispersed communities through provision for appropriate development, especially housing and community-owned energy”.*
- 6.4.40 Under Supporting Business and Employment, paragraph 94 confirms that plans should align with local economic strategies to help meet the needs and opportunities of

indigenous firms and inward investors and recognising the potential of key sectors which includes energy.

- 6.4.41 SPP addresses ‘A Low Carbon Place’ as a ‘subject policy’ on page 36 and refers to ‘delivering electricity’. Paragraph 152 refers to the NPF3 context and states that NPF3 is clear that planning must facilitate the transition to a low carbon economy and help to deliver the aims of the Scottish Government.
- 6.4.42 Paragraph 153 also recognises that planning can facilitate the development of renewable energy technologies, advising:
- “Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the National Renewables Infrastructure Plan. Communities can also gain new opportunities from increased local ownership and associated benefits”.*
- 6.4.43 In terms of ‘Policy Principles’, paragraph 154 states that the planning system should:
- support the transformational change to a low carbon economy, consistent with national objectives and targets, including deriving: 30% of overall energy demand from renewable sources by 2020; 11% of heat demand from renewable sources by 2020; and the equivalent of 100% of electricity demand from renewable sources by 2020;
 - support the development of a diverse range of electricity generation from renewable technologies – including the expansion of renewable energy generation capacity; and
 - guide development to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.
- 6.4.44 Paragraph 155 confirms that development plans should:
- “ensure an area’s full potential for electricity and heat from renewable sources is achieved, in line with national climate change targets, giving due regard to relevant environmental, community and cumulative impact considerations”.*
- 6.4.45 Paragraphs 161-166 are specifically relevant to onshore wind, requiring local development plans to establish a spatial framework to provide a locational guide to assist in the location of, and decision making process for onshore wind energy proposals. SPP advises that spatial frameworks provided as part of Local Development Plans are expected to follow the approach set out in SPP Table 1. This table categorises all areas into three groups which provides an indicating of the likely acceptability of a location in principle ranging from the highest level of protection in Group 1 reducing to Group 3. The Site falls within group 2: ‘areas of significant protection’ due to the location of the Site in relation to Wild Land and the potential for deep peat, which highlight that development may be appropriate in some circumstances where it can be demonstrated that significant effects can be substantially overcome by siting, design, or other mitigation.
- 6.4.46 Paragraph 169 sets out considerations which may be relevant for proposals for windfarms, these include:
- net economic impact, including local and community socio economic benefits such as employment, associated business and supply chain opportunities;

- the scale of contribution to renewable energy generation targets;
- effects on greenhouse gas emissions;
- cumulative impacts – planning authorities should be clear about likely cumulative impacts arising from all of the considerations below, recognising that in some areas the cumulative impact of existing and consented energy development may limit the capacity for further development;
- impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;
- landscape and visual impacts including effects on wild land;
- effects on the natural heritage, including birds;
- impacts on carbon rich soils using the carbon calculator;
- public access, including impact on long distance cycling and walking routes and scenic routes identified in the NPF;
- impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- impacts on tourism and recreation;
- impacts on aviation and defence interests and seismological recording;
- impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- impacts on road traffic;
- impacts on adjacent trunk roads;
- effects on hydrology, the water environment and flood risk;
- the need for conditions relating to the decommissioning of developments, including ancillary infrastructure and site restoration;
- opportunities for energy storage; and
- the need for a robust planning obligation to ensure that operators achieve site restoration.

6.4.47 Paragraph 170 confirms that areas identified for wind farms should be suitable for use in perpetuity and whilst consents may be time-limited the key considerations to reduce impacts and protect an acceptable level of amenity for adjacent communities should help realise the potential for continued use of suitable wind farm sites. As an extension to the existing Achany Wind Farm, the adjacent area has been deemed as suitable for wind farm development having taken account of these key considerations and therefore should be deemed as suitable for use in perpetuity.

6.4.48 SPP Paragraph 174 relates to existing wind farm sites and whilst it does not specifically mention extension, recognises that repowering (which can involve new design and layout) on suitable sites can:

“help to maintain or enhance installed capacity, underpinning renewable energy targets. The current use of the site as a wind farm will be a material consideration in any such proposals.”

6.4.49 Under the Policy for A Natural, Resilient Place SPP confirms in paragraph 193 that:

“the planning system should protect, enhance and promote access to our key environmental resources, whilst supporting their sustainable use”.

- 6.4.50 The SPP confirms that development plans should identify and afford appropriate levels of protection to international, national and locally designated areas and sites, explaining their reason for local designation including their function and continuing relevance. It confirms that buffer zones should not be established around areas designated for their natural heritage importance and that the level of protection given to local designations should not be as high as that given to international or national designation. It also encourages limits on non-statutory local designations in accordance with the list provided in Paragraph 197 relating to local landscape or local nature conservation value.
- 6.4.51 Paragraph 200 specifically relates to Wild Land Character advising that this relates to remoter upland, mountain and coastal areas which are sensitive to any form of intrusive human activity or have little or no capacity to accept new development. It confirms that plans should:
- “identify and safeguard the character of areas of wild land as identified on the 2014 SNH map of wild land areas”.*
- 6.4.52 Furthermore, paragraph 215 confirms that:
- In areas of wild land, development may be appropriate in some circumstances. Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation”.*
- 6.4.53 Paragraph 202 advises that development should be sited and designed to take account of local landscape character and decisions should take account of potential effects on landscape and the natural and water environment, including cumulative effects. It states that developers should seek to minimise impacts through careful planning and design, considering services the natural environment provides and maximising the potential for enhancement.
- 6.4.54 In the determination of planning applications, paragraph 203 advises that permission should be refused where the nature or scale would have an unacceptable impact on the natural environment, but confirms that:
- “whilst effects are an important consideration, designation does not impose an automatic prohibition on development. The precautionary principle should not be used to impede development without justification.”*
- 6.4.55 With regard to development where peat and other carbon rich sources are present, applicants are required by paragraph 205 to assess the likely effects of the development on carbon dioxide emissions and aim to minimise the release into the atmosphere.

Relevant National Planning Guidance

- 6.4.56 The following national planning guidance is also considered to be relevant in relation to onshore wind and the guidance has been taken into account in the preparation of the EIA Report:
- The Scottish Government (online): Onshore wind turbines guidance (updated May 2014) (Scottish Government, 2014);
 - The Scottish Government: Onshore Wind – some questions answered (December 2016) (Scottish Government, 2016);
 - SNH: Spatial planning for onshore wind turbines – natural heritage considerations: guidance (June 2015) (SNH, 2015); and

- The Scottish Government: Good practice principles for shared ownership of renewable energy developments (September 2015) (Scottish Government, 2015).

The Development Plan

- 6.4.57 The development plan comprises the Highland-wide Local Development Plan, April 2012 ('HWLDP') (The Highland Council, 2012) and the Caithness and Sutherland Local Development Plan, adopted in 2018 ('CaSPlan') (The Highland Council, 2018). A summary of the key strategies, policies, aims and objectives of the development plan as considered by the EIA are undernoted.
- 6.4.58 Further documents which have been approved as part of the statutory development plan includes:
- the Onshore Wind Energy Supplementary Guidance (adopted November 2016) including the Addendum Supplementary Guidance (adopted December 2017) (The Highland Council, 2016 & 2017).

Highland-wide Local Development Plan 2012

- 6.4.59 Approved by Scottish Ministers, the HWLDP came into force in April 2012, setting out broad strategic themes within its vision statement which seek to guide and inform Development in the Highland local administrative area until 2030. Those potentially relevant to the Proposed Development include:
- *"Safeguard the environment – ensuring renewable energy resources are managed with clear guidance on their location and protecting and enhancing the natural, built and cultural environment; lead in the reduction of greenhouse gases released into the air, adapted to the effects of climate change and limited non-renewable resources development uses; and lead in the delivery of sustainable waste management;*
 - *Support a competitive, sustainable and adaptable Highland economy by: providing opportunities for economic development and new employment across the area focusing on key sectors including energy to grow the economy over the long-term and ensure there is guidance for the protection of key resources; and*
 - *Provide a better opportunity for all and a fairer Highland through promotion of investment in services and infrastructure and opportunities for investment and diversification in the economy".*
- 6.4.60 HWLDP also contains a number of general policies. Full copies are provided in Technical Appendix 6.1: HWLDP Policies. A summary of the policies, as potentially relevant to the Proposed Development are set out in Table 6.1 below.

Table 6.1: HWLDP Policies

Policy Number/Title	Policy Summary
Policy 28 Sustainable Development	<p>This policy confirms the Council will support developments which promote and enhance the social, economic and environmental wellbeing of the people of Highland, advising proposed developments will be assessed on a range of criteria which protect and ensure sustainable use of existing and future infrastructure, built and natural resources and residential amenity.</p> <p>The policy advises that where it is considered to be significant due to its nature, size or location, it will only be supported if no reasonable</p>

Policy Number/Title	Policy Summary
	<p>alternatives exist and where there is over-riding strategic benefit or satisfactory mitigating measures are incorporated.</p> <p>Policy 28 requires that all development proposals must demonstrate compatibility with the Sustainable Design Guide: Supplementary Guidance, which requires that all developments should:</p> <ul style="list-style-type: none"> • conserve and enhance the character of the Highland area; • use resources efficiently; • minimise the environmental impact of development; and • enhance the viability of Highland communities.
Policy 29 Design Quality and Place-making	Development is required to make a positive contribution to the architectural and visual quality of the place where it is located, demonstrating sensitivity and respect towards the local distinctiveness of the landscape architecture, design and layout.
Policy 30 Physical Constraints	Developers must consider if the development is in an area of constraints, set out in 'Physical Constraints: Supplementary Guidance' and must demonstrate compatibility with the constraint or confirm suitable mitigation. The list of Physical Constraints required to be considered are set out in Technical Appendix 6.2: THC Supplementary Guidance.
Policy 31 Developer Contributions	This policy advises that the Council may seek fair and reasonable contributions in cash or kind to address costs, which are created by the development, secured through a Section 75 obligation or other legal agreement.
Policy 36 Development in the Wider Countryside	<p>Outside the defined settlements, the Proposed Development will be assessed against the following key considerations:</p> <ul style="list-style-type: none"> • siting and design; • addressing existing patterns of development; • being compatible with the landscape character and capacity; • avoiding expansion of a one particular development type in a landscape whose distinct character relies on a mix of characteristics; • avoiding the loss of croft land; • addressing drainage constraints and can be adequately serviced; and • whether the proposal assists 'Fragile Areas'.
Policy 51 Trees and Development	This policy provides significant protection to existing hedges, trees and woodlands on and near development sites and requires an appropriate woodland management plan to secure management of existing resources. It also refers to separate Supplementary Guidance 'Trees, Woodland and Development'.
Policy 52 Principle of Development in Woodland	This policy requires demonstration of the need to develop a wooded site and that the site can accommodate the development. There is a strong presumption in favour of protecting woodland resources. Development proposals will only be supported where they offer clear and significant public benefit and where woodland removal is required, compensatory planting will be required. Major development will be assessed against their socio-economic impact on the forestry industry, economic maturity of the woodland and the opportunity for the proposal to co-exist with forestry operations.

Policy Number/Title	Policy Summary
	<p>There will be a strong presumption against development on inventoried woodland, designated woodland or other important features. Proposals will be assessed against Scottish Governments policy on Control of Woodland Removal.</p> <p>The current Highland Forest and Woodland Strategy will be considered as a material consideration.</p>
Policy 54 Mineral Wastes	<p>The Council will encourage the minimisation and re-use of mineral, construction and demolition wastes. A Waste Management Plan is required to show minimisation, treatment, recovery and disposal of waste.</p>
Policy 55 Peat and Soils	<p>The Council will require the Applicant to demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. The policy advises that unacceptable disturbance of peat will not be permitted unless adverse effects are clearly outweighed by social, environmental or economic benefits arising from the development proposal. Where it is demonstrated that development on peat is unavoidable then a peatland management plan is to be submitted demonstrating how impacts have been minimised and mitigated.</p> <p>Proposed development must also demonstrate that extraction would not adversely affect the integrity of any nearby Natura sites containing areas of peatland.</p>
Policy 56 Travel	<p>This policy requires details of on and off-site transport implications, those criteria relevant to the proposal advise proposed development's should:</p> <ul style="list-style-type: none"> • Be well served by the most sustainable modes of travel; • Be designed for the safety and convenience of all potential uses; • Incorporate appropriate mitigation, through developer contribution if necessary, to improve and enhance all transport modes; • Include appropriate parking provision; and • Green Travel Plans may be required for significant travel generating developments. <p>The Council will also take account of The Core Paths Plan.</p>
Policy 57 Natural, Built and Cultural Heritage	<p>All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and it's setting. The following criteria will also apply:</p> <ul style="list-style-type: none"> • Features of local/regional importance – development will be allowed if it can be satisfactorily demonstrated it will not have an unacceptable impact on the natural environment, amenity and heritage resource. • Features of national importance - developments will be allowed if it is shown not to compromise the natural environment, amenity and heritage resource. Significant adverse effects, must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services. • Features of international importance - developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, not directly connected with or

Policy Number/Title	Policy Summary
	<p>necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where the Council is unable to ascertain that a proposal will not adversely affect the integrity of a site, development will only be allowed where there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where it is not ascertained if the proposal will adversely affect the integrity of a site, the proposal will not be in accordance with the development plan (within the meaning of Section 25(1) of the Town and Country Planning (Scotland) Act 1997).</p> <p>The policy refers to Supplementary Guidance (January 2013) Highland Historic Environment Strategy.</p>
<p>Policy 58 Protected Species</p>	<p>This policy requires that where a protected species may be present on-site, or may be affected, a survey is required to establish its presence and the necessary mitigation to avoid or minimise any impacts on the species, before determining the application.</p> <p>Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species will only be permitted where:</p> <ul style="list-style-type: none"> • there is no satisfactory alternative; • the development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and • the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. <p>Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species will only be permitted where:</p> <ul style="list-style-type: none"> • there is no other satisfactory solution; and • the development is required in the interests of public health or public safety. <p>This policy will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:</p> <ul style="list-style-type: none"> • species listed in Annex 1 of the EC Birds Directive; • regularly occurring migratory species listed in Annex II of the Birds Directive; • species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended; and • birds of conservation concern.

Policy Number/Title	Policy Summary
	<p>Development with adverse effect, individually and/or cumulatively on other protected animals and plants will only be permitted where the development is required for preserving public health or public safety.</p> <p>Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004 and Wildlife and Natural Environment (Scotland) Act 2011 (as amended).</p>
Policy 60 Other Important Habitats and Article 10 Features	<p>The integrity of features of the landscape of major importance due to linear and continuous structure or combination as habitat “stepping stones” for the movement of wild fauna and flora. (Article 10 Features) will be safeguarded.</p> <p>The policy advises that the Council will have regard to the value of the following Other Important Habitats, where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and/or cumulatively:</p> <ul style="list-style-type: none"> • habitats listed in Annex I of the EC Habitats Directive; • habitats of priority and protected bird species (see Glossary); • priority habitats listed in the UK and Local Biodiversity Action Plans; and • habitats included on the Scottish Biodiversity List. <p>Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the Council will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation.</p>
Policy 61 Landscape	<p>This policy advises that new developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed, including an appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments.</p> <p>The Council encourage measures to enhance the landscape characteristics of the area.</p> <p>The Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance.</p>
Policy 62 Geodiversity	<p>This policy provides support for proposed development which protects and enhances the geodiversity interest of international, national and regional/local importance in the wider countryside.</p> <p>The policy also supports improvement of accessibility and interpretation as an education or geo-tourism resource.</p>
Policy 63 Water Environment	<p>This policy provides support for developments that do not compromise the objectives of the Water Framework Directive (2000/60/EC).</p>
Policy 64 Flood Risk	<p>This policy requires that development proposals should avoid areas susceptible to flooding and promote sustainable flood management. Development proposals within or bordering medium to high flood risk areas will need to demonstrate compliance with Scottish Planning Policy</p>

Policy Number/Title	Policy Summary
	<p>(SPP) through the submission of suitable information, which may take the form of a Flood Risk Assessment.</p> <p>Development proposals outwith indicative medium to high flood risk areas may be acceptable. However, flood prevention management may be required where:</p> <ul style="list-style-type: none"> • better local flood risk information is available and suggests a higher risk; or • a sensitive land use (as specified in the risk framework of Scottish Planning Policy) is proposed. <p>Where flood management measures are required, natural methods such as restoration of floodplains, wetlands and water bodies should be incorporated, or adequate justification should be provided as to why they are impracticable.</p>
Policy 65 Waste Water Treatment	Where relevant, this policy requires connection of proposed development to the public sewer, unless a proposed development is unable to connect and would not be likely to result in significant environmental or health problems.
Policy 66b Surface Water Drainage	This policy requires that all proposed development must be drained by Sustainable Drainage Systems (SuDS) designed in accordance with The SuDS Manual (CIRIA C697) and where appropriate, the Sewers for Scotland Manual 2nd Edition. Planning applications should be submitted with information in accordance with Planning Advice Note 69: Planning and Building Standards Advice on Flooding paragraphs 23 and 24. Each drainage scheme design must be accompanied by particulars of proposals for ensuring long-term maintenance of the scheme.
Policy 67 Renewable Energy Developments	<p>This policy advises that Renewable Energy proposals must demonstrate that they are well related to the primary renewable resource.</p> <p>It advises that the Council will consider the contribution a proposed development makes in meeting renewable energy targets and any negative or positive effects on the local and national economy.</p> <p>It confirms it will assess proposals against other policies of the development plan, the Highland Renewable Energy Strategy⁴ and Planning Guidelines and taking account of other material considerations including whether it can demonstrate significant benefits including making effective use of existing and proposed infrastructure or facilities.</p> <p>The Council advises that it will support development where it is located, sited and designed so that it will not be significantly detrimental overall, either individually or cumulatively with other development and in particular on:</p> <ul style="list-style-type: none"> • 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);

⁴ THC are no longer treating the Highland Renewable Energy Strategy as a material consideration but generation targets will be carried forward for monitoring purposes.

Policy Number/Title	Policy Summary
	<ul style="list-style-type: none"> • amenity at sensitive locations, including residential properties, work places and recognised visitor sites (in or outwith a settlement boundary); • the safety and amenity of any regularly occupied buildings and the grounds that they occupy - having regard to visual intrusion or the likely effect of noise generation and, in the case of wind energy proposals, ice throw in winter conditions, shadow flicker or shadow throw; • 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 lowflying 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. <p>Where approved, the Council will seek to include appropriate conditions and planning obligations, including a section 75 legal agreement to secure the removal of the development when the consent expires, unless a fresh consent has been secured to extend the life of the Proposed Development or where the Proposed Development should cease to operate for a specific period of time.</p>
Policy 72 Pollution	<p>This policy requires a detailed assessment on the levels, character and transmission and the receiving environment of any potential pollution to be provided taking account, noise, air water and light and which demonstrates that pollution can be appropriately avoided or if necessary mitigated.</p> <p>Major development is expected to accord with the approach set out in the Council's Guidance Note "Construction Environmental Management Process for Large Scale Projects" or a similar approach.</p>
Policy 77 Public Access	<p>This policy advises that where a Proposed Development affects a route included in a Core Paths Plan or an access point to water, or significantly affects wider access rights, then the Council will require it to either:</p> <ul style="list-style-type: none"> • retain the existing path or water access point while maintaining or enhancing its amenity value; or • ensure alternative access provision that is no less attractive, is safe and convenient for public use, and does not damage or disturb species or habitats.
Policy 78 Long Distance Routes	<p>This Policy confirms the Council and partners will safeguard and seek to enhance long distance routes.</p>

Caithness and Sutherland Local Development Plan 2018

- 6.4.61 The CaSPlan provides a vision, strategy and policies and subsequently provides settlement statements and allocations. There are no general policies which are considered to be relevant to the Proposed Development. The relevant strategy includes

the intention to grow the communities, employment, connectivity and transport, and Environment and Heritage. This includes an economic strategy which recognises the benefits of renewable energy in achieving national climate change targets, but also in delivering economic benefit for the area. It also notes the role of the area as a renowned location for renewable energy, stating its desire for the strategy outcome is:

“A strong, diverse and sustainable economy characterised as being an internationally renowned centre for renewable energy”.

- 6.4.62 It sets out a strategy outcome requirement for Environment and Heritage which seeks:

“High quality places where the outstanding environment and natural built and cultural heritage is celebrated and valued assets are safeguarded”.

- 6.4.63 With regard to climate change it confirms a commitment to working with stakeholders including communities, businesses and partners to mitigate the impacts of climate change, reduce greenhouse gas emissions and adapt to respond to climate change, including maximising renewable energy contributions. It recognises the significant renewable energy resources, including the onshore wind sector which is noted as being well established in the area.

Onshore Wind Energy Supplementary Guidance 2016

- 6.4.64 The Onshore Wind Energy Supplementary Guidance ('OWESG') was adopted in November 2016 and contains an Addendum SG ('Part 2b') which was adopted in December 2017. As adopted Supplementary Guidance, they form part of the development plan.
- 6.4.65 The OWESG provides details of the matters which THC will take into account when determining applications for onshore wind, including where they are a statutory consultee to Scottish Government on Section 36 applications. This includes a spatial framework for onshore wind energy (May 2020) which is relevant to where the Proposed Development relates to more than one turbine with a height of 30 metres and above to blade tip, confirming that the Site falls within Group 2: Areas of Significant Protection. It also provides, within Section 4, key development plan considerations which expand upon the HWLDP policies on the matters outlined below.
- Siting and Design which seeks consideration of: safeguarding of important natural environment features including high quality landscapes; ensuring the operational efficiency of the windfarm is balanced with the mitigation of adverse impacts; design and layout of access tracks and associated infrastructure (including connection to the electricity transmission grid, where this information is available); explanation of the evolution of the Proposed Development design and addressing SNH (now NatureScot) guidance on Siting and Designing windfarms in the landscape (2014); and consideration of the cumulative impact of an increasing number of wind turbines.
 - Landscape and Visual Effects which seek to: avoid significant adverse landscape and visual effects of the Proposed Development and other cumulative developments; take account of National Parks, National Scenic Areas, mapped wild land areas and Special Landscape Areas (including their citations); take account the capacity of the landscape character to accommodate the development; ensure a 2km distance from residential buildings and settlement boundaries; and take account of important public views. It also sets out that where effects are unavoidable, mitigation measures, which will be required to overcome or minimise

impacts. A table sets out 10 Criterion against which the Proposed Development assessment will be based upon, taking account of the characteristics of the Proposed Development and the surrounding area. Technical Appendix 7.11 of the Landscape and Visual Impact Assessment Chapter provides an appraisal against the criteria of The Highland Council for onshore wind proposals.

- Safety and Amenity which seeks to protect safety and residential amenity, particularly on residential buildings as well as communities' amenity including residential properties, work places and recognised visitor sites. Key consideration will include: safety; landscape and visual impacts; noise; and shadow flicker and blade glint, glare and light effects.
- Safety of Airports Defence and Emergency Service Operations: requiring Proposed Developments to seek to avoid significant adverse effects individually or cumulatively on flight activity, navigation, surveillance and associated infrastructure.
- Operational Efficiency of Other Communications: have regard to protecting radio, TV, telecoms and other communications systems.
- The Natural and Historic Environment: seeks to highlight a list of 10 key aspects which need to be considered to manage development in relation to the natural and historic environment.
- The Water Environment: confirmation that the Proposed Development is designed to avoid impacts on the water environment wherever possible, or when impacts cannot be avoided, demonstration that the impacts will be mitigated. Measures should include a Construction Environmental Management Plan ('CEMP').
- Peat: confirming the key factors to be taken into account regarding Proposed Development that has a potential to affect peat and requirements to be included in a Peat Management Plan within a CEMP.
- Trees and Woodland: providing a list of key issues to manage and safeguard trees and woodland in relation to windfarms.
- Tourism and Recreation: outlining that the Council may require a tourism impact assessment subject to the nature and scope of the assessment of development proposals and consideration of socio-economic considerations to be addressed.
- Public Access: confirming all proposals should seek to avoid significant adverse effects, encourage improvement and create new opportunities for the quality and quantity of public access, including routes in a Core Paths Plan, access to water, wider access rights or Rights of Way and adequately mitigate any adverse effects. It provides a requirement for Major Development to include an Access Plan.
- Traffic and Transport Interests. This requires proposals to avoid significant adverse effects on the public road network individually and cumulatively and ideally locate where the road network can accommodate the development, or where mitigation can bring the road network to a suitable standard. It confirms the requirement for a Transport Assessment.
- Electricity and Gas Infrastructure: this must be protected through appropriate separation distances.
- Noise Assessment: Confirming the assessment requires to be undertaken in accordance with the guidance document ETSU-R-97 'The Assessment and Rating of Noise from Wind Farms (ETSU)'. It provides expectations of the noise limits.

- **Borrow Pits:** advises that aggregate and other mineral resources should be sourced from local quarries and only use on-site borrow pits where there are significant environmental or economic benefits compared to obtaining material from quarries.
- **Mitigation/CEMP/Restoration Bonds:** Provides detailed guidance on the expectations of information to be provided in support of development proposals and how matters may be conditioned or controlled through Section 75 Legal Agreement.

6.5 Conclusion

- 6.5.1 This Chapter has set out the relevant energy, climate change and planning legislative and policy context against which the Proposed Development will be assessed.
- 6.5.2 The separate Planning Statement, which does not form part of this EIA Report, provides a detailed assessment of the proposal against the energy, climate change and planning policy context outlined in this Chapter to provide an independent assessment of the planning issues relevant to the Proposed Development.

6.6 References

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