

The Highland Council

Agenda Item	13
Report No	ECI/19/2024

Committee: Economy and Infrastructure

Date: 2 May 2024

Report Title: Draft Biodiversity Planning Guidance

Report By: Executive Chief Officer Infrastructure, Environment & Economy

1 Purpose/Executive Summary

- 1.1 This report presents draft Biodiversity Planning Guidance (BPG). The BPG is intended for use by the Planning Authority, applicants and agents to ensure the consistent and proportionate implementation and interpretation of National Planning Framework 4 (NPF4) Policy 3.
- 1.2 The BPG aims to provide certainty and clarity for applicants and agents and sets out what supporting information is required to be submitted to demonstrate the conservation, restoration and enhancement of biodiversity as required by NPF4 Policy 3.
- 1.3 The public consultation for the BPG ran for 12 weeks from the 5 December 2023 to the 23 Feb 2024 and resulted in over 400 comments.

2 Recommendations

- 2.1 Members are asked to:
 - i. **Adopt** the revised Biodiversity Planning Guidance (BPG) as non-statutory planning guidance; and
 - ii. **Agree** to the principle of the Council accepting financial payments to include a management fee to deliver biodiversity enhancement, as per 5.11-5.15 of the revised BPG, and that following the development of a detailed methodology and with the agreement of the Executive Chief Officer Infrastructure, Environment & Economy, this will be implemented as part of the BPG.

3 Implications

- 3.1 **Resource** – to secure positive effects for biodiversity (as one of the six statutory outcomes of the Planning (Scotland) Act 2019) and deliver the biodiversity requirements set out in NPF4, it is recognised that there will be resource implications. A 2-year FTE planning ecology post was recruited in December 2022 via the Transformation Programme, and this has allowed the service to start to react to the implications of NPF4 in respect of biodiversity, albeit primarily in relation to major applications.

Recently, it has been agreed that 2 full-time Ecology Planning Officers can be recruited into the team to support the planning authority in delivering the statutory outcome of the Planning (Scotland) Act 2019 and relevant NPF4 and LDP policies.

Allocating financial payments from both off-site offsetting and energy generation projects may carry a resource implication and as such a management fee will be included to offset costs incurred to the Council.

- 3.2 **Legal** – the Council has a statutory duty under the Planning (Scotland) Act 2019 which underpins NPF4 to secure positive effects for biodiversity. The BPG, although not a statutory part of the Local Development Plan, sets out how the Council will deliver that statutory requirement in a consistent, transparent and equitable manner.
- 3.3 **Community (Equality, Poverty, Rural and Island)** – the BPG has been prepared to, wherever possible, ensure that biodiversity compensation and enhancements take place on site or close to the development area so that local communities affected by the development will benefit from the compensation/enhancement. This will ensure that the Council support the conservation, restoration and enhancement of biodiversity in all communities across Highland. Once the option for developers to pay financial payments to offset enhancement obligations is available, the Council may use this funding to assist local communities to deliver nature-positive projects in their local area.

It is envisaged that biodiversity enhancement and the delivery, management and monitoring of enhancement schemes will encourage the creation of new jobs in local communities, many of which will be highly skilled and well paid, for example, general ecologists, peatland ecologists, hydrologists and engineers, arborists, specialists in remote-sensing and natural flood management.

- 3.4 **Climate Change / Carbon Clever** – the twin climate and nature crises are interlinked and reinforcing; a decline in biodiversity will exacerbate the climate crisis, and a changing climate will accelerate the rate of biodiversity loss. By implementing the BPG to secure positive effects for biodiversity, as required by the Planning (Scotland) Act 2019 and policies of NPF4, the Council will make a significant and meaningful contribution to net zero and nature restoration targets and align with the Council's declaration of a Climate and Ecological Emergency.
- 3.5 **Risk** – There are no anticipated risks associated with the adoption of the BPG.
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – none.
- 3.7 **Gaelic** – Gaelic titles, headings and sub-headings will be added throughout.

4 Background and Context

- 4.1 Securing positive effects for biodiversity is one of six statutory outcomes introduced by the Planning (Scotland) Act 2019. National Planning Framework 4 (NPF4) rebalances the planning system so that climate and nature recovery are the primary guiding principles for all plans and decisions. Improving biodiversity is a cross-cutting theme that runs throughout NPF4.

- 4.2 Policy 3 provides the primary framework for delivering on biodiversity. Policy 3 seeks to 'protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.' Policy 3a applies to all development proposals and requires all development to enhance biodiversity including, where relevant, restoring degraded habitats and building and strengthening nature networks. Nature-based solutions should also be integrated. Policy 3d also applies to all development, and requires any adverse impacts on biodiversity, nature networks and the natural environment to be minimised through careful planning and design making taking into account reversing biodiversity loss, safeguarding ecosystem services, enhancing nature networks and maximising potential for restoration.
- 4.3 Policy 3c relates specifically to proposals for local development and requires proposals to include appropriate and proportionate measures to conserve, restore and enhance biodiversity.
- 4.4 Policy 3b applies to proposals for national, major and EIA development. It states that such development 'will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management.' Proposals must clearly demonstrate how they have met all of the following criteria:-
- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
 - ii. wherever feasible, nature-based solutions have been integrated and made best use of;
 - iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements.
 - iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and
 - v. local community benefits of the biodiversity and/or nature networks have been considered.
- 4.5 NatureScot have recently released Developing with Nature guidance that specifically relates to Policy 3c (local development). This gives applicants guidance on biodiversity enhancement measures that may be suitably implemented to discharge the requirement to deliver demonstrable benefits for nature and is referred to where relevant throughout the BPG. Shortly following the release of the Council's BPG for public consultation, Scottish Government released draft guidance to support the implementation of Policy 3b (national and major development). The language and terminology of the Council's BPG has been amended and modified where necessary to align with SG guidance.

- 4.6 The Council's BPG details how the Council will implement Policy 3 and gives applicants and their agents clarity and certainty by providing detailed guidance on what information is required to support applications, in accordance with the mitigation hierarchy, and in what circumstances. It also covers what is expected with regard to enhancement, and outlines options for applicants with regard to enhancement both on and off site, including biodiversity offsetting.
- 4.7 The BPG has been benchmarked with other local authority biodiversity policies from across Scotland and has been written with input from planning officers who also attended a workshop and has been substantially amended to take account of consultation comments.
- 4.8 The BPG brings the Council in line with most other Scottish Local Authorities who already have well established biodiversity guidance for planning officers, applicants and agents, and who already routinely require ecological information to support planning applications. The guidance will enable the Planning Authority to take a consistent, fair, transparent, proportionate and balanced approach to enabling biodiversity to be conserved, restored and enhanced.

5 Public Consultation

- 5.1 The public consultation ran for 12 weeks from 5 December 2023 to 23 February 2024. Following agreement, a small number of late submissions were also submitted.
- 5.2 Over 1,700 agencies, developers, agents, architects and consultants that have operated within the Highland Council area were directly consulted by email. Organisations consulted included Scottish Government, NatureScot, Community Councils, Scottish Renewables, Homes for Scotland, National Trust for Scotland and SSE, amongst many others.

Colleagues in Development Management and Development Plans were notified and asked to share with their contacts, especially those in the development sector.

- 5.3 The consultation was further promoted by corporate communications and social media channels.
- 5.4 We received responses from 25 organisations and businesses, including from Scottish Government (verbal), NatureScot, Ministry of Defence, Scottish Power, Scottish Renewables, SEN, RSPB Scotland, National Trust for Scotland and a number of smaller developers and planning agents.
- 5.5 A total of 425 comments were received on the BPG, the majority of which provided constructive feedback and have helped shape the revised version. The full list of comments have been recorded along with the Council response and can be accessed [here](#).

6 Key Points

- 6.1 Comments received covered multiple areas, including terminology, further detail / clarification on specific requirements such as the distance multiplier and proposed revisions to text or language. All of these comments have been considered with the majority incorporated.

The largest number of comments received related to the required use of the Defra Metric for NPF4 Policy 3b developments. Other key areas respondents provided comment on include the requirement to deliver 10% biodiversity enhancement, the distance multiplier, the requirement to deliver off-site enhancements within the Council area and off-site offsetting. These are all discussed in more detail below.

- 6.2 As part of the consultation we asked whether we should seek to explore an additional voluntary financial contribution of £1,000 per MW (of the design maximum capacity) per annum for the lifetime of the project should be sought from energy generation projects (with comparable contributions sought from other large-scale projects including electricity transmission projects, infrastructure associated with on and off-shore wind developments, hydrogen etc) to provide the necessary resource to assist Highland and its communities in tackling the ecological emergency and achieving the national and local target to halt biodiversity loss by 2030 and reverse biodiversity declines by 2045.

As may have been anticipated, views were polarised with environmental NGOs and smaller-scale developers supporting the additional contribution, whereas renewable companies were strongly opposed. This will now be considered as a constituent part of the wealth building strategy rather than as an independent issue. In the interim we will, where appropriate, explore opportunities for the developer to enter into a voluntary agreement to deliver additional biodiversity enhancements with stakeholders/partners and commitments to demonstrate a wider commitment to addressing the ecological emergency.

- 6.3 **Main Issue 1** - Requirement to use the DEFRA metric to calculate biodiversity net gain.

- 6.4 The largest number of comments received relate to the use of the DEFRA metric (now known as the England's statutory biodiversity metric) to calculate biodiversity net gain. The draft BPG had taken a flexible approach to the use of the metric for Policy 3c developments, but for Policy 3b (major, national and EIA) development the BPG stated that the use of the DEFRA metric was required.

There is a general consensus among respondents that a metric is a useful tool to calculate biodiversity and demonstrate enhancement and we are increasingly seeing developers across Highland employ a range of metrics to support planning applications. During the consultation period we were pleased to see that Scottish Government committed to developing a Scottish metric, based on the DEFRA metric. We understand, however, that the rollout of the Scottish metric will be at least 12 months away.

The comments received concentrated on the requirement that the DEFRA metric was to be used to support and evidence biodiversity enhancement in relation to Policy 3b development. Concern was expressed that it is unsuitable for use in Scotland, and that *without modification* the DEFRA metric may not be easily applied as it requires to be adapted to account for Scottish habitats, habitat distinctiveness, time to reach target condition and other key data points. Scottish Government, although supportive of the position to standardised enhancement calculations through a metric, raised similar concerns regarding the need for flexibility. It was also noted that, if modifications are made, that these should be clearly set out and explained.

Whilst we do think the DEFRA metric can be applied to Scottish habitats, we do acknowledge that a degree of modification is necessary in some cases and in some habitats. With the additional comfort that Scottish Government are now actively developing a Scottish Metric to support biodiversity net gain calculations, the revised BPG adopts a more flexible approach to the use of a metric in relation to all development proposals of any scale. In this interim period, the DEFRA metric is now recommended but not required until a Scottish metric has been developed and released. At this stage it will be up to the developer if they wish to use a metric (a number of which are available), with any adaptations clearly set out and justified.

For the delivery of off-site offsetting through a broker or as a financial payment to the Council we are retaining the requirement that a metric must be used but with the acceptance that it can be adapted and modified (where necessary, and with changes clearly set out) to take account of the particular circumstance of the development. This will ensure we maintain a robust, quantitative assessment to allow payments to be calculated.

6.5 **Main Issue 2** - The distance-multiplier

6.6 The draft BPG proposed a distance-multiplier, which required that the further from the development biodiversity enhancement was delivered, the more enhancement was required. This was intended to help ensure that developers sought to restore nature in the same area as to where the impact had occurred. This ensures that local communities are not deprived of nature-rich land, and to comply with NatureScot guidance that states:-

‘Off-site offsetting, when appropriate, should be carried out as close as possible to the development site, to reduce the loss of biodiversity in the local area. The deficit in on-site enhancement should be ‘over-compensated’ for by delivering a greater level of off-site enhancement, the scale of which should increase the further from the development site that off-site measures are delivered.’

It was felt that the NatureScot guidance allowed considerable room for interpretation. To provide more certainty for developers as to what the planning authority may expect and enable the planning authority to interpret and apply this guidance in a consistent manner the distance-multiplier was added the draft BPG.

It is notable that many of those who responded to this issue did not support the *principle* of delivering an increased level of enhancement the further from development that the enhancement is delivered. This is, however, an existing principle as set out by NatureScot, and it is for respondents to raise this directly with NatureScot and/or Scottish Government.

There were a small number of comments that referred directly to the calculations in the BPG distance-multiplier as appearing arbitrary. Given the size and composition of Highland it is not possible to provide specific figures for each case, and so the distance-multiplier is arbitrary by design. Although the distance-multiplier was designed to give developers more certainty as to how NatureScot guidance would be applied in Highland, we have withdrawn this element of the BPG in favour of considering each proposal on a case-by-case basis taking into account the specific circumstances and context of each development. This will result in less certainty for the developer as to what the planning authority may consider an acceptable level of enhancement and potentially less consistency across different developments.

However, it would offer a greater degree of flexibility for both applicants and decision makers to take account of the merits of biodiversity enhancement measures proposed versus the location and distance from development the enhancement is to be delivered. It is also considered prudent to await the delivery of the Scottish metric and the addition of a spatial risk multiplier which may provide more clarity on this issue.

- 6.7 **Main Issue 3** - Requirement to deliver biodiversity offsetting and enhancement within the Highland Council area
- 6.8 The draft BPG specifies that all biodiversity enhancement must take place within the Highland Council boundary. This is to ensure that any environmental improvements take place in the same local authority area as where the impact occurred; that Highland local communities benefit from the enhancements (including any green jobs that may result from implementation, site management, monitoring etc.); and that Highland biodiversity and community wellbeing is the direct beneficiary of any developer requirements to improve biodiversity.

A small number of respondents do not agree with this position, stating that it would be an unrealistic expectation that all habitat enhancement happens within Highland Council and that it 'strips Scotland of the ability to enhance biodiversity where needed.'

We have maintained the requirement that where development occurs in the Highland Council area, biodiversity enhancements must be delivered in the Highland Council area. This is for a range of environmental, social and economic reasons, but we are also strongly of the view that Highland offers developers ample opportunities to enhance biodiversity where needed. Given Highland's significant size and range of habitats it will take many decades to exhaust available opportunities to restore Highland biodiversity and, for example, repair and strengthen habitat connectivity, manage invasive non-native species and restore degraded habitat. Given that Highland is home to a significant proportion of Scotland's most important habitats and species, all enhancement projects delivered in the Council area would contribute to Scottish Government targets to become nature-positive and reverse biodiversity loss.

We see no justification or advantage in delivering required environmental and biodiversity benefits from development that affects the Highlands and its communities in other areas of Scotland.

- 6.9 **Main Issue 4** - Requirement to deliver 10% biodiversity enhancement and definition of 'significant'
- 6.10 Twelve respondents posed questions regarding setting a minimum value of 10% biodiversity enhancement in the draft BPG, although only a handful have stated that they are opposed. Respondents note that Scottish Government has not set a specific threshold, that NPF4 only specifies 'significant' enhancement, and that enhancement should be proportionate to the development.

The revised BPG continues to require a minimum 10% biodiversity enhancement. Reasons for this are as follows: -

- The use of the term 'significant' enhancement in NPF4 is highly ambiguous and will result in multiple interpretations of what significant actually means in biodiversity terms. It is inevitable – and we have already seen this in practice – that a developer's interpretation of significant will differ from that of a planning officer, which in turn will differ to that of the Council's ecologists.

There may, for example, be two similar applications proposed by different developers and assessed by different planning officers that may be required to deliver different very different enhancement measures in size, scope and cost. This may result in aggrieved developers, appeals, and general dissatisfaction with the decision-making process. Applying a 10% minimum value ensures a level playing field; ensures consistency across the development sectors and within the planning authority; is transparent; gives certainty to developers who can design their proposals to accord with this threshold and be confident that their proposals will not be refused due to insufficient biodiversity enhancement, as well as ensuring that proposals can be assessed quickly avoiding delays; is proportionate to the scale of development; and will speed up decision making by enabling non-specialist planning officers to quickly confirm whether NPF4 Policy 3 has been met.

- The 10% figure has been arrived at by benchmarking with England who have over a decade of research and experience in biodiversity net gain. In England it is generally considered that setting a minimum 10% benchmark has both enabled the successful delivery of biodiversity enhancement even allowing for the failure of some biodiversity measures implemented and has not constrained or prohibited development. It is further noted that a number of English local authorities require developers to deliver significantly more than 10% enhancement.
- Until the Scottish metric has been developed, the revised BPG has been relaxed to allow applications for Policy 3b development to demonstrate significant biodiversity enhancement in alternative ways that do not involve a metric or other quantitative methodology. The biodiversity enhancement proposed does, however, need to clearly and robustly set out how policy will be met; in most cases a metric will remain the most straightforward way of demonstrating biodiversity enhancement and ensure that enhancement proposals can be easily and quickly assessed by the planning authority.
- Where developers can demonstrate that they are unable to deliver 10% biodiversity enhancement, the BPG offers alternative options for developers to deliver any shortfall, for example by entering into an agreement with a third-party broker such as an environmental NGO for example or paying a financial payment.
- It is now common for developers in Highland to demonstrate that they are achieving 10% biodiversity enhancement and providing metrics and other supporting information to demonstrate compliance with NPF4 Policy 3. This demonstrates that there is a general acceptance across the development sector that 10% is a useful benchmark when required to deliver 'significant' enhancement.

6.11 **Main Issue 5** - Offsite Offsetting and the financial payment

- 6.12 It is strongly preferred that all biodiversity compensation and enhancement is delivered on site. However, it is inevitable that some applications will be unable to deliver a proportion of their biodiversity compensation or enhancement requirements within the red line boundary. For such cases, to ensure that biodiversity enhancement is realised in full, and that the developer is still able to discharge their duty in relation to NPF4, the BPG provides three off-site options:-

1. Compensation and enhancement are delivered on land within the control of the developer but outwith the development area.
2. A third-party offset provider/broker is used to deliver biodiversity compensation and enhancement off-site.
3. The developer pays the Highland Council a financial payment in exchange for the Council taking on the responsibility for securing the delivery of the biodiversity compensation or enhancement.

6.13 Consultees generally welcomed and supported all three options and acknowledged that these may be usefully considered where biodiversity enhancement proves to be challenging to deliver on site.

Option 3, as one of a suite of options available to discharge biodiversity requirements, was seen as valuable, especially for smaller developments. It was noted by some respondents that more detail would be useful in understanding how the payment would work in practice. Option 3 offers an important alternative for developers and will help give added certainty and opportunity for proposals that struggle to find alternative ways to deliver biodiversity obligations and remove possible barriers and delays to decision making. It is, however, acknowledged that there are complexities in how this option is implemented.

To ensure developers have the required assurances and confidence in the payment further time is required to work up a detailed and robust methodology and identify costings. Until this time Option 3 will be marked as 'not available'.

As part of this paper, Members are being asked to agree to the principle of the Council accepting a financial payment in exchange for taking on the responsibility for securing the delivery of the biodiversity compensation or enhancement and agree that this can be rolled out as part of the BPG once a detailed methodology has been developed and agreed with the Service Lead.

7 Next Steps

7.1 The revised BPG will be adopted as non-statutory guidance.

7.2 A glossary of commonly used terms will be added to the finalised BPG.

7.3 Gaelic headings and subheadings and appropriate graphics will be added along with any minor and/or non-material changes to the text prior to publication.

Designation: Executive Chief Officer Infrastructure, Environment & Economy

Date: 10 April 2024

Author: Andrew Puls, Environment Team Leader

Background Papers: None

Appendices: Appendix 1 - Revised Biodiversity Enhancement Planning Guidance

Highland Council
Revised Biodiversity Enhancement
Planning Guidance

March 2024

Section 1 - Introduction

- 1.1. The global climate emergency and the nature emergency are twin reinforcing crises, the actions we take to address each are fundamental to our wellbeing and survival. Biodiversity in Scotland is in crisis due not only to the effects of climate change, but also changes in land use, over-exploitation, invasive non-native species and habitat fragmentation.
- 1.2. In 2019 the Council declared a Climate and Ecological Emergency and in 2022 signed the Edinburgh Declaration joining c.300 governments, cities and local authorities across the world in signalling our intent to tackle the global nature crisis.
- 1.3. Securing positive effects for biodiversity is one of six statutory outcomes introduced by the Planning (Scotland) Act 2019. National Planning Framework 4 (NPF4) rebalances the planning system so that climate and nature recovery are the primary guiding principles for all plans and decisions. Improving biodiversity is a cross-cutting theme which runs throughout NPF4.
- 1.4. This guidance takes into account relevant ecological strategies and policies, including Scottish Government's draft Scottish Biodiversity Strategy and the commitment to protect at least 30% of our land and sea for nature by 2030 (30 by 30). It also takes into account and references Nature Networks, which are a Programme for Government commitment and key delivery mechanism of the Scottish Biodiversity Strategy that are embedded throughout NPF4. The Council will encourage developers to make reference to the Scottish Biodiversity Strategy, where relevant, and Nature Networks in particular. The Council will be developing maps of Nature Networks which can be a useful tool to focus offsite biodiversity enhancements.
- 1.5. Cognisance has been given to the Scottish Government's draft Planning Guidance: Biodiversity and NatureScot's Developing with Nature Guidance when preparing this guidance document, to ensure it aligns with these documents while clarifying and providing additional information where required.

Who is this guidance for?

- 1.6. This guidance is aimed at developers, agents, architects and their consultants. It will also be of relevance to other stakeholders such as statutory consultees and NGOs. The guidance explains the approach that is required by the Highland Council to deliver biodiversity conservation, restoration and enhancement through the planning system.
- 1.7. This guidance has been prepared to support the application of NPF4. It is intended to be used in conjunction with relevant national and local policy and planning guidance, including NatureScot's Developing with Nature Guidance where applicable.
- 1.8. The intention is that this guidance will ensure a fair, transparent and consistent assessment for all proposed developments.

Section 2 - Policy Context

National Planning Framework 4 (NPF4)

- 2.1 *Policy 1* sets out an intention to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis; it makes clear that, when considering all development proposals, significant weight will be given to the global climate and nature crises.
- 2.2 *Policy 3* sets out an intention to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Although *Policy 3* provides the primary framework for biodiversity (see 2.4), nature and biodiversity is a cross-cutting theme that runs through many NPF4 policies.
- 2.3 Other relevant NPF4 policies include:
 - *Policy 4: Natural Places*, protects and enhances natural heritage.
 - *Policy 5: Soils*, protects and enhances soils (including peatland).
 - *Policy 6: Forestry, woodland and trees*, provides protection to trees with a focus on ancient woodland and biodiversity value.
 - *Policy 9: Greenbelts, promotes compact urban growth and sustainable land use around towns and cities. It supports nature networks.*
 - *Policy 9: Brownfield, vacant and derelict land and empty buildings*, highlights the protection of natural features on brownfield land.
 - *Policy 10: Coastal development* recognises the sensitivities of coastal areas.
 - *Policy 14: Design, quality and place*, seeks to bring nature into the design of cities, towns, streets and spaces.
 - *Policy 20: Blue and green infrastructure* promotes the expansion and connectivity of blue and green infrastructure.
 - *Policy 32: Aquaculture promotes aquaculture development and minimise any adverse effects on the environment.*

NPF4 Policy 3

- 2.4 *Policy 3a* and *Policy 3d* apply to all development proposals (including householder development and aquaculture). *Policy 3a* requires all development to “contribute to the enhancement of biodiversity including, where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions where possible.” *Policy 3d* states “Any potential adverse impacts, including cumulative impacts, nature networks and the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.”
- 2.5 *Policy 3c* States “Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development. Applications for individual householder development, or which fall within scope of *policy 3b*, are excluded from this requirement”. NatureScot have developed guidance specifically for this policy – Developing with Nature.
- 2.6 *Policy 3b* states that “development proposals for national, major or for development that requires, and Environmental Impact Assessment (EIA) will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will

include future management. To inform this best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:

- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
- ii. wherever feasible, nature-based solutions have been integrated and made best use of;
- iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
- iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and
- v. local community benefits of the biodiversity and/or nature networks have been considered.

2.7 Applications for open water farmed finfish or shellfish development are excluded from the requirements of policy 3b) and 3c) and will instead apply all relevant provisions from National and Regional Marine Plans.

Highland-wide Local Development Plan

Policy 58 Protected Species

2.8 *Policy 58* requires that protected species surveys be carried out where there is good reason to believe that a protected species may be present on site or be affected by a proposed development. To determine if a protected species is likely to be present NatureScot guidance notes should be referred to or advice from a suitable qualified Ecologist.

2.9 The policy covers European Protected Species, protected birds and other protected animals and plants.

Policy 59 Other protected species

2.10 *Policy 59* ensures detrimental effects on species listed in Annexes II and V of the EC Habitats Directive, priority United Kingdom Biodiversity Action Plan (UKBAP) and Highland Nature Biodiversity Action Plan (HNBAP) species and species included in the Scottish Biodiversity List will be avoided through the use of conditions and agreements.

Policy 60 Other Important Habitats and Article 10 Features

2.11 *Policy 60* will ensure that significant harm to the ecological function and integrity of Article 10 Features (i.e. nature networks) and Other Important Habitats are avoided through the use of conditions and agreements. These include:

- 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;
- Habitats included on the Scottish Biodiversity List (SBL).

New Highland Local Development Plan

2.12 The new LDP is in the process of being produced with publication currently scheduled for 2027. The new LDP will align with NPF4 and may include additional policies to cover, for example, the provision of Local Nature Conservation Sites and nature networks, which the Council is currently developing with stakeholders.

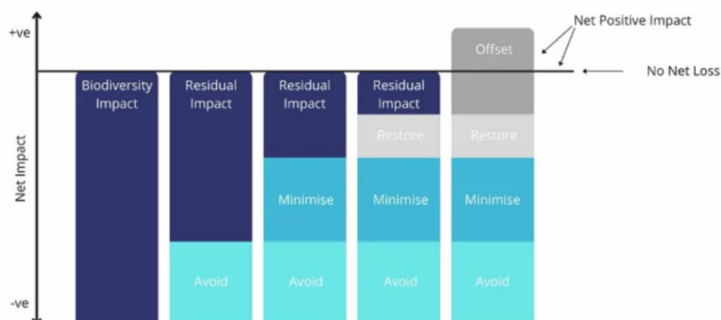
[Highland Nature Biodiversity Action Plan 2021 - 2026](#)

2.13 The Highland Nature Biodiversity Action Plan (HNBAP) details priority species and habitats within the Highland region that must be considered within any development assessment and within biodiversity enhancement measures.

Section 3 - Core Principles

3.1 There are a number of commonly used and widely applied ‘principles’ that should be followed so that biodiversity and nature recovery are an integral part of any development proposal. These are set out in NatureScot’s Developing with Nature Guidance and are applicable to all development of any type and scale. These principles are summarised below.

Apply the mitigation hierarchy



Avoid

3.2 Remove the impact on biodiversity at the outset. This is important on all development sites but especially where a development affects protected/priority habitats and/or protected species and species of conservation concern, including those listed on the UK Biodiversity Action Plan or Highland Nature Local Biodiversity Action Plan.

Minimise

3.3 If complete avoidance of the ecological resource is not possible then the loss of the habitat and disturbance to species should be minimised as far as practicable. Mitigation may be incorporated into the design to reduce the development impact.

Restore

3.4 Repair and enhance damaged habitats towards good condition and/or for disturbed species.

Offset

3.5 Offsetting is defined as ‘fully compensating for the residual impact that remains after avoidance and minimisation have been considered.’ It is preferred that all offsetting occurs within the development site. However, if the ecological resources within the site cannot be fully avoided, minimised or offset on-site, then off-site offsetting may be required – this brings an increased level of complexity for the developer and is the least preferred option. Where necessary, off-site offsetting can be delivered using one or a combination of 3 options, discussed in more detail in Section 5:

- On land within the control of the developer
- Financial payment to the Council (option not available at present)
- Via a third-party offset provider/broker

Consider biodiversity from the outset

3.6 Opportunities to protect and enhance biodiversity should be considered at the project inception stage; this is a core design consideration and will inform the layout, siting and design.

3.7 Early consideration will help to avoid impacts on important habitats and species, enable biodiversity benefits to be fully integrated into the development and help ensure the smooth

determination of the proposal without time and cost implications of having to reconsider the scope, design and layout of a development.

- 3.8 The development site must not be cleared in whole or in part, prior to carrying out the ecological assessment – where pre-emptive site clearance (i.e. where a site has been cleared to support development in advance of submitting a planning application and outwith ordinary and/or routine land management practices) has taken place the site will be assessed on its preclearance state and the precautionary principle will be applied. In some cases cleared habitat may be required to be reinstated.

Take a place-based and inclusive approach

- 3.9 Enhancement measures will seek to restore and enhance habitats and species appropriate to the location of the site and its surroundings and take into consideration the Local Development Plan and Local Biodiversity Action Plan as well as statutory designated sites and locally designated sites, including Local Nature Conservation Sites.

- 3.10 Local stakeholders, including Community Councils and local community groups can apply their knowledge to identify broader benefits of biodiversity measures to both people and place.

Develop or Strengthen Nature Networks

- 3.11 Individual measures should not be considered in isolation. Functional connectivity of habitat across a development site and connecting with existing habitat outwith a development site boundary is of paramount importance. Habitat connectivity is important for most species and helps build nature networks, avoiding the creation of isolated and disconnected pockets of biodiversity. This can include nature networks surrounding and within the development site as well as more strategic nature networks, as will be defined by the Council in due course.

Incorporate Nature-based Solutions

- 3.12 Nature-based solutions, such as sustainable drainage systems (SuDS), rain gardens, green roofs, street trees and green spaces provide a good solution to a range of issues including extreme temperatures, noise, water quality and poor amenity. It is important that nature-based solutions should be nature-rich in order to maximise biodiversity benefits.

Prioritise on-site enhancement before off-site delivery

- 3.13 Biodiversity enhancement is *in addition* to mitigation and offsetting measures and should, wherever possible, take place within the development site. This ensures development areas do not become nature poor to the detriment of both people and nature.

- 3.14 Off-site enhancement is a least preferred option but may be justified where it is not possible to deliver sufficient enhancement on-site, or where significantly better biodiversity outcomes can be achieved elsewhere such as contributing towards landscape-scale biodiversity projects and nature networks.

- 3.15 Off-site enhancement, when appropriate, should be carried out as close as possible to the development site to reduce the loss of biodiversity in the local area – this is of particular importance to ensure that there is a positive enhancement for biodiversity across island habitats. The deficit in on-site enhancement should be ‘over-compensated’ for by delivering a greater level of off-site enhancement, the scale of which should increase the further from the development site that off-site measures are delivered.

Ensure long term enhancement is secured

- 3.16 The Scottish Government have stated that biodiversity enhancements should be secured for the long-term (preferable in perpetuity) in order to deliver a lasting legacy.
- 3.17 Biodiversity enhancement measures will require ongoing management and future monitoring. Management and maintenance plans (including funding arrangements where applicable) will be required to support development proposals.
- 3.18 Enhancement measures will be added to a register to allow for auditing to ensure the site is being managed as agreed and to ensure that incompatible development does not take place in enhancement areas.

Additionality

- 3.19 Enhancement which has previously been secured through other mechanisms, for example where an existing legal obligation is in place or where environmental improvements have already been identified in other plans (i.e. long-term forest plans, local development plans, habitat management plans) will not be considered enhancement for the purposes of meeting the NPF4 policy tests.

Section 4 - Development

Householder Development

- 4.1 Householder development is the development of an existing dwelling house (i.e. an extension), or development within the curtilage of a dwelling house that requires a planning application.
- 4.2 NPF4 Policy 3a and 3d apply to householder development.
- 4.3 Small-scale householder development can easily incorporate features that will be of benefit to nature and applicants must apply the principles and measures set out in NatureScot's [Developing with Nature guidance](#).

Local Development

- 4.4 Local development is development that is not classified as national or major. This could include windfarms of up to 20mW, housing developments of less than 50 homes or sites where the total area is less than 2 hectares.¹
- 4.5 NPF4 Policy 3a, 3c and 3d applies to local development. Major and national development or local development that requires an Environmental Impact Assessment (EIA) is considered differently using Policy 3b (see 4.34).
- 4.6 This Guidance divides non-EIA, local development into two categories based on scale to reflect likely ecological impacts. This will determine how the Council will assess ecological impacts and enhancement requirements:
 - Small-scale local development. This includes development sites with an area of less than 0.5 hectare (a typical development of 1-4 houses, for example). This covers the majority of planning applications in Highland.
 - Medium/large-scale local development. This includes development sites with an area equal to or greater than 0.5 hectares and less than 2 hectares.
- 4.7 All local development, regardless whether it is small, medium or large-scale are required to refer to and follow NatureScot's Developing with Nature guidance. This provides detailed information on specific actions that can be taken in local developments to secure positive biodiversity enhancements.

[Small-scale local development \(development less than 0.5ha\)](#)

Survey requirements

- 4.8 Unless located within or adjacent to a protected area or in an area that may be suitable for protected species or priority habitats/species that are listed within the HNBAP, development of this scale may not require an ecological survey to support an application. It is, however, the applicant's responsibility to satisfy the planning authority that there are no ecological issues relating to the application area and as such the applicant may wish to seek a consultant ecologists' advice.

¹ <https://www.legislation.gov.uk/ssi/2009/51/contents/made>

4.9 Applicants are encouraged to use the Wildlife Assessment Check tool to understand the biodiversity baseline of a development site, the results of which can be used to support an application.

4.10 Where the proposed development site is located within or adjacent to a protected area NatureScot's guidance for survey requirements must be followed. Such sites include:

- Site of Special Scientific Interest² (SSSI)
- Special Area of Conservation (SAC)³
- Special Protection Area (SPA)⁴
- Ramsar sites⁵
- The Flow Country candidate World Heritage Site (cWHS)⁶

4.11 NatureScot may advise on further assessment required for SSSI, SACs and SPAs.

4.12 The planning authority is in processes of developing ecological planning guidance for priority species and habitats including:

- Annex 1 and priority habitats including, coastal grassland, coastal dune systems or wet heathland (these are not currently mapped, please contact the planning authority or an ecologist if it is considered that the proposed development may be impact one of these habitats);
- Woodland listed on the Ancient Woodland Inventory and Tree Preservation Orders for native or naturalised species.⁷
- Any locally designated nature sites including Local Nature Conservation Sites (LNCS) and Local Nature Reserves (LNR).⁸

Enhancement Requirements

4.13 All development proposals must include and clearly set out appropriate measures to conserve, restore and enhance biodiversity and the timescale that these will be implemented. A set biodiversity enhancement percentage increase is not required for this scale of development. There is no requirement to use a Biodiversity Net Gain Metric, although it may be a useful tool to clearly demonstrate how a development proposal will meet the NPF4 policy tests and deliver biodiversity enhancement.

4.14 Biodiversity enhancement measures are *additional* to any mitigation, restoration or offsetting required. Biodiversity enhancement will:

- Be delivered on site wherever possible and be incorporated into the design.
- Take account of the site location and opportunities it provides for enhancing biodiversity.
- Consider the character and scale of development.
- Consider the maintenance and management of biodiversity measures.
- Take cognisance of the distinctiveness and scale of the biodiversity damaged or lost.

² [NatureScot Site Link](#)

³ [NatureScot Site Link](#)

⁴ [NatureScot Site Link](#)

⁵ [NatureScot Site Link](#)

⁶ The Flow Country proposed [World Heritage Site boundary](#)

⁷ [Interactive Tree Preservation Order \(TPO\) map](#)

⁸ There is one Local Nature Reserve at Merkinch, Inverness. There are currently no LNCS in Highland.

- Demonstrate a balance between time required to deliver biodiversity benefits and risks or uncertainty in achieving them.

4.15 NatureScot's [Developing with Nature guidance](#) and forthcoming Highland Council area specific enhancement opportunities guidance will assist developers in identifying appropriate measures that can be incorporated into a development to enhance biodiversity.

4.16 If the habitats or species within the site cannot be completely avoided, minimised or offset on site and/or biodiversity enhancement measures cannot be delivered on site despite iterative design, biodiversity off-site offsetting and enhancement will be required. This is detailed in Section 5.

Information required to support a planning application

4.17 The information supporting a planning application must provide evidence and confidence that the development includes appropriate measures to conserve, restore and enhance biodiversity and that the requirements of NPF4 Policy 3 have been met. All development proposals of this scale must be supported by a statement that will:

- Detail how the mitigation hierarchy and other core principles (Section 3) have been applied.
- With reference to existing habitats and land use present on the application site, detail what measure(s) will be included to deliver positive effects for biodiversity, clearly distinguishing between measures mitigating impacts and those enhancing biodiversity.
- Provide plans that clearly show existing and retained biodiversity and the location and nature of all biodiversity enhancements proposed.
- Briefly detail the future management and monitoring arrangements for biodiversity enhancements and how these will be secured.

4.18 It is strongly recommended that the Highland Council small-scale development biodiversity enhancement template is used.

Medium/Large-scale local development (development equal to or greater than 0.5ha and less than 2ha)

Survey requirements

4.19 All medium to large-scale local development proposals, where an EIA is not required must be supported by an Ecological Impact Assessment (EclA). The EclA provides a baseline assessment of the site and must be undertaken by a suitably qualified ecologist⁹. The EclA should be proportionate to the site, scale and complexity of the development. Surveys must be undertaken at an appropriate time of year and in compliance with NatureScot guidance¹⁰ and CIEEM standards. Reporting will be completed to professional CIEEM standards¹¹.

4.20 A desk study must be undertaken and will include data from the NBN atlas and local recording groups, including Highland Biological Recording Group (HBRG). If ornithology records are required these should be obtained from organisations such as RSPB Scotland and/or local raptor groups.

4.21 Ecological survey will cover the entire development site and incorporate an appropriate buffer.

4.22 An initial PEA of the site will identify the need for any further surveys that must be conducted and included within the EclA. All potentially affected designated sites, priority habitats and

⁹ [Finding a Consultant | CIEEM](#)

¹⁰ www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice

¹¹ CIEEM [Guidelines for Ecological Report Writing](#)

protected/priority/Scottish Biodiversity List and HNBAP¹² species will be considered within the report. We expect all survey and reporting to comply with industry best practices.

Enhancement Requirements

- 4.23 Enhancement is required *in addition* to any mitigation, restoration or offsetting required. The preference is for biodiversity enhancement measures to be delivered on site.
- 4.24 A minimum 10% biodiversity enhancement is required although a higher percentage and/or bespoke measures may be expected where development impacts a non-statutory designated area, or a locally important area as designated by the local Authority¹³. It is the developer's responsibility to demonstrate to the satisfaction of the Planning Authority that this threshold has been achieved. Until a Scottish metric is available and to assist the smooth passage of the application, it is recommended that England's Statutory Metric is used to demonstrate and to justify the type and extent of biodiversity enhancement proposed. Until a Scottish metric is available, applicants may wish to use an alternative metric, adapt or amend England's Statutory metric or utilise a different methodology. Where these or other alternative approaches have been taken the rationale must be clearly justified and set out in a supporting statement. Where habitat enhancement measures cannot be accurately taken into account through a metric, such as INNS removal, this will still be given consideration by the planning authority as contributing towards enhancement. It is the developer's responsibility to ensure that all relevant sections of Policy 3 have been fulfilled.
- 4.25 The EclA (or accompanying Habitat Management Plan) will identify opportunities for enhancing biodiversity on the site and will include appropriate plans, drawings and statements demonstrating how the identified opportunities will be delivered to their maximum potential. Where opportunities identified in the EclA (or Habitat Management Plan) are not incorporated in the development, the reasons for this should be clearly set out.
- 4.26 Development proposals should clearly set out the type and scale of enhancement they will deliver, ensuring that applications clearly distinguish between those elements mitigating or offsetting for adverse effects and those delivering enhancement. Enhancement requires consideration of all biodiversity (including birds and other protected species), not just the significant effects that are the focus of EclA. Information on predicted losses and the proposed mitigation, offsetting and enhancement should be clearly set out and concisely summarised so that this can be easily understood by decision makers. It is recognised that appropriate species offsetting, and enhancement should also be taken into account wherever a metric is intended to be used.
- 4.27 NatureScot's [Developing with Nature guidance](#) and forthcoming Highland Council area specific enhancement opportunities guidance contain useful information to identify appropriate measures to enhance biodiversity.
- 4.28 If the habitats or species within the site cannot be avoided, minimised or the offset on-site and/or biodiversity enhancement measures cannot be delivered on-site despite iterative design, biodiversity off-site offsetting and enhancement will be required. This is detailed in Section 5.

¹² [Highland Nature Biodiversity Action Plan 2021 to 2026](#)

¹³ Non- statutory designated areas, and locally important areas as designated by the local Authority, include WHS, Category 1a Ancient Woodland, LNCS, LNR etc.

Information required to support a planning application

4.29 The information supporting a planning application must provide evidence and confidence that the development includes appropriate measures to conserve, restore and enhance biodiversity in accordance with the requirements of NPF4 Policy 3.

4.30 All development proposals of this scale must be supported by an EclA, unless the PEA has identified no significant ecological effect, that no mitigation is required and that no further survey is required as per the CIEEM Guidelines for Ecological Report Writing. It is expected that the mitigation and enhancement recommendations included in the EclA will be incorporated into the proposed development and be clearly detailed on accompanying plans.

4.31 The EclA will accord with CIEEM professional standards and for example, will:

- Detail how the mitigation hierarchy and other core principles (see Section 3) have been applied.
- Set out the site's current ecological baseline; how the development may impact on this; detail proposed mitigation; and set out any residual impacts.
- With reference to the site's ecological baseline, detail what measure(s) will be included to deliver positive effects for biodiversity, clearly distinguishing between measures mitigating impacts and those enhancing biodiversity, in addition to any mitigation, restoration and/or offsetting required.
- Provide plans that clearly show existing and retained biodiversity and the location and nature of all biodiversity enhancements proposed.
- Detail the future management and monitoring arrangements for biodiversity enhancements and how these will be secured– this may be included in a Habitat Management Plan for larger-scale local developments.

Monitoring/Reporting requirements

4.32 In most cases monitoring reporting will typically be required for year 2, year 3 (depending on particular circumstances and context) and thereafter every 5 years for the agreed duration of the Habitat Management Plan. If the monitoring reveals that the biodiversity enhancement measures are not progressing as expected, measures must be taken in agreement with the planning authority to ensure that the biodiversity enhancement measures are fulfilled. This will be secured through a planning condition or legal agreement. It will be important to secure who is responsible for the production of the reports and what details they will contain. At the request of the applicant, the Planning Authority may take on the responsibility of the monitoring at our own discretion and at an agreed cost to the developer.

4.33 To cover the review and assessment of reports and attendance at habitat management steering groups and other meetings, the Council may where appropriate and /or warranted, impose an additional monitoring fee to cover the additional costs and resource required.

Major, National and EIA-scale Development

4.34 NPF4 Policy 3a, 3b and 3d applies to this scale of development. Major development is defined [here](#).

4.35 Policy 3b states that '*Development proposals for national or major development, or for development that requires an Environmental Impact Assessment (EIA) will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management.*'

4.36 The requirements below set out the Council's position in relation to Policy 3b and what it expects developers to deliver in relation to the conservation, restoration and enhancement of biodiversity.

Survey requirements

4.37 Ecological survey undertaken by a suitably qualified ecologist will be required to provide a baseline assessment and support development proposals of this scale. Survey should be undertaken at an appropriate time of year and in compliance with NatureScot advice guidance¹⁴ and CIEEM standards. Reporting will be completed to professional CIEEM standards¹⁵.

4.38 Ecological survey will cover the entire development site and identify designated sites, protected species, habitats and SBL and HNBAP species and include an appropriate buffer. Survey reports will cover all relevant species and habitats, be carried out at the correct time of year according to best practice. All further surveys recommended in the initial PEA will have been conducted.

Enhancement Requirements

4.39 The applicant must be able to demonstrate how biodiversity will be left in a *demonstrably better state* than before intervention and provide significant biodiversity enhancements.

4.40 A minimum 10% biodiversity enhancement is required although a higher percentage and/or bespoke measures may be expected where development impacts a non-statutory designated area, or a locally important area as designated by the local Authority¹⁶. It is the developer's responsibility to demonstrate to the satisfaction of the Planning Authority that this threshold has been achieved. Until a Scottish metric is available and to assist the smooth passage of the application, it is recommended that England's Statutory Metric is used to demonstrate and to justify the type and extent of biodiversity enhancement proposed. Until a Scottish metric is available, applicants may wish to use an alternative metric, adapt or amend England's Statutory metric or utilise a different methodology. Where these or other alternative approaches have been taken the rationale must be clearly justified and set out in a supporting statement. Where habitat enhancement measures cannot be accurately taken into account through a metric, such as INNS removal, this will still be given consideration by the planning authority as contributing towards enhancement. It is the developer's responsibility to ensure that all relevant sections of Policy 3 have been fulfilled.

4.41 The preference is for biodiversity enhancement measures to be delivered on site.

4.42 The EclA or EIA will identify opportunities for enhancing biodiversity on site and will include appropriate plans, drawings and statements demonstrating how the identified opportunities will be delivered to their maximum potential. Enhancement is required *in addition* to any mitigation, restoration or offsetting required. Where opportunities identified in the EclA or EIA are not incorporated in the development, the reasons for this should be clearly set out.

4.43 Development proposals should clearly set out the type and scale of enhancement they will deliver, ensuring that applications clearly distinguish between those elements mitigating or offsetting for adverse effects and those delivering enhancement. Enhancement requires consideration of all biodiversity (including birds and other protected species), not just the

¹⁴ www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice

¹⁵ CIEEM [Guidelines for Ecological Report Writing](#)

¹⁶ Non- statutory designated areas, and locally important areas as designated by the local Authority, include WHS, Category 1a Ancient Woodland, LNCS, LNR etc.

significant effects that are the focus of EclA. Information on predicted losses and the proposed mitigation, offsetting and enhancement should be clearly set out and concisely summarised so that this can be easily understood by decision makers. It is recognised that appropriate species offsetting and enhancement should also be taken into account wherever a metric is intended to be used.

4.44 If the habitats or species within the site cannot be avoided, minimised or offset on site and/or biodiversity enhancement measures cannot be delivered on site despite iterative design, biodiversity off-site offsetting and enhancement will be required- see Section 5.

Information required to support a planning application

4.45 The EclA/EIA will demonstrate how the proposed development has met all of the following requirements of Policy 3b:

- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;
- ii. wherever feasible, nature-based solutions have been integrated and made best use of;
- iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
- iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and
- v. local community benefits of the biodiversity and/or nature networks have been considered.

4.46 The proposed development must take full account of the mitigation and enhancement recommendations made in the EclA with mitigation, restoration, offsetting and enhancement measures clearly marked on all plans. If England's Statutory Metric (or an amended version or an alternative metric) has been used, this must be supplied.

4.47 A Habitat Management Plan is required to detail the enhancement, offsetting/restoration management prescriptions and monitoring strategies – this will include any off-site biodiversity offsetting and/or enhancement where this has been agreed with the Planning Authority for construction, operation and where applicable, restoration phases of the development. For non-EIA developments and at the request of the applicant, the Planning Authority may take on the responsibility of the monitoring at our own discretion and at an agreed cost to the developer.

4.48 To cover the review and assessment of reports and attendance at habitat management steering groups and other meetings, the Council may impose an additional monitoring fee to cover the additional costs and resource required.

Aquaculture

4.49 Applications for open water farmed finfish or shellfish development are excluded from the requirements of policy 3b) and 3c) and will instead apply all relevant provisions from National and Regional Marine Plans. Open water farmed finfish or shellfish development proposals are not excluded from policy 3a) and 3d).

4.50 With regards to Policy 32 (d) 'open water' refers to farming which takes place in marine, sea or freshwater locations. It is not a reference to the technology used.

Voluntary Contribution to Biodiversity across the Highlands

4.51 The Council have committed to safeguarding, enhancing and internationally celebrating our unique natural heritage and the Indicative Regional Spatial Strategy identifies Highland as a special case for investment and coordination to safeguard, restore and enhance our natural environment to meet local and national priorities.

4.52 As such and reflecting the scale of natural resources and assets available and being utilised by large scale development across Highland we would seek to engage with developers to secure an additional voluntary contribution to assist the Council and its partners in addressing the ecological emergency.

4.53 This contribution could make a meaningful and wide-ranging contribution to nature recovery, halting and reversing biodiversity decline, restoring degraded and lost habitat and improving habitat connectivity and strengthening nature networks. The contribution would also give developers the opportunity to demonstrate further commitment to tackling biodiversity loss more widely and within local Highland communities.

Section 5 - Biodiversity Off-site Offsetting and/ or Enhancement

What is Biodiversity Off-site Offsetting or enhancement, when can it be considered and how is it calculated?

- 5.1 It is expected that a high percentage of biodiversity offsetting and enhancement is delivered on-site. However, where all the biodiversity offsetting and/or enhancement cannot be delivered on-site, despite iterative design or the minimum 10% enhancement threshold (where applicable) cannot be met on-site, it can be delivered off-site to make up any shortfall.
- 5.2 Applications that require off-site offsetting and/or enhancement will need to provide details of surveys which show the biodiversity baseline of the off-site area and demonstrate how the required offsetting and enhancement can be delivered.
- 5.3 There are three main ways in which off-site offsetting can be delivered:
 - The preferred option is that off-site offsetting and/or enhancement is delivered on land within the control of the developer – see 5.6.
 - The developer pays the Highland Council a financial payment in exchange for the Council taking on the responsibility for securing the delivery of the biodiversity offsetting and/or enhancement, off-site – see 5.11 – *Note: this option is currently unavailable.*
 - A third-party broker or provider such as an NGO is used to deliver biodiversity offsetting and/or enhancement, off-site – see 5.16.
- 5.4 If a developer proposes a financial payment or to use an offset provider/broker to deliver offsetting or enhancement, until the Scottish metric is available, England’s Statutory metric¹¹ *must* be used to calculate the residual biodiversity value of a site and quantify what is required to deliver an appropriate level of enhancement. The metric may be altered where it is deemed not to accurately represent the Scottish habitats, but the rationale for any changes must be fully explained.
- 5.5 Off-site offsetting may include enhancing existing habitat (including the removal or control of invasive non-native species), creating new habitats and strengthening nature networks. It may also include delivering or contributing to existing landscape-scale projects or projects that are creating or enhancing key habitats and species as identified as a priority for action in the UKBAP and HNBAP¹⁷.

Off-site offsetting on developer-controlled land

- 5.6 Off-site offsetting and enhancement is the delivery of biodiversity offsetting/ enhancement on land outwith the development site but within the long-term control of the developer. Until a Scottish metric has been implemented, the Council recommend the use of England’s Statutory metric¹⁸ to support such proposals. This may be altered where it is deemed not to accurately represent the Scottish habitats, but the rationale for any changes must be fully explained.
- 5.7 In most cases it is expected that land identified for off-site offsetting and enhancement should be located close to the development site. As per Developing with Nature guidance, the deficit in on-site enhancement should be ‘over-compensated’ for by delivering a greater level of off-

¹⁷ [Highland Nature Biodiversity Action Plan 2021 to 2026](#)

¹⁸ [The Biodiversity Net Gain Metric 4.0](#)

site enhancement, the scale of which should increase the further from the development site that off-site measures are delivered. In all cases off-site enhancement will be delivered within the Highland Council area.

- 5.8 Scottish Government have stated that biodiversity enhancements should be secured for the long-term (preferably in perpetuity) in order to deliver a lasting legacy. For off-site offsetting and enhancement to be accepted, the developer must be able to demonstrate control of the land, either through land ownership or a long-term lease of a *at least* 30 years unless otherwise agreed.
- 5.9 Areas identified for off-site offsetting and enhancement will require ecological survey to establish the ecological value of the site, provide a baseline assessment and determine if the off-site area is suitable for the biodiversity offsetting and enhancement measures proposed. This is critical as habitats of ecological value must not be damaged for offsetting and enhancement measures, for example it would not be acceptable to plant native woodland on a species rich grassland.
- 5.10 To ensure compliance with policy 3b that states that the development “will only be supported where it can demonstrate that the proposal will conserve, restore and enhance biodiversity” all off-site offsetting/enhancement measures will need to have been secured to the satisfaction of the planning authority, prior to the determination of a planning application. This will include the means by which it will be managed, monitored and reported on. For policy 3c developments the planning authority requires detailed proposals for off-site offsetting and enhancements prior to determination.

Financial Payment – not currently available

- 5.11 *The planning authority recognises that this is an important option and are finalising a methodology and delivery mechanism which will be made available in due course.*
- 5.12 *In cases where on-site enhancement is not possible and it would not be suitable to deliver off-site offsetting and/or enhancement – or where small and/or isolated enhancements may deliver enhancements of limited value – the developer can opt to pay a financial payment to the Council. The Council will then take on the responsibility for delivering biodiversity offsetting and/or enhancement within the Highland Council area.*
- 5.13 *In some cases, this option may offer distinct advantages to both the developer and biodiversity, especially on smaller-scale sites. I.e. the payment discharges the developer’s statutory responsibility, removes the need to identify additional land and negates long term management and maintenance responsibilities, and the Council can use the payment to help facilitate the delivery of larger conservation projects that will provide significant benefits for biodiversity, as opposed to small and potentially isolated pockets of enhancement. These projects will be subject to the same measures as required for all enhancement measures under policy 3, such as monitoring.*
- 5.14 *The financial contribution will be based on each biodiversity unit as calculated by the biodiversity metric to cover the cost of land, enhancement measures, long term management and monitoring. The value of each unit will be set at the current market rate and will be subject to regular review.*
- 5.15 *The Council could deliver off-site biodiversity offsetting and enhancement in a number of ways:*
- *Through management of areas of existing Council land to benefit biodiversity.*
 - *Through purchasing land specifically for the purpose of achieving biodiversity enhancement.*

- *Through working with partner organisations and communities.*
- *Through working with landowners.*

Off-site offsetting secured via a third-party provider/broker

- 5.16 An offset provider or broker may be used to purchase the required biodiversity units. The broker must be able to demonstrate that the enhancement is deliverable within a reasonable timescale.
- 5.17 Until a Scottish Metric has been developed, England's Statutory metric¹⁹ *must* be used to calculate the residual biodiversity value of the development site and quantify what is required for the third-party to deliver an appropriate level of enhancement.
- 5.18 This could also include off-site offsetting as part of a partnership with other stakeholders, including other developers, where land has been identified to deliver a large-scale cohesive enhancement that provides multiple biodiversity benefits. In some cases, this option may offer distinct advantages to both the developer and biodiversity, especially on smaller-scale sites. These collaborative projects can remove the need to identify additional land and passes the long-term management and maintenance responsibilities to the provider.
- 5.19 It is expected that the provider/broker will deliver off-site offsetting and enhancement as close to the development site as possible. As per Developing with Nature guidance, the further away from a development off-site enhancement is proposed, the greater the scale of the enhancement is expected. In all cases off-site enhancement will be delivered within the Highland Council area.
- 5.20 Details of the proposed provider/broker will be required, as well as the proposed site for the off-site offsetting and enhancement and accompanying surveys which show the biodiversity baseline and demonstrate that the required offsetting and enhancement can be delivered.
- 5.21 Where a developer sources an offsetting site through an offset provider or broker the details will have been secured prior to planning application determination along with the means by which it will be managed, monitored and reported on, which will be agreed by the Council, including arrangements for providing information on progress to the Council.
- 5.22 **Note:** The HC takes no responsibility for any interaction with a broker and this is undertaken at the applicant's own risk.

¹⁹ [The Biodiversity Net Gain Metric 4.0](#)

