

# Biodiversity Enhancement Planning Guidance

## Stiùireadh Meudachadh Planadh Bith-iomadachd

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**Adopted**

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Section 1 Introduction   Ro-ràdh	3
Who is this guidance for?	4
Section 2 Policy Context   Co-theacsa Poileasaidh	5
National Planning Framework 4	5
Highland-wide Local Development Plan	7
Section 3 Core Principles   Prìomh Phrionnsapalan	9
Apply the mitigation hierarchy	9
Consider biodiversity from the outset	10
Take a place-based and inclusive approach	11
Develop or strengthen nature networks	11
Incorporate Nature-based Solutions	12
Prioritise on-site enhancement before off-site delivery	12
Ensure long term enhancement is secured	13
Additionality	13
Section 4 Development   Leasachadh	14
Householder Development	14
Local Development	14
Major, National and EIA-scale Development	23

## Contents

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Section 5 Biodiversity Off-site Offsetting and/or Enhancement   Frith-chothromachadh Bith-iomadachd Far-làraich agus/no Meudachadh	28
What is Biodiversity Off-site Offsetting or enhancement, when can it be considered and how is it calculated?	28
Off-site offsetting on developer-controlled land	29
Financial Payment – not currently available	30
Off-site offsetting secured via a third-party provider/broker	32
Section 6 Glossary   Clàr-mìneachaidh	34

- 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.

### National Planning Framework 4

- 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 8: 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**

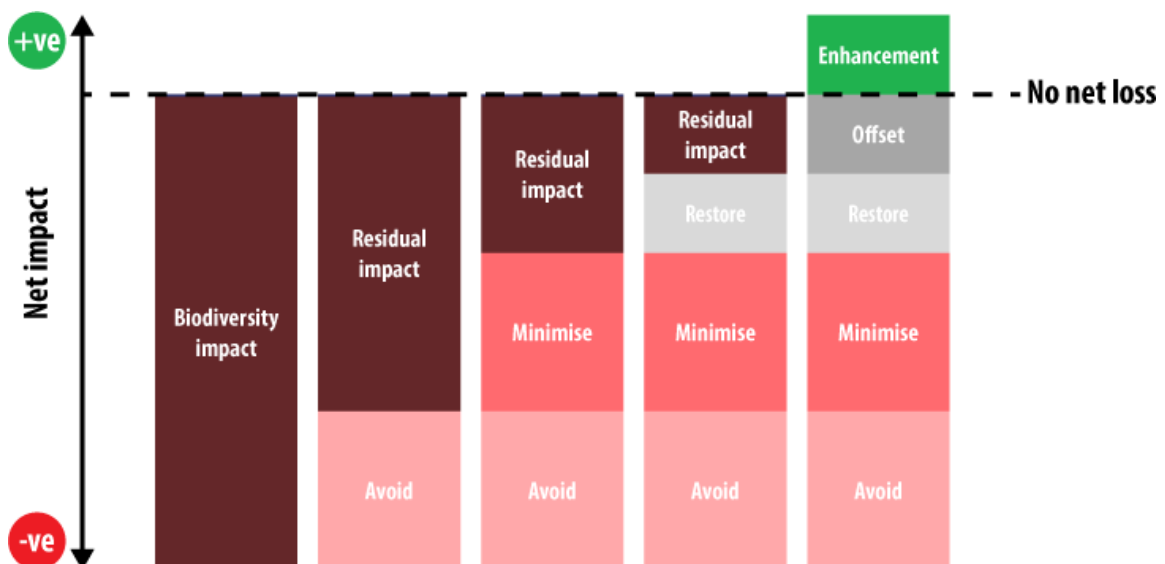
**2.12** The new LDP is in the process of being produced with publication currently scheduled for 2027. The new LDP will align with NPF4 and may include additional policies to cover, for example, the provision of Local Nature Conservation Sites and nature networks, which the Council is currently developing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

- 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 as follows.

### Apply the mitigation hierarchy



**Figure 1 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 'Biodiversity Off-site Offsetting and/or Enhancement | Frith-chothromachadh Bith-iomadachd Far-làraich agus/no Meudachadh':

- 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.

### 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](https://www.nature.scot/doc/developing-nature-guidance)<sup>(1)</sup>

### Local Development

- 4.4** Local development is development that is not classified as national or major. This could include windfarms of up to 20mV, housing developments of less than 50 homes or sites where the total area is less than 2 hectares.
- 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:

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<sup>1</sup> <https://www.nature.scot/doc/developing-nature-guidance>.

- 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 is 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.

**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 Interest \(SSSI\)](#) <sup>(2)</sup>

2 <https://sitelink.nature.scot/home>



## Section 4 Development | Leasachadh

- [Special Area of Conservation \(SAC\)](#)<sup>(2)</sup>
- [Special Protection Area \(SPA\)](#)<sup>(2)</sup>
- [Ramsar sites](#)<sup>(2)</sup>
- [The Flow Country candidate World Heritage Site \(cWHS\)](#)<sup>(3)</sup>

**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 I 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](#)<sup>(4)</sup> for native or naturalised species.
- Any locally designated nature sites including Local Nature Conservation Sites (LNCS)<sup>(5)</sup> and Local Nature Reserves (LNR) .

### 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.

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3 <https://www.theflowcountry.org.uk/world-heritage-site/site-boundary-and-documentation/>

4 <https://highland.maps.arcgis.com/apps/webappviewer/index.html?id=13482108371d4cf288eba4b8a6cacfab>

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

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.
- 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](#)<sup>(1)</sup> 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 'Biodiversity Off-site Offsetting and/or Enhancement | Frith-chothromachadh Bith-iomadachd Far-làraich agus/no Meudachadh'.

### 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 'Core Principles | Prìomh Phrionnsapalan') 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 qualified ecologist. 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 guidance](#)<sup>(6)</sup> and CIEEM standards. Reporting will be completed to [professional CIEEM standards](#)<sup>(7)</sup>.

**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 protected/priority/Scottish Biodiversity List and [HNBAP species](#)<sup>(8)</sup> 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 Authority<sup>(9)</sup>. It is the developer's

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6 <http://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice>

7 <https://cieem.net/resource/guidelines-for-ecological-report-writing/>

8 [https://www.highland.gov.uk/downloads/download/2260/highland\\_nature\\_biodiversity\\_action\\_plan\\_2021\\_to\\_2026](https://www.highland.gov.uk/downloads/download/2260/highland_nature_biodiversity_action_plan_2021_to_2026)

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

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](#) <sup>(1)</sup> 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 'Biodiversity Off-site Offsetting and/or Enhancement | Frith-chothromachadh Bith-iomadachd Far-làraich agus/no Meudachadh'.

### 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 EcIA, 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 EcIA will be incorporated into the proposed development and be clearly detailed on accompanying plans.

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

- Detail how the mitigation hierarchy and other core principles (Section 3 'Core Principles | Prìomh Phrionnsapalan') 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 <sup>(10)</sup> [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](#) <sup>(6)</sup> [guidance](#) and CIEEM standards. Reporting will be completed to [professional CIEEM](#) <sup>(7)</sup> [standards](#) .
- 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.

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<sup>10</sup> [https://www.highland.gov.uk/info/180/planning\\_-\\_applications\\_warrants\\_and\\_certificates/579/major\\_developments](https://www.highland.gov.uk/info/180/planning_-_applications_warrants_and_certificates/579/major_developments)

### 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 Authority<sup>(9)</sup>. 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 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 'Biodiversity Off-site Offsetting and/or Enhancement | Frith-chothromachadh Bith-iomadachd Far-làraich agus/no Meudachadh'.

### 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.

### 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 – 'Off-site offsetting on developer-controlled land'
  - 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 – 'Financial Payment – not currently available' – 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 – 'Off-site offsetting secured via a third-party provider/broker'.
- 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 metric I 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 [HNBAP](#)<sup>(8)</sup>.

### 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 metric](#)<sup>(11)</sup> 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-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.

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11 <https://publications.naturalengland.org.uk/publication/6049804846366720>

- 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 metric](#) <sup>(11)</sup> 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.

### Aa

#### **Avoidance**

Prevention of impacts occurring, having regard to predictions about potentially negative environmental effects (e.g. project decisions about site location or design).

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### Bb

#### **Biodiversity**

The variability in living organisms and the ecological complexes of which they are part. This includes diversity within species, between species and of ecosystems.

#### **Brownfield land**

Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused buildings and developed land within the settlement boundary where further intensification of use is considered acceptable.

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### Ee

#### **Ecological Impact Assessment (EcIA)**

An assessment of the likely significant ecological effects of a project, irrespective of the scale or type of project. The subsequent report is termed an EcIA Report (see CIEEM's Guidelines for Ecological Impact Assessment). A PEA may be used to inform this.

### **Ecosystem**

Communities of organisms interacting with each other and with their non-living environment: forests, wetlands, mountains, lakes, rivers, deserts and agricultural landscapes

### **Enhancement**

In order for biodiversity to be ‘enhanced’ it will need to be demonstrated that it will be in an overall better state than before intervention, and that this will be sustained in the future. Enhancement measures are in addition to any mitigation required.

### **Environmental Impact Assessment (EIA)**

Environmental Impact Assessment is the process used to assess the effects of certain public and private projects on the environment in order to meet specific legal requirements (see CIEEMs guide to EIA). Only certain size and types of developments are required to produce an EIA.

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## **Ff**

### **Fragmentation**

Habitat fragmentation occurs when larger areas of habitat are split into separate, smaller areas. The initiation of these smaller habitats has a direct impact on all of the species, their community structure and the overall ecosystem of those fragments.

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### Hh

#### **Habitat**

A place or type of site where an organism or population naturally occurs.

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### Ll

#### **Local Biodiversity Action Plan (LBAP)**

A Local Biodiversity Action Plan identifies the habitats and species on which work should focus, they are one way in which the Scottish Biodiversity Strategy can be implemented at the local level. It is a comprehensive plan that identifies the local priorities for protecting and enhancing ecosystems, habitats and species in each Local Authority area. The plan enables a joined up approach across the area that all partners can work to.

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### Mm

#### **Mitigating measures (Mitigation)**

Measures that allow an activity with a negative impact on biodiversity, but reduce the impact on site by considering changes to the scale, design, location, process, sequencing, management and/or monitoring of the proposed activity. It requires a joint effort of planners, engineers, ecologists, other experts and often local stakeholders to arrive at the best practical environmental option

#### **Mitigation hierarchy**

The mitigation hierarchy indicates the order in which the impacts of development should be considered and addressed. These are:

- Avoid – by removing the impact at the outset
  - Minimise – by reducing the impact
  - Restore – by repairing damaged habitats
  - Offset – by compensating for the residual impact that remains, with preference to onsite over off-site measures
- 

## Nn

### Nature-Based Solutions

Nature-based solutions are actions to protect, sustainably manage, and restore natural and modified ecosystems that address societal challenges effectively and adaptively, simultaneously providing human wellbeing and biodiversity benefits.

### Nature Networks

A Nature Network is a joined-up system of places important for wild plants and animals, on land and in water. It allows plants, animals, seeds, nutrients and water to move from place to place and enables the natural world to adapt to change, providing plants and animals with places to live, feed and breed. Effectively functioning nature networks will connect existing nature rich areas through habitat corridors, habitat ‘stepping stones’, or habitat restoration areas. Scotland’s Nature Networks will enable opportunities for achieving ecological connectivity that meet local priorities for biodiversity and nature; whilst building and strengthening an evolving regional and national connectivity. Opportunities for implementation may be identified through, e.g. LDPs and/or Local Biodiversity Action Plans and/or other existing or new mechanisms such as those developed under the Scottish Biodiversity Strategy Delivery Plan, to achieve connectivity within and across urban, peri-urban and rural landscapes.

### Oo

#### **Offsetting**

Offsetting is sometimes used synonymously with ‘compensating’, but while compensation can fall short of achieving ‘no net loss’, ‘offsetting’ implies fully compensating for the residual impact that remains after avoidance and minimisation have been considered.

#### **Off-site**

Land out with the red line boundary

#### **On-site**

All land within the red line boundary of a development

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### Pp

#### **Preliminary Ecological Appraisal (PEA)**

A rapid assessment of the ecological features present, or potentially present, within a site or the surrounding area. It normally comprises a desk study and a walkover survey, such as an Extended Phase I Habitat Survey. A PEA can be undertaken in a variety of contexts, often as a preliminary assessment of likely impacts of a development project. It can help the project proposer and planning authority in scoping the subsequent EclA or in concluding that ecological issues will not be significant in determining the application and no further survey work is required (see CIEEM’s Guidelines on Preliminary Ecological Appraisal). The results of the PEA can be provided in a PEA Report (PEAR).

### **Rr**

#### **Restoration**

The process of assisting the recovery of an ecosystem towards or to good condition, as a means of conserving and/or enhancing biodiversity and ecosystem resilience; for habitat types listed in Annexes I and II (Habitats Directive), restoration means the process of assisting their recovery to the highest level of condition attainable.









