Planning and Architecture

Scottish Government

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Dear Sir/Madam

**Scottish Planning Policy and Housing: Technical Consultation on Proposed Policy Amendments**

Scottish Renewables is the voice of Scotland’s renewable energy industry, working to grow the sector and sustain its position at the forefront of the global clean energy industry. We represent around 260 organisations working across the full range of renewable energy technologies in Scotland and around the world, from large suppliers, operators and manufacturers to small developers, installers and community groups, and companies right across the supply chain.

Scottish Renewables and its members are extremely concerned by the proposal in The Scottish Government’s consultation to remove the presumption in favour of development that contributes to sustainable development in Scottish Planning Policy (SPP), particularly as the existing policy frameworks for renewable energy technologies, including the National Planning Framework (NPF) and SPP, are now significantly out of date and must be materially enhanced to enable the scale of deployment required to achieve Scotland’s Climate Change commitments and achieve net-zero by 2045.

While the consultation focuses on housing, the proposal to remove the presumption has implications for all types of development including renewable energy, whether proceeding under the Town and Country Planning (Scotland) Act 1997 or other legislation, including the Electricity Act 1989.

Additionally, if implemented, this policy will compromise The Scottish Government’s ability to deliver a green recovery to the COVID-19 pandemic and could have negative impacts on economic growth and job creation.

If you have any questions on the comments set out in this response, please do not hesitate to get in touch.

Yours sincerely

Stephanie Conesa
**Policy Manager - Development, Planning & Onshore Wind**

**Consultation Questions**

**Question 1: What is your view on our proposal to remove ‘the presumption’ from the SPP, through the changes set out?**

In the absence of any proposal to immediately replace the presumption with a supportive policy of equal force for renewables, we consider this proposal a regressive step for Scotland and the renewable energy industry.

In the Scottish Programme for Government (PfG) in September 2019, the First Minister stated that planning policy will undergo a “fundamental review”, headlining the need for planning policy to “more radically reduce emissions”. She highlighted that “the global climate emergency means that the time is right for wide ranging debate on more radical planning policy options”.

Scottish Renewables agrees that The Scottish Government’s commitment to a 75% cut in emissions by 2030 and net-zero by 2045 requires substantial changes to current planning policy. We also agree that more radical planning policy options to allow a more positive and supportive approach to the wide-scale deployment of renewable energy technologies will be needed.

Scottish Renewables and its members have engaged fully with The Scottish Government’s planning reform agenda, including providing detailed submissions to The Scottish Government’s Call for Ideas to support the forthcoming NPF4. Our Position Statement on NPF4 sets out that:

* NPF4 must make clear that renewable energy developments are both “in the long-term public interest”, in line with the purpose of planning set out in the Planning (Scotland) Act 2019, and constitute sustainable development as they assist in achieving the 2030 and 2045 net-zero targets.
* NPF4 must make clear that achieving the 2030 target requires significantly increased renewable energy generation.
* NPF4 should reiterate that there is a presumption in favour of renewable energy to deliver sustainable development.
* The wording of the presumption in favour of sustainable development in the current SPP should be simplified within NPF4 and should express policy support for sustainable development that contributes to climate change objectives.
* All decision makers should explicitly engage with this presumption and be required to demonstrate how it has been applied in decision making.

**Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5-year effective housing land supply to reflect the currently exceptional market circumstances?**

Contrary to the assertion in paragraph 7 of the consultation there is no necessary “potential for conflict” between the presumption and the plan-led approach. The consultation refers to the recent decision of the Inner House in *Gladman Developments Ltd v The Scottish Ministers ([2020] CSIH 28)* which considered the presumption purely in a housing context. The court interpreted the approach to the presumption in a way which reconciles the plan-led system and the presumption. SPP already makes clear that where a development plan is functioning correctly, the plan-led system operates. It is our view that the consultation paper is based on a misunderstanding of the Court decision.

Fundamentally the consultation is a proposal driven by a housing issue. For housing alone, there is a requirement for a five-year supply of housing land. The judgement in *Gladman* should therefore not be used to justify a major change across multiple developments types such as onshore wind, where there are no similar specific targets.

**Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?**

N/A

**Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.**

No. While the consultation focuses on housing, the proposal to remove the presumption has implications for all types of development including renewable energy, whether proceeding under the Town and Country Planning (Scotland) Act 1997 or other legislation, including the Electricity Act 1989.

In addition to the comments set out above, Scottish Renewables believes that:

* Fundamentally this consultation is a proposal driven by a housing issue and should not be applied across multiple types developments including renewable energy.
* If implemented, this policy will seriously undermine The Scottish Government’s efforts to deliver a green recovery to the COVID-19 pandemic and could negatively impact on economic growth and job creation.
* It is unclear if The Scottish Government’s Local Government and Communities Directorate have considered the wider implications of the policy change on Scotland’s environment and the ability to meet our net-zero target.
* The proposed changes represent a significant risk to the renewables sector as they cause immediate damage to the prospects for renewables projects now in the planning system under the 1997 Act and the Electricity Act.
* The emphasis in the Consultation is on maintaining the plan-led system and development plan primacy under section 25 of the 1997 Act. However, that section does not apply to projects proceeding under the Electricity Act, such as onshore wind farms greater than 50MW. Therefore, there is no conflict to resolve between the presumption and a plan-led system for such projects.
* With no transition or grace period for applications already in the planning system, Planning Authorities are now able to refer to this consultation and The Scottish Government’s intent and afford the presumption minimal weight by treating the consultation as a material consideration.
* Whilst the proposed changes are at consultation stage, the uncertainty the proposal creates is significant in the short term. Whilst we await the outcome of the consultation, Planning Authorities and Reporters will be bound to consider the weight to be given to the presumption in the light of clear proposals from the Scottish Government to delete it. At worst, the presumption will immediately lose its force.

What needs to happen next:

* Scottish Renewables would ask that Ministers confirm as soon as possible that until the consultation process has been fully completed, Scottish Planning Policy in its current form represents Scottish Government policy.
* Once the consultation is complete The Scottish Government should either retain the presumption in favour of sustainability in SPP and NPF4 or, if it is changed, a replacement for the presumption with equal weighting must be put in place at once to ensure there is no adverse impact on The Scottish Government’s policy to encourage the further deployment of renewables, and onshore wind in particular.

**Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.**

N/A