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# A83 Rest and Be Thankful

LTS EIAR VOLUME 4, APPENDIX 11.2 - BIODIVERSITY  
LEGISLATION, POLICY AND GUIDANCE

Transport Scotland

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## A11-2. Biodiversity Legislation, Policy and Guidance

### A11-2.1. Introduction

A11-2.1.1. This appendix sets out the relevant Biodiversity legislation and guidance with reference to the designated sites and protected species found within ecological study areas, as defined in Volume 2, Chapter 11: Biodiversity. Further to this it sets out the national and local planning policies of relevance to biodiversity in terms of the geographic context of the Proposed Scheme.

### A11-2.2. Designated Sites

A11-2.2.1. Table A11-2.1 summarises the legislation relating to the designated sites situated within the study area.

**Table A11-2.1: Designated sites legislation**

Site Designation	Legislation	Protection	Guidance
European Sites With specific reference to Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)	<a href="#">Conservation (Natural Habitats, &amp;c.) Regulations 1994 (as amended)</a>	Enables the protection of natural habitat types (Annex I) and/or species (Annex II) through the identification and designation of SACs and SPAs.	Regulation 48 requires a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (i) is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and (ii) is not directly connected with or necessary to the management of the site, shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.  Guidance documents:  <a href="#">European Sites (NatureScot 2020)</a> <a href="#">Habitats Regulations Appraisal (HRA) (NatureScot 2020)</a>

Site Designation	Legislation	Protection	Guidance
Site of Special Scientific Interest (SSSI)	<a href="#">Nature Conservation (Scotland) Act 2004 (as amended).</a>	It is an offence for any person to intentionally or recklessly damage the protected natural features of a SSSI.	<p>Owners and occupiers of land within a SSSI must apply to NatureScot for consent to carry out certain operations that have been notified to them.</p> <p>Section 12 also states that the body or office-holder must: consult NatureScot in relation to the exercise of the function; have regard to any advice given by NatureScot; and, in exercising the function, take reasonable steps to further the conservation and enhancement of the natural feature specified in the SSSI notification, and maintain or enhance the representative nature of any series of sites of special scientific interest to which the SSSI notification contributes.</p> <p>Guidance documents:</p> <p><a href="#">Standing advice and guidance for forestry and woodland planning - Geological Conservation Review Sites and Earth Science SSSIs (NatureScot 2022)</a></p> <p><a href="#">Sites of Special Scientific Interest (SSSIs) (NatureScot 2020)</a></p>

Site Designation	Legislation	Protection	Guidance
<b>National Park</b>	<a href="#">National Parks (Scotland) Act 2000</a> ( <a href="http://legislation.gov.uk">legislation.gov.uk</a> )	The Act of the Scottish Parliament makes provision for National Parks.	Guidance documents: <a href="#">National Parks   NatureScot</a>

### A11-2.3. Protected Species

A11-2.3.1. Table A11-2.2, Table A11-2.3 and Table A11-2.4 summarise the legislation relating to species recorded during the surveys and also those species for which desk study records were received.

Table A11-2.2: European protected species

Species	Legislation	Relevant offences	Licensing procedures
<p>Bats European Protected Species</p>	<p>Conservation (Natural Habitats, &amp;c.) Regulations 1994 (as amended) Regulation 39</p>	<p>Deliberately or recklessly<sup>1, 2</sup> capture, injure or kill a bat; harass a bat or group of bats; disturb a bat in a roost (any structure or place it uses for shelter or protection); disturb a bat while it is rearing or otherwise caring for its young; obstruct access to a bat roost or otherwise deny an animal use of a roost; disturb a bat in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species; disturb a bat in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young; disturb a bat while it is migrating or hibernating.</p> <p>Damage or destroy a breeding site or resting place of such an animal (whether or not deliberately or recklessly).</p> <p>The protection of bat roosts is considered to apply regardless of whether bats are present.</p>	<p>Licences for development are issued by NatureScot<sup>3</sup>.</p> <p>Licence from NatureScot is required for surveys (scientific purposes) that would involve disturbance of bats or entering a known or suspected roost site.</p> <p>Guidance documents: <a href="#">Standing advice for planning consultations- Bats (NatureScot 2020)</a> <a href="#">Bats: licences for development (NatureScot 2023)</a> <a href="#">Bats: licences for tree works (NatureScot 2023)</a> <a href="#">Bat Workers Manual (JNCC 2004)</a> <a href="#">Bat Mitigation Guidelines (Reason, P.F. and Wray, S. 2023)</a> <a href="#">Bat Surveys for Professional Ecologists: Good Practice Guidelines 4th edition (BCT 2023)</a></p>
<p>Bats European Protected Species</p>	<p><a href="#">Wildlife and Countryside Act 1981 (as amended)</a> Schedule 5, Section 9.</p>	<p>Intentionally or recklessly kill, injure or take a bat; damage, destroy or obstruct access to any structure or place used for shelter or protection or disturb<sup>4</sup> a bat in such a place.</p>	<p>As above</p>

Species	Legislation	Relevant offences	Licensing procedures
<p>Otters European Protected Species</p>	<p>Conservation (Natural Habitats, &amp;c.) Regulations 1994 (as amended) Regulation 39</p>	<p>Deliberately or recklessly capture, injure or kill an otter; harass an otter or group of otters, deliberately disturb<sup>2</sup> otter in a holt or other structure or place it uses for shelter or protection; disturb an otter while it is rearing or otherwise caring for its young; obstruct access to a holt or other structure or place otters use for shelter or protection, or otherwise deny the animal use of that place; disturb an otter in a manner or in circumstances likely to significantly affect the local distribution or abundance of the species; disturb an otter in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young or damage or destroy a breeding site or resting place used by an otter (whether or not deliberately or recklessly)</p> <p>Otter shelters are legally protected whether an otter is present or not.</p>	<p>Licences for development are issued by NatureScot.</p> <p>Survey licences are not generally required for otter surveys, unless an intrusive survey is being undertaken. This includes the use of endoscope and in some instances, camera trapping, depending on the positioning of the trap. Survey licences are issued by NatureScot.</p> <p>Guidance documents: <a href="#">Standing Advice: Standing advice for planning consultation – otters (NatureScot 2020)</a> <a href="#">Otters and licensing (NatureScot 2020)</a></p>
<p>Otters European Protected Species</p>	<p>Wildlife and Countryside Act 1981 (as amended) Schedule 5, Section 9</p>	<p>Intentionally or recklessly kill, injure or take an otter; intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection or disturb an otter in such a place.</p>	<p>As above</p>

<sup>1</sup> Deliberate capture or killing is taken to include “accepting the possibility” of such capture or killing.

<sup>2</sup> Deliberate disturbance of animals includes in particular any disturbance which is likely a) to impair their ability (i) to survive, to breed or reproduce, or to rear or nurture their young, or (ii) in the case of animals of hibernating or migratory species, to hibernate or migrate; or b) to affect significantly the local distribution or abundance of the species to which they belong.

<sup>3</sup> Licensing is not possible during the hibernation period for winter roosts, or during the birthing/rearing period for maternity roosts.

<sup>4</sup> Lower levels of disturbance not covered by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) remain an offence under the Wildlife and Countryside Act 1981 (as amended) although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

**Table A11-2.3: Protected species (not protected under European legislation)**

Species	Legislation	Relevant offences	Licensing procedures
Badgers	<a href="#">Protection of Badgers Act 1992 (as amended as amended by the Wildlife and Natural Environment (Scotland) Act 2011)</a>	<p>Wilfully kill, injure or take a badger; cause cruelty to a badger or intentionally or recklessly damage, destroy or obstruct access to a badger sett or disturb a badger in its sett.</p> <p>[It is not illegal to carry out ‘disturbance’ activities in the vicinity of setts that are not occupied]</p>	<p>Licences for development are issued by NatureScot:</p> <p>Licences are not normally granted during the badger breeding season (1<sup>st</sup> December to 30<sup>th</sup> June, inclusive) because cubs may be present within setts.</p> <p>Survey licences are not generally required for badgers, provided the surveys are conducted carefully and damage and disturbance to badger setts is avoided.</p> <p>Guidance documents:</p> <p><a href="#">Standing advice for planning consultations – badgers (NatureScot 2020)</a></p> <p><a href="#">Badgers: licences for development (NatureScot 2020)</a></p> <p><a href="#">Scottish Badgers. (2018) Surveying for Badgers: Good Practice Guidelines (Version 1)</a></p> <p>Note: While snaring is legal in Scotland, it is illegal to snare badgers. Legal snares are tagged with a unique ID number, which can be queried with the local Wildlife Crime Liaison Officer on 101. Suspected illegal/untagged snares should be reported to the Police on 101.</p>



Species	Legislation	Relevant offences	Licensing procedures
Red squirrels	Wildlife and Countryside Act 1981 (as amended) Schedule 5, Section 9	Intentionally or recklessly kill, injure or take a red squirrel; intentionally or recklessly damage, destroy or obstruct access to any drey or other structure or place used for shelter or protection or disturb <sup>1</sup> a red squirrel in such a place.	<p>Licences for development are issued by NatureScot.</p> <p>Guidance documents:</p> <p><a href="#">Standing advice for planning consultation – Red squirrels (NatureScot 2020)</a></p> <p><a href="#">Red squirrels and licensing (NatureScot 2020)</a></p> <p>UK BAP Mammals: Interim Guidance for Survey Methodologies, Impact Assessment and Mitigation. Southampton: Mammal Society (Cresswell et al. (eds.), 2012)</p> <p><a href="#">Practical techniques for surveying and monitoring squirrels: Practical Note FCPN011 (Forestry Commission 2009)</a></p>
Pine martens	Wildlife and Countryside Act 1981 (as amended) Schedule 5, Section 9	<p>Intentionally or recklessly kill, injure or take a pine marten; intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection or disturb<sup>1</sup> a pine marten in such a place<sup>a</sup>.</p> <p><sup>(a</sup> special provisions are in place where pine martens occupy the roof-space or other parts of a residential property).</p>	<p>Licences for development are issued by NatureScot.</p> <p>Survey licences are not generally required for pine marten surveys, unless an intrusive survey is being undertaken. This includes the use of camera trapping to check potential pine marten dens. Survey licences are issued by NatureScot.</p> <p>Guidance documents:</p> <p><a href="#">Standing advice for planning consultations – Pine Martens (NatureScot, 2020)</a></p> <p><a href="#">Pine martens and licensing (NatureScot 2020)</a></p> <p>UK BAP Mammals: Interim Guidance for Survey Methodologies, Impact Assessment and Mitigation. Southampton: Mammal Society (Cresswell et al. (eds.), 2012)</p>

Species	Legislation	Relevant offences	Licensing procedures
Birds	Wildlife and Countryside Act 1981 (as amended by the Wildlife and Natural Environment (Scotland) Act 2011)	<p>Intentionally or recklessly kill, injure or take any wild bird, intentionally or recklessly take, damage, destroy or otherwise interfere with the nest of any wild bird while that nest is in use or being built, intentionally or recklessly take or destroy an egg of any wild bird.</p> <p>Obstruct or prevent any wild bird from using its nest or intentionally or recklessly</p> <p>Intentionally or recklessly disturb a Schedule 1 species while it is building a nest or is in, on or near a nest containing eggs or young; intentionally or recklessly disturb dependent young of such a species [e.g. most birds of prey, kingfisher, barn owl, black redstart, little ringed plover].</p> <p>Intentionally or recklessly take, damage, destroy or otherwise interfere with any nest habitually used by a Schedule A1 species (golden eagle or white-tailed eagle) when not in use.</p> <p>At any time intentionally or recklessly harass a Schedule (1A species (golden eagle, white-tailed eagle, hen harrier or red kite). Harassment may occur on a single occasion, depending on circumstances.)</p>	<p>No licences are available to disturb any birds in regard to development.</p> <p>Licences are available in certain circumstances to damage or destroy nests, but these only apply to the list of licensable activities in the Act and do not cover development.</p> <p>General licences are available in respect of ‘pest species’ but only for certain very specific purposes (e.g. public health, public safety, air safety).</p> <p>Guidance document:</p> <p><a href="#">Planning and development: standing advice and guidance documents – Birds (NatureScot, 2024)</a></p> <p><a href="#">Standing Advice for Planning Consultations – Birds (NatureScot, 2023)</a></p> <p><a href="#">Birds and licensing (NatureScot 2023)</a></p>

Species	Legislation	Relevant offences	Licensing procedures
Reptiles With specific reference to widespread species of reptiles including adders, common lizards and slow worms.	Wildlife and Countryside Act 1981 (as amended) Schedule 5, Section 9	To intentionally or recklessly kill or injure any widespread reptile species (common lizards, slow worms, adders).	There are no licensing provisions to allow the killing or injuring of reptiles and so measures must be put in place to minimise the risk of this happening and avoid an offence being committed.  Guidance document: <a href="#">Standing advice for planning consultation – Reptiles (Adder, Slow Worm &amp; Common lizard) (NatureScot 2022)</a>
Mountain hares	Wildlife and Countryside Act 1981 (as amended) Schedule 5	To, at any time, intentionally or recklessly kill, injure or capture a mountain hare, disturb a mountain hare in its place of shelter, damage, destroy or obstruct access to a mountain hare's place of shelter.	Licences for development are issued by NatureScot.  Guidance documents: <a href="#">Standing advice for planning consultation – Mountain Hare (NatureScot 2022)</a> <a href="#">Hares and licensing (NatureScot 2023)</a>  UK BAP Mammals: Interim Guidance for Survey Methodologies, Impact Assessment and Mitigation. Southampton: Mammal Society (Cresswell et al. (eds.), 2012)
Brown Hares	Wildlife and Countryside Act 1981 (as amended) Schedule 5A	To intentionally or recklessly kill, injure or take a brown hare during the closed season (1 <sup>st</sup> February to 30 <sup>th</sup> September, inclusive).	Guidance documents: <a href="#">Hares and licensing (NatureScot 2023)</a>  UK BAP Mammals: Interim Guidance for Survey Methodologies, Impact Assessment and Mitigation. Southampton: Mammal Society (Cresswell et al. (eds.), 2012)

Species	Legislation	Relevant offences	Licensing procedures
Fish	Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003	Fishing for salmon and other freshwater fish in inland waters other than by rod & line (for example electric fishing for survey or fish rescue purposes). Knowingly injuring or disturbing salmon spawn; or disturbing spawning bed, bank or shallow.	Guidance documents: <a href="https://www.sepa.org.uk/publications/car-a-practical-guide.pdf">car-a-practical-guide.pdf (sepa.org.uk)</a> Marine Scotland can issue licences for scientific or fisheries management purposes for methods of fishing for freshwater fish, which would otherwise be illegal.
Fish	Water Environment (Controlled Activities) (Scotland) Regulations 2011	Engineering works must not: - Be undertaken during periods in which fish are likely to be spawning in the river, burn or ditch nor in the period between any such spawning and the subsequent emergence of the juvenile fish. - Prevent the free passage of migratory fish. Engineering works within the water environment may be subject to registration or licence from Scottish Environment Protection Agency (SEPA).	As above
Fish	The Freshwater Fish Conservation (Prohibition on Fishing for Eels) (Scotland) Regulations 2008	It is an offence to fish for or take eels of the species <i>Anguilla anguilla</i> (any method at any time) except under the authority of a licence granted by the Scottish Ministers.	As above

<sup>1</sup> Lower levels of disturbance not covered by the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) remain an offence under the Wildlife and Countryside Act 1981 (as amended) although a defence is available where such actions are the incidental result of a lawful activity that could not reasonably be avoided.

**Table A11-2.4: Plants**

Species	Legislation	Relevant offences	Licensing procedures
Plants European Protected Species:	Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)  Regulation 43	Deliberately pick, collect, cut, uproot or destroy a wild plant of a European protected species (Schedule 4).	Licences for development are issued by NatureScot. Guidance documents: <a href="#">Plants and fungi and licensing (NatureScot 2023)</a>
Plants and fungi Protected species of plant and fungi	Wildlife and Countryside Act 1981 (as amended)  Section 13	Intentionally or recklessly pick, uproot or destroy i) any wild plants included in Schedule 8; or ii) any seed or spore attached to any such wild plant.  Intentionally or recklessly uproot any wild plant without authorisation (i.e., permission of the owner or occupier of the land it grows on).	Licences for development are issued by NatureScot. A licence from NatureScot is required for surveys (survey, conservation, scientific, research or educational purposes) that could affect species and their habitats. Guidance documents: <a href="#">Plants and fungi and licensing (NatureScot 2023)</a>
Invasive non-native plant species e.g. Japanese knotweed, hybrid knotweed, giant knotweed, giant hogweed, rhododendron and Himalayan balsam	Wildlife and Countryside Act 1981 (as amended by the Wildlife and Natural Environment (Scotland) Act 2012)	It is illegal to plant or otherwise cause these species to grow in the wild outwith their native range.	Any contaminated soil or plant material that is intended to be discarded is classified as controlled waste under the Environmental Protection Act 1990; and must be disposed of by a SEPA licensed haulier to a licensed or permitted landfill site. The waste must be accompanied by appropriate waste transfer documentation prepared by the haulier. Guidance documents: <a href="#">Invasive non-native species (NatureScot 2020)</a> <a href="#">Non-native species: code of practice (Scottish Government 2012)</a> <a href="#">Non Native Plants and Weeds (Property Care Association 2023)</a>

## A11-2.4. National Legislation

**Table A11-2.5: General Biodiversity Legislation**

Species	Legislation	Relevant offences	Licensing procedures
Habitats and species	Nature Conservation (Scotland) Act 2004	A duty to further the conservation of biodiversity was placed on all public sector bodies in Scotland in 2004. This biodiversity duty is about connecting people with the environment and managing biodiversity in the wider environment, not just in specific protected sites.	<p>The Scottish Biodiversity List (SBL) is a list of animals, plants and habitats that Scottish Ministers consider to be of principal importance for biodiversity conservation in Scotland. The purpose of the list is to help public bodies carry out their Biodiversity Duty by identifying the species and habitats which are the highest priority for biodiversity conservation in Scotland.</p> <p>The SBL was published in 2005 and revised in 2013 to satisfy the requirement under Section 2(4) of The Nature Conservation (Scotland) Act 2004.</p> <p>Full SBL list:  <a href="#">Scottish-biodiversity-list</a></p> <p>Guidance documents:  <a href="#">Scottish Biodiversity List (NatureScot 2022)</a></p>
Habitats and species	<a href="#">Wildlife and Natural Environment (Scotland) Act 2011</a>	Duty on every public body to further the conservation of biodiversity. Scottish Ministers to designate one or more strategies for the conservation of biodiversity as the Scottish Biodiversity Strategy, and to publish lists of species of flora and fauna and habitats of principal importance.	Not applicable

## A11-2.5. National Policy

### National Planning Framework 4 (NPF4) 2023

A11-2.5.1. NPF4 is the national spatial planning strategy for Scotland and was adopted in February 2023. Policy 3 Biodiversity states that:

*“a) Development proposals will 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.*

*b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment 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.*

*d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, 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 the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration”.*

A11-2.5.2. Policy 4 - Natural Places aims to protect, restore and enhance natural assets making best use of nature-based solutions and states that:

*“a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.*

*b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.*

*c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:*

*i. The objectives of designation and the overall integrity of the areas will not be compromised or*

*ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.*

*All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.*



*e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.*

*f) Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application”.*

A11-2.5.3. Policy 6 Forestry, Woodland and Trees aims to protect and expand forest, woodland and trees and states that:

*“a) Development proposals that enhance, expand and improve woodland and tree cover will be supported.*

*b) Development proposals will not be supported where they will result in:*

*i. Any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition;*

*ii. Adverse impacts on native woodlands, hedgerows and individual trees of high biodiversity value, or identified for protection in the Forestry and Woodland Strategy;*

*iii. Fragmenting or severing woodland habitats, unless appropriate mitigation measures are identified and implemented in line with the mitigation hierarchy;*

*iv. Conflict with Restocking Direction, Remedial Notice or Registered Notice to Comply issued by Scottish Forestry.*

*c) Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland*

removal. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

d) Development proposals on sites which include an area of existing woodland or land identified in the Forestry and Woodland Strategy as being suitable for woodland creation will only be supported where the enhancement and improvement of woodlands and the planting of new trees on the site (in accordance with the Forestry and Woodland Strategy) are integrated into the design”.

### The Environment Strategy for Scotland and Scottish Biodiversity Strategy to 2045: draft planning guidance

- A11-2.5.4. The Environment Strategy for Scotland sets out the Scottish Government’s vision for tackling the twin global climate and nature crises.
- A11-2.5.5. The Scottish Biodiversity Strategy (draft) sets targets for halting biodiversity loss by 2030 and restoring and regenerating biodiversity by 2045. The draft planning guidance sets out the Scottish Ministers’ expectations for implementing and delivering NPF4 policies which support the cross-cutting NPF4 outcome 'improving biodiversity', published in November 2023.
- A11-2.5.6. The Scottish Biodiversity Strategy is accompanied and supported by a Delivery Plan, which sets out ambitious actions to help deliver important projects such as the delivery and growth of nature networks and the commitment to protect at least 30% of our land and sea for nature by 2030 (30x30). These actions include ensuring positive effects on biodiversity under NPF4 are delivered, with development proposals contributing to the enhancement of biodiversity, restoring degraded habitats and building and strengthening nature networks.

### Control of Woodland Policy

- A11-2.5.7. The Scottish Government’s Control of Woodland Policy would also apply to any woodland removal associated with the Proposed Scheme. Guidance on implementation of this policy is provided by Scottish Forestry in [Scottish](#)

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[Government's Policy on Control of Woodland Removal: Implementation Guidance \(2019\).](#)

## A11-2.6. Regional Policy

[Loch Lomond and The Trossachs National Park Partnership Plan \(Draft\), 2024-29](#)

- A11-2.6.1. The National Park Partnership Plan 2024-29 (draft) (NPPP) *“is for everyone who has a role to play in its delivery or will be impacted by it. It is specifically designed to be used as a guiding reference tool for delivering action to achieve a more positive future for the National Park.”*
- A11-2.6.2. The Aims of National Parks in Scotland (as set out in the National Parks (Scotland) Act 2000) are:
- to conserve and enhance the natural and cultural heritage of the area
  - to promote sustainable use of the natural resources of the area
  - to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public
  - to promote sustainable economic and social development of the area’s communities.
- A11-2.6.3. The Plan is divided into two parts:
- The Why – explaining the context for this Plan, the challenges facing the National Park, Scotland and the world, and the role the Park must play in addressing these.
  - The What, Who, How and When – setting out a framework for delivery through clear Outcomes, Objectives, Actions, and Measurements.
- A11-2.6.4. ‘The Why’ includes focus on the twin crises of the climate emergency and nature loss - impacts of which are being felt in the Loch Lomond & The Trossachs National Park. A summary of the relevant framework outcomes and objectives in relation to biodiversity are provided below.

A11-2.6.5. Restoring nature by 2045 for outcomes state:

- climate – neutral carbon sink
- heath ecosystems – restored landscape for nature, and
- through sustainable regenerative land use – exemplar of regenerative land use.

A11-2.6.6. Restoring nature for 2024-2029 objectives state:

- reduce peatland emissions, increase tree cover and restore the water environment
- connecting nature at landscape scale, more land managed for nature and reduce key pressures on nature
- support more regenerative land use, invest in nature solutions and encourage land use that benefits everyone.

#### Argyll and Bute Council Local Development Plan 2 (LDP2) 2024

A11-2.6.7. The following policies from the Argyll and Bute Council LDP2 have been identified as relevant to biodiversity within the area of the Proposed Scheme. Where policies are covered by legislation already covered within this chapter these have not been highlighted here.

A11-2.6.8. Policy 77 – Forestry, Woodland and Trees states that:

*“There is a strong presumption in favour of protecting our woodland resources. Particular care will be taken to ensure that ancient semi-natural woodland, native or long-established woods (including Atlantic Oakwoods), hedgerows and individual trees (including veteran trees) of high nature conservation value are safeguarded, conserved and, where possible, enhanced. Removal of woodland resources will only be permitted where it would achieve significant and clearly defined additional public benefits. These benefits will be secured by attaching a planning condition or by requiring a developer to enter into a planning obligation. Where woodland, hedgerows or individual trees are removed in association with development, adequate provision must be made for the planting of new woodland resources, including*

*compensatory planting in accordance with the sequential approach set out in Policy 78 – Woodland Removal. Mitigation will be required where a development proposal would sever or impair connectivity between important woodland habitats”.*

A11-2.6.9. Policy 78 – Woodland Removal states that:

*“Proposals that would involve the removal of woodland resources will be assessed against the criteria for determining the acceptability of woodland removal, as explained in Annex C of the Scottish Government’s Control of Woodland Removal Policy. Where this assessment concludes that compensatory planting would be appropriate, developers will need to provide for this in accordance with the advice in Annex 5 of the Scottish Government’s Control of Woodland Removal Policy: implementation guidance, published February 2019, and the Argyll and Bute Woodland and Forestry Strategy.*

*All agreed compensatory planting will be located in accordance with the following sequential approach:*

- i) On-site (most preferable);*
- ii) Off-site within Argyll and Bute, or*
- iii) Elsewhere within Scotland (least preferable)”.*

#### [Argyll and Bute Local Biodiversity Action Plan \(LBAP\) 2010-2015](#)

A11-2.6.10. The Argyll and Bute LBAP was first published in 2001 following guidance set out by government. It was refreshed under the Ecosystem Approach in 2010 and is currently being re-drafted as an interim refresh to align it with the Scottish Biodiversity Strategy 2020. Pending this, the 2010 - 2015 LBAP ([A&B BAP Draft](#)) remains the most recent LBAP.

#### [Loch Lomond and The Trossachs National Park LDP 2017-2021](#)

A11-2.6.11. Loch Lomond and The Trossachs National Park Local Development Plan 2017-2021 remains active in place until 2024 as timescales were amended to align with the new planning legislation. The following policies have been

identified as relevant to biodiversity within the area of the Proposed Scheme. Where policies are covered by legislation already covered within this chapter these have not been highlighted here.

A11-2.6.12. Overarching Policy 1 states:

*“All development should contribute to the National Park being:*

*A natural, resilient place by:*

- *Minimising adverse impacts on water, air and soil quality,*
- *Incorporating appropriate soft and hard landscaping, a planting scheme, and measures to protect existing trees and other landscape features”.*

A11-2.6.13. Overarching Policy 2 states:

*“Development proposals should not conflict with nearby land uses and where relevant, must address the following requirements:*

- *Natural Environment: protect and/or enhance the biodiversity, geodiversity, water environment, sites and species designated at any level (international, national or local) including ancient and semi-natural woodland, green infrastructure and habitat networks”.*

A11-2.6.14. Natural Environment Policy 1 states:

*“National Park Landscapes, seascape and Visual Impact Development will protect the special landscape qualities of the National Park in accordance with The Special Landscape Qualities of Loch Lomond & The Trossachs National Park (SNH 2010). Development proposals will be required to be sympathetic to their setting and minimise visual impact, including areas of wild land character (1) and wild land areas”.*

A11-2.6.15. Natural Environment Policy 5 states:

*“Species and Habitats Development that would have an adverse impact (including cumulative impact) on habitats or species identified in the National*

*Park Biodiversity Action Plan which occur in the National Park will only be permitted where:*

*(a) It is demonstrated that the need and justification for the development outweighs the local, national or international contribution of the area of habitat or populations of species; and*

*(b) Significant harm or disturbance to the ecological functions, continuity and integrity of the habitats or species populations is avoided, or minimised where harm is unavoidable, and appropriate compensatory or management measures are included either within or outside of the site; and*

*(c) The extent and functions (for carbon sequestration and/or Ground Water Dependant Terrestrial Ecosystems) of woodlands, peat and bog lands will not be impaired in the medium to long-term”.*

A11-2.6.16. Natural Environment Policy 6 states:

*“Enhancing Biodiversity Developments will be required to enhance biodiversity by:*

*(a) Securing the protection, management and enhancement of natural landscape, wildlife, wildlife habitat, habitat networks and green corridors, and where possible the creation of new wildlife habitats; and*

*(b) Aiming to have native species planted and preventing the planting or spread of invasive non-native species including those listed in Schedule 9 of The Wildlife and Countryside Act 1981”.*

A11-2.6.17. Natural Environment Policy 8 states:

*“Development Impacts on Trees and Woodlands Development proposals will not be supported when it would result in the loss or deterioration of an ancient or long-established plantation or semi-natural woodland unless there are overriding public benefits from the development that outweigh the loss of the woodland habitat. Development proposals will not be supported where it is*

*likely to lead to the loss of, or damage to, important individual trees, hedgerows or groups of trees or woodlands that contribute to local amenity, the character of the area and/or are of nature conservation value or historic significance. Where development is accommodated, compensatory planting is to be undertaken to contribute to the National Park's Biodiversity Action Plan. Where trees, hedgerows or woodlands may be potentially affected by development or land-use change, the following measures may be required on a case by case basis:*

*(a) Provision for the protection, management and planting of new trees, hedgerows and woodlands in keeping with distinctive landscape character of the area and where possible enhancing existing or creating new wildlife habitat;*

*(b) Tree Preservation Orders to protect important trees or groups of trees or woodlands perceived to be under threat of damage or removal if it appears expedient in the interests of amenity, and/or the trees and woodlands are of cultural or historical significance;*

*(c) Control of Woodland Removal Policy (Scottish Government) to assess acceptability of woodland removal and need for associated compensatory planting;*

*(d) Management agreements and/or legal agreements to encourage positive management of trees, hedgerows and woodlands on or adjacent to development sites”.*

A11-2.6.18. Natural Environment Policy 9 states:

*“Woodlands on or adjacent to development sites Where development is proposed that may affect trees or woodland on or adjacent to the site, measures following the recommendations and guidance in British Standard 5837:2012 ‘Trees in relation to design, demolition and construction’, shall be followed to identify trees to be retained and adequately protected. This policy will be supported by a Woodland Strategy Planning Guidance which will*



*provide guidance on the most appropriate species and locations for establishment of woodlands, hedgerows and trees”.*

A11-2.6.19. Natural Environment Policy 11 states:

*“Protecting the Water Environment Development will be required to ensure no significant adverse impact on the water environment by:*

*(a) Protecting and enhancing the ecological status and riparian habitat, natural heritage, landscape values and physical characteristics of water bodies (including biodiversity and geodiversity);*

*(b) Demonstrating that there would be no significant adverse impact on protected species or their habitats in the water body or its catchment area”.*

#### Wild Park: National Park Biodiversity Action Programme.

A11-2.6.20. Wild Park 2020 provides the main drivers for nature conservation with the Loch Lomond and Trossachs National Park. Fundamental environmental threats that are considered key pressures to the National Park’s biodiversity and are relevant to the Proposed Scheme include:

- poor quality of some lochs and rivers
- unsustainable levels of grazing
- invasive non-native species, and
- climate change pressures.

## A11-2.7. Guidance and Standards

### Design Manual for Roads and Bridges (DMRB) – LA 108 Biodiversity

A11-2.7.1. This document sets out the requirements for assessing and reporting the effects of highway projects on biodiversity.

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### UK Forestry Standard

- A11-2.7.2. The UK Forestry Standard would apply to any operations relating to woodland management. A new UK Forestry Standard has now been published and it will be applied after 1 October 2024.

### Land Use Planning System SEPA Guidance Note 31

- A11-2.7.3. The Land Use Planning System SEPA Guidance Note 31: Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems applies to any habitat identified within the study area as being a Groundwater Dependent Terrestrial Ecosystem.

### River Basin Management Plan for Scotland 2021 – 2027

- A11-2.7.4. The River Basin Management Plan for Scotland 2021 – 2027 sets out a framework for protecting and improving the benefits provided by the water environment across Scotland.