

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: CONSULTATION FROM THE HIGHLAND
COUNCIL

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(DEVELOPMENT MANAGEMENT)

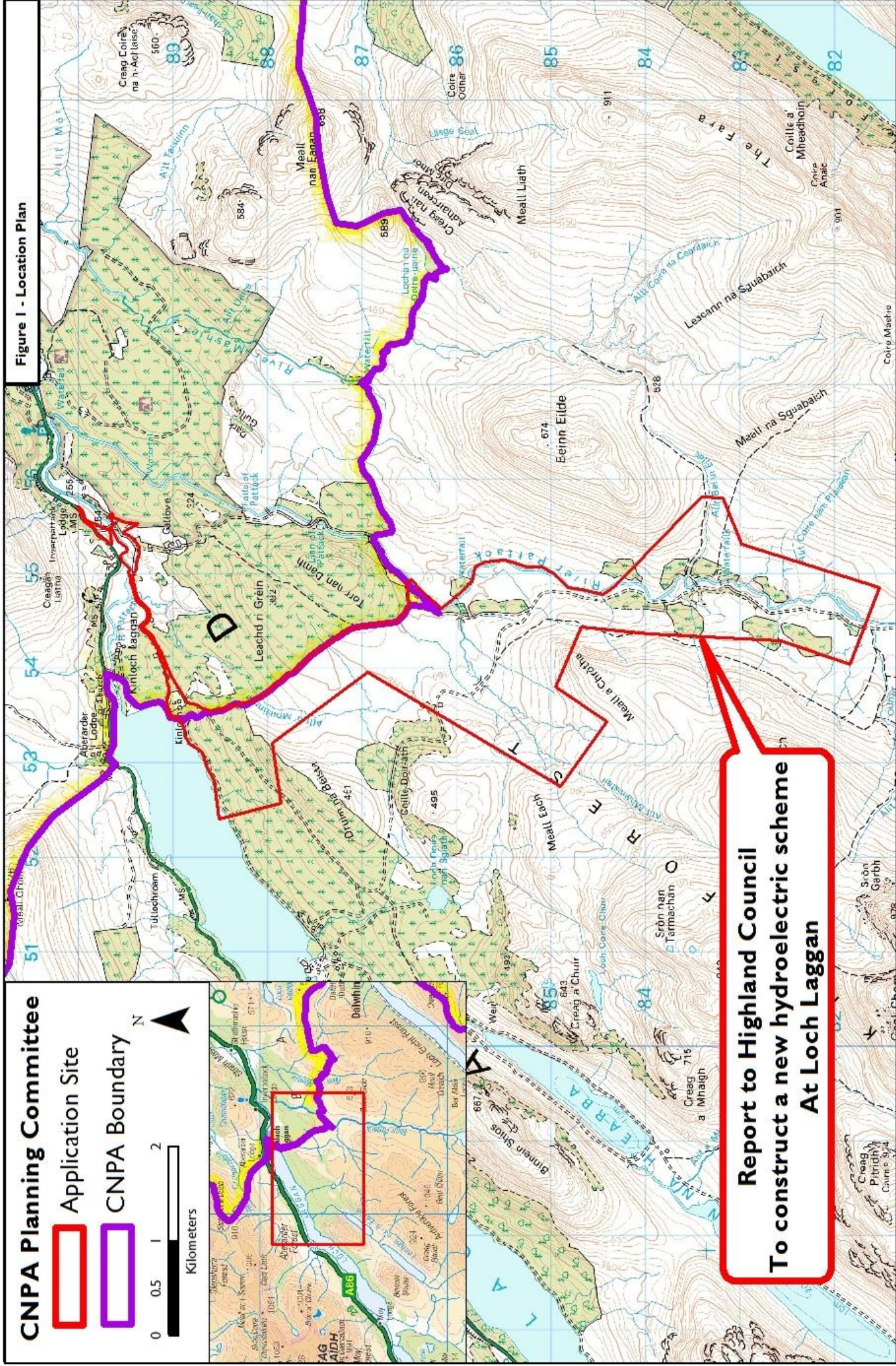
DEVELOPMENT PROPOSED: To construct and operate a new hydroelectric scheme (up to 9MW) involving a dam and storage reservoir, up to four minor intakes, buried pipelines, powerhouse building, access track works and temporary site establishment areas for River Pattack Hydro Scheme and Powerhouse Building on the shore of Loch Laggan, Kinloch Laggan, Newtonmore

REFERENCE: PA-272 (HIGHLAND COUNCIL
REFERENCE I4/02344/FUL)

APPLICANT: RWE Innogy UK Ltd

RECOMMENDATION: NO OBJECTIONS SUBJECT TO
CONDITIONS

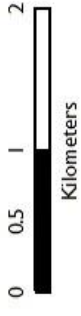
Figure 1 - Location Plan



CNPA Planning Committee

Application Site

CNPA Boundary



**Report to Highland Council
To construct a new hydroelectric scheme
At Loch Laggan**

PURPOSE OF REPORT

1. Members may recall that this consultation from the Highland Council (the determining Authority) on a proposed hydro scheme, which lies partly within the Cairngorms National Park, was considered at the October 2014 meeting of the Cairngorms National Park Authority (CNPA) Planning Committee. A copy of the Committee report is attached as **Appendix 1**.
2. At this time the Committee objected to the proposals pending submission of further information relating to the junction upgrading onto A86; car parking/access; landscaping; design of powerhouse; visual and recreational impacts upon Falls of Pattack; ecology impacts and core paths. Full details are included in the Committee minutes which are attached as **Appendix 2**.
3. Following on from this objection the applicant's agent has provided a full response to the points of concern which is attached as **Appendix 3** together with an Addendum to the Environmental Statement originally submitted. The purpose of this report is to now update Members on this new material in order to provide a consultation response to The Highland Council, the determining Authority for this application.
4. The planning issues being considered in relation to this consultation are whether there are any impacts upon the qualities of the National Park. Details of the application are available on the Highland Council planning website using reference number I4/02344/FUL on this weblink <http://wam.highland.gov.uk/wam/>

SITE DESCRIPTION AND PROPOSAL

5. The application site is located on the Ardverikie Estate to the south of Loch Laggan, west of Kinloch Laggan and Newtonmore, as shown in **Figure 1** earlier. The application seeks full planning permission for a 9 megawatt hydro electric scheme on the River Pattack with a new dam proposed some distance south (around 3.5 km) of the National Park boundary. The Falls of Pattack lie downstream (north) of the proposed new dam, on the River Pattack and within the National Park. A right of way/core path runs from the A86 road past the falls and there is a public Forestry Commission car park on the A86 providing visitor parking and viewing of the lower falls of Pattack.
6. The main components of the scheme lie to the west of the National Park boundaries in an upland, moorland setting bounded on the National Park side by woodland with an existing track running along the edge of this plantation which has been partly felled. Site access to the scheme will be taken via the Gallovie Farm junction onto the public road (A86) along an existing track through the woodland and leading westwards. This access point is located within the National Park.
7. The scheme comprises the following key components which are shown on the applicant's layout plan which is attached as **Appendix 4**. This reflects changes made to the layout since the original consideration at Committee in

terms of removal of one of the construction compounds. More detail on the various components was set out in the original committee report, attached as **Appendix I**:

- a) Dam and reservoir
 - b) Four intakes on tributaries
 - c) High pressure buried pipeline
 - d) Powerhouse
 - e) Access tracks – part of which will be located within the National Park, this part comprises an existing track which will not be altered
 - f) Four temporary construction/laydown areas proposed. Two of these will be located within the National Park
 - g) No details of grid connection have been supplied at this stage although it is indicated this would comprise a short section of 33kV overhead line (wooden pole style) connecting into an existing private 33kV line which runs south east from the Ardverikie estate to the national grid connection at Dalwhinnie.
8. The overall scheme would operate as a storage scheme meaning that water collected could be used immediately for power generation or stored in the reservoir until needed. The applicant's agents have explained in their submission that they have carried out gauging on the river to record existing river flows in order to analyse the volume of water which will be used by the scheme and the appropriate compensation flows required. Compensation flows are explained as being the water which is allowed to bypass the dam and intakes to preserve the river habitats downstream. In dry periods water stored in the reservoir can where possible continue to provide the compensation flow. Compensation flows required to be agreed with SEPA and the Agency has now granted consent for the proposals under the terms of their Controlled Activities Regulations licensing regime (CAR).
9. The application is accompanied by an Environmental Statement (ES), and contains detailed assessment of the following areas:
- a) Ecological impacts (both aquatic and terrestrial)
 - b) Land use and recreation including impacts upon walkers, climbers and canoeists using the River Pattack. It is highlighted that provision will be made for continued recreational access for walkers using tracks in the vicinity during construction and that following discussion with the Scottish Canoe Association an agreement has been reached to release water from the dam five times a year for canoeing activities to help compensate for any loss of canoeing due to reduced flows on the river. It is intended that this release of water will mean that the current estimated potential canoe usage of the Pattack (from below the falls of Pattack) will remain at around 24-39 days per year.
 - c) Landscape character including a wild land assessment - parts of the site lie within, or in proximity to, the north eastern edge of the Rannoch – Nevis - Mamores - Alder Wild Land Area. The ES concluded that landscape impacts would be localised and temporary during the construction phase only with no significant impacts upon the Cairngorms National Park. The

ES also indicates that planting will be undertaken to compensate for loss of any woodland during construction of the scheme.

- d) Visual impacts to consider the potential change in views from buildings, routes and popular viewpoints. This concluded that all significant impacts would be temporary, largely from outdoor locations such as paths, tracks and mountain summits. Changes to flows over the Falls of Pattack were not considered likely to significantly impact upon the views of the falls from the viewpoint. The assessment of visual impacts included zone of theoretical visual influence information (ZTV).
 - e) The ES also included an assessment of water flows over the Falls of Pattack which lie downstream of the proposed dam and within the National Park with reference to how this may change the appearance of the Falls (Appendix 4.3)
 - f) Cultural heritage
 - g) Traffic
10. Overall the ES concluded that the proposed scheme was in keeping with planning policies (including consideration against the National Park Partnership Plan and Local Plan) with any significant impacts generally localised and capable of being mitigated.
11. Following consideration of the application at the October 2014 meeting further information has been submitted by the applicant's agents including the response to the CNPA issues raised at Committee which is, as noted earlier, attached as **Appendix 3**. This material addressed the following key areas as raised at Committee.
12. A86 Junction Details – details of the upgrading of the existing junction were sought to reflect the small scale landscape character together with information on post development restoration. The details provided explain the requirements for sufficient radii and width to allow lorries to pass during construction and confirm that kerbing will not be used with the upgrading reinstated to the original size/configuration at the end of development. Vegetation within visibility splays to be trimmed back.
13. Parking Provision - consideration of provision of small informal car park in the general area of the proposed site establishment area at the bridge over the River Pattack to enhance public access post development, including signage and interpretation, was sought. The applicant's response explains the reasons why the provision of a parking area would be problematic (overnight parking etc). Instead, following discussion with CNPA and Highland Council officers, the applicants propose to focus efforts on linking the existing pedestrian access tracks on the estate with the existing Forestry Commission car park and paths to the east thus avoiding the need for parties visiting the upper falls to walk along the busy trunk road. This would involve formalising an existing link connecting from Ardverikie land across moorland (under Forestry Commission control) to the existing Bailey bridge over the Pattack, which was provided in relation the Beauly–Denny works, and then connecting Eastwards to the existing car park. A planning application (Reference 2015/0075/DET) to retain this Bailey bridge and a section of track is currently

under consideration with the CNPA and will be reported at a future Planning Committee for consideration. It is of note that during ongoing consideration of that application the applicants for that case have indicated their agreement in principle to a footpath route to Ardverikie.

14. An indicative layout showing how these links may be achieved has been provided and the applicants have had discussions with the Forestry Commission to reach agreement in principle to this way forward. This is shown in **Figure 2** below where the solid red line is existing footpath, blue solid line is existing track and dashed red line is proposed formalised footpath link.

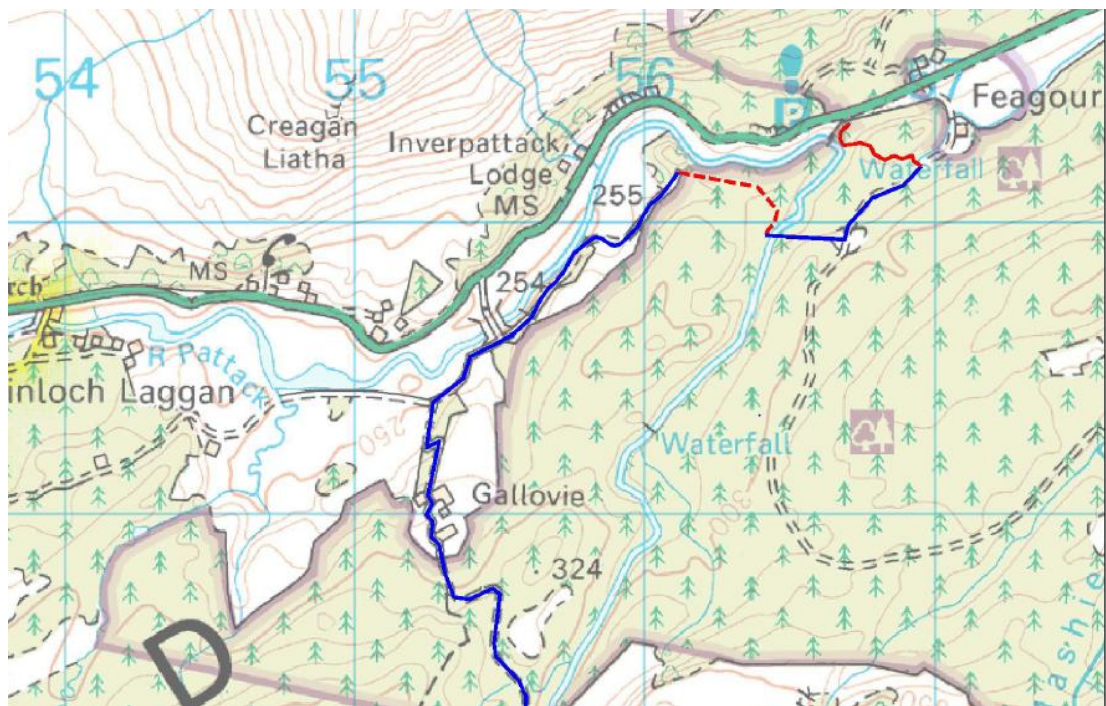


Figure 2 – Potential Access Links

15. The applicants have highlighted their intention to provide such a link in agreement with the Forestry Commission, whilst also noting the actual provision of a link is dependent on the retention of the Bailey bridge (which as present is not confirmed with a planning application currently under consideration), or the provision of an alternative crossing.
16. Planting beside Site Establishment Area beside the River Pattack - details of riparian tree planting to enhance the existing tree cover and to help screen the area were sought. In response to this the applicants have identified an area to be planted between the site establishment area and the river, with details of the area involved provided together with the mix of species (native) comprising around 500 riparian trees suitably protected. Tree planting is proposed to commence within 12 months of the start of construction with the applicants noting that this commitment is made subject to approval by the Forestry Commission. The proposals will be highlighted in the Ardverikie Forest Plan which is shortly up for review. The indicative area for planting is shown in **Appendix 3**.

17. Planting beside Site Establishment Area at junction of Gallovie/Pattack and Kinloch/Pattack tracks - details of the restoration to native woodland of this area were sought. However the applicant has now decided to remove this proposed area so this matter does not require any further investigation.
18. Pipeline Construction - details of planting along the western edge of the National Park near the pipeline and access route (known as Sanctuary Road) was sought in order to soften this edge of the National Park. Again a mixture of native species is proposed with trees protected by shelters with planting. A series of planting areas is identified alongside the track, still allowing views out to the west. This shown in **Appendix 3**.
19. Powerhouse Details - details of protection of retained trees and the design and finishes of powerhouse were sought. The applicant has resubmitted details of the building design, together with plans identifying the trees to be removed and those to be retained. Trees to be retained are to be protected by suitable fencing around suitable construction exclusion zones. Proposed finishes for the building are a mixture of reconstituted stone walls, harling, grey sheeting roof and prodema cladding panel and it is suggested that samples/details of finishes of the building may be agreed with the Highland Council. A photomontage of the building as viewed from the northern side of the loch has also been provided as included in **Figure 3**.

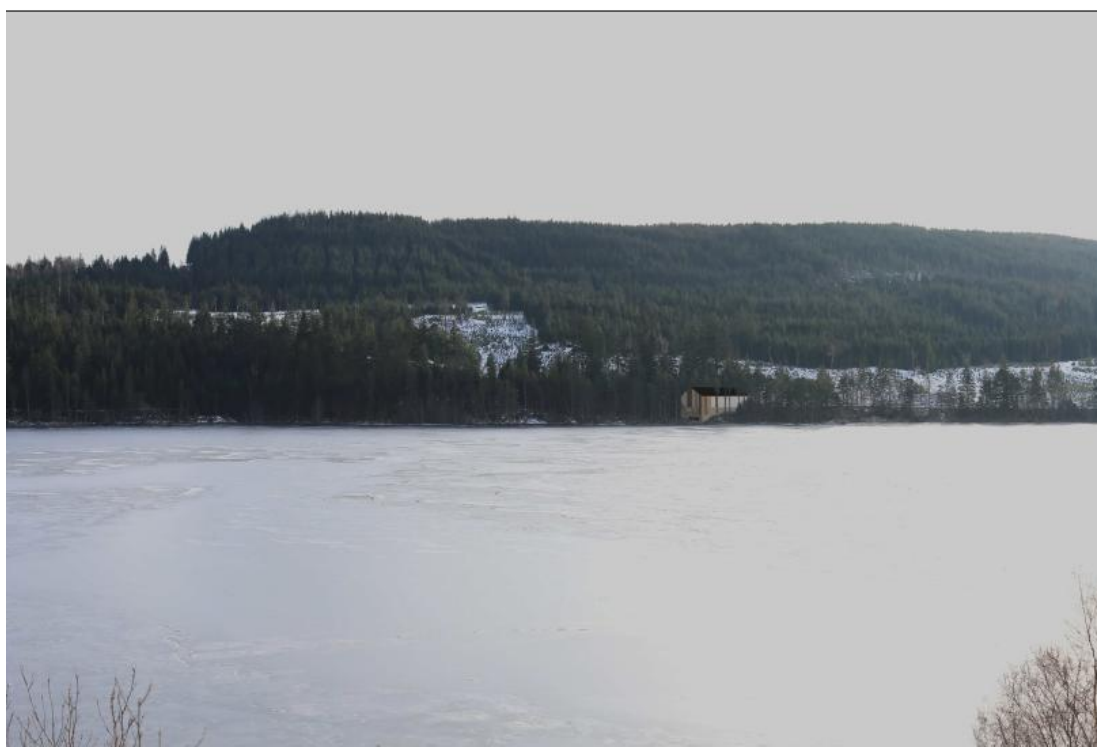


Figure 3 – Photomontage of proposed powerhouse from North

20. Impact upon Falls of Pattack - evidence of the accuracy of methodology for visual assessment of Falls of Pattack and information on priority to be given to recreational users was sought and examples of where it had been used in a and verified on constructed schemes. An updated report on the impact upon

the falls was provided within the addendum to the Environmental Statement. The reports cover effects on the Falls of Pattack and the lower falls, including comparison of photographs at pre and post construction stages and flow information at a series of scenarios. The report concludes that whilst water abstraction would result in a change in the appearance of the falls, they would still appear with white water over them. In higher flows the falls would still retain their impressive character and there would continue to be variability of flows. The response to the CNPA also highlights that SEPA have now granted a CAR license and this process included assessment of visual impacts.

21. In terms of the priority to be given to recreational users over energy generation it is highlighted that it would be impractical to install any form of interactive prioritisation where recreational users could dynamically restrict the amount of water abstracted by the hydro scheme. This would render the scheme uneconomic. However a degree of prioritisation has been committed to through SEPA's licensing process to mitigate against any impact on canoeing flows and the arrangement has been agreed with the Scottish Canoeing Association (SCA) and governed by SEPA, who will agree the timing of releases of water from the reservoir with the SCA.
22. Ecology - confirmation was sought that there will be no adverse impacts upon ecology and in particular riverine species and habitats within the National Park. Additional information was provided for SNH in the addendum to the Environmental Statement and SEPA have granted a CAR license whereby the applicants consider that there is sufficient comfort that there will be no adverse impact upon ecology.
23. Impact upon Core Paths – confirmation that public access and core paths will be unaffected was sought, in particular the core path running from the Dalwhinnie/Ben Alder area to Pattack. The applicant's response details how the path will remain unobstructed and is summarised below.
24. The proposals involve a diversion along the stalking track to the south of, and around, the proposed dam for the majority of the construction works. A permanent footpath diversion is also proposed to follow the new track beside the dam ultimately. These works lie outwith the National Park. A short section of the existing track will be used for both plant and pedestrians in the middle of the site and at the Gallovie Bridge end of the site there will also be a short section of track used by both construction traffic and pedestrians. Signage is proposed to deal with this although some pedestrian segregation may also be possible. Large areas of the track will not be affected by construction including the track between Gallovie Farm past the Falls of Pattack and through to the junction in the middle of the site and track to the far south. These proposals are detailed in **Appendix 3** page 19.
25. An Addendum to the Environmental Statement was also provided in response to requests for further information from Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA) and the Highland Council. This covered impacts upon the waterfalls within the River Pattack, forestry, protected mammals, black grouse, deer, bryophytes and peat. It

also made some minor modifications to the scheme including the removal of one of the construction compounds beside the pipeline (beside the junction of the Pattack/Gallovie tracks) as shown in **Appendix 4**.

26. A study on bryophytes (defined as lower plant group consisting of mosses and liverwort) was undertaken for the River Pattack to ascertain whether any key species were recorded. Key species were not identified.
27. The report on the impacts of development upon woodland explained how loss of woodland would be compensated for by new planting within the estate - areas affected were largely outwith National Park other than at the site establishment area beside the river Pattack where some regenerated birch woodland will be affected. The report also considered woodland around the proposed powerhouse.

DEVELOPMENT PLAN CONTEXT

National Policy and Guidance

Scottish Planning Policy (SPP, revised 2014) sets out national planning policies that reflect Scottish Ministers priorities for the operation of the planning system and for the development and use of land. Under planning law, planning applications must be determined according to the development plan unless material considerations indicate otherwise. The content of SPP is a material consideration in planning decisions that carries significant weight. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances.

28. The SPP sits alongside four other Scottish Government planning policy documents:
 - a) The **National Planning Framework** (NPF) which provides the statutory framework for Scotland's long term spatial development. The NPF sets out the Scottish Government's spatial development policies for the next 20 to 30 years
 - b) **Creating Places**, the policy statement on architecture and place, containing the Scottish Government's policies and guidance on the importance of architecture and design
 - c) **Designing Streets**, a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance, and
 - d) **Circulars**, which contain policy on the implementation of legislation or procedures
29. SPP specifically sets out that the planning system should support the transformational change to a low carbon economy and support the development of a diverse range of electricity generation from renewable energy technologies, and guide development to appropriate locations. Paragraph 169 sets out the issues to be considered when considering energy infrastructure development proposals. Further advice on hydro is contained

in the Scottish Government online information note which sets out issues to be considered and the key role of SEPA.

30. National Parks are highlighted in paragraphs 84 – 86 of the SPP under the “Promoting Rural Development” section. These paragraphs re-state the aims of the National Parks and the need to pursue these collectively. SPP highlights that if there is a conflict between the first aim (conserving and enhancing the natural and cultural heritage of the area) and any of the others then greater weight must be given to the first aim. Planning decisions are expected to reflect this weighting and be consistent with these aims.
31. Paragraph 212 of the SPP highlights that where development affects a National Park it should only be permitted where the objectives of the designation and the overall integrity of the area will not be compromised, or any significant adverse impacts on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.
32. SPP also highlights in paragraph 85 that these aims and requirements apply to development outwith a National Park that affects the Park.
33. Wild Land Areas are addressed in paragraph 200 of the SPP (2014) which are identified as being very sensitive to any form of intrusive human activity and have little or no capacity to accept development with the requirement set out for Plans to identify and safeguard the character of areas of wild land as identified in the Scottish Natural Heritage 2014 map of wild land areas. In relation to development management it is highlighted in paragraph 215 that development may be appropriate in some circumstance and that further consideration is required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

Strategic Policy

Cairngorms National Park Partnership Plan 2012-2017

34. The Cairngorms National Park Partnership Plan sets out the vision and overarching strategy for managing the Park and provides focus and priorities at a time of limited financial resources. The Plan also provides a strategic context for the Local Development Plan and shows how the four aims of the National Park can be achieved together. It sets out the strategic direction and priorities for the Park.
35. Three long term outcomes for the Park are set out as follows:
 - a) A sustainable economy supporting thriving businesses and communities;
 - b) A special place for people and nature with natural and cultural heritage enhanced; and
 - c) People enjoying the park through outstanding visitor and learning experiences.

36. These outcomes address the interaction of the three main characteristics of the National Park these being that the Park is an internationally important area for nature conservation; a fragile rural economy, and an internationally known tourism destination. Recognising the relationship of these outcomes is at the heart of the National Park. A series of work programmes to help deliver the outcomes is set out in the Plan.
37. Specific policies of the Plan seek to promote and enhance the special qualities of the Park. In addition Policy 1.3 seeks to increase renewable energy generation within the Park especially biomass and hydro that is compatible with conserving the special qualities of the National Park and maintaining the integrity of designated sites. Also relevant is Policy 2.3 which seeks to conserve and enhance the special landscape qualities, with a particular focus on conserving and enhancing wildness qualities and enhancing opportunities to enjoy and experience the landscapes of the Park. Policy 2.4 seeks to conserve and enhance habitat quality and connectivity.
38. The adopted **Cairngorms National Park Core Paths Plan 2015** is also relevant with the Falls of Pattack core path crossing the Adverikie Estate. This plan seeks to provide for a core paths network which is sufficient for the purpose of giving the public reasonable access throughout their area and provides details of core paths in the area.

Local Plan Policy

Cairngorms National Park Local Development Plan (2015)

39. Since this consultation was originally considered the Local Development Plan has now been adopted. As part of the site lies within the Cairngorms National Park, the Local Development Plan is a material consideration and the relevant policies are as set out below, in respect of the part of the development which lies within the National Park.
40. All new development proposals require to be assessed in relation to policies contained in the adopted Local Development Plan. The full wording of policies can be found at: <http://cairngorms.co.uk/park-authority/planning/local-development-plan>. Key policies relevant to the proposed development are summarised below:
41. *Policy 2: Supporting Economic Growth - Policy 2.3* supports proposals which support or extend the economy, providing it is compatible with the area and meets other policy criteria.
42. *Policy 3: Sustainable Design* sets out that all new development should be designed to maintain and maximise all opportunities for responsible outdoor access, including links into the existing path network. All development to be consistent with the Core Paths Plan. Development is also required to be sympathetic to the character of the area and to use materials and landscaping that will complement the setting of the development.

43. *Policy 4: Natural Heritage - Policies 4.5 and 4.6* seek to ensure that all development furthers the conservation of biodiversity through its maintenance and enhancement.
44. *Policy 5: Landscape* states that there will be a presumption against any development that does not conserve and enhance the landscape character and special qualities of the Cairngorms National Park including wildness, and in particular, the setting of the proposed development.
45. *Policy 7: Renewable Energy Generation* supports proposals for renewable energy generation where they contribute positively to the minimisation of climate change; complement the sustainability credentials of the development; conserve and enhance the special qualities of the Park; include appropriate means of access and traffic management and adequately minimise all cumulative effects. Specifically in relation to hydropower policy seeks to ensure there is no detrimental impact on the water environment, the recreational use of the water environment and peat and soil along the length of the scheme.
46. *Policy 10: Resources – Policy 10.1* seeks to, amongst other criteria, to not result in deterioration of current or potential ecological status or water resources used for amenity or recreation and avoid unacceptable detrimental impacts on the water environment.

Supplementary Guidance

47. Supplementary Guidance was recently approved by the Planning Committee and this is in the process of being passed onto Scottish Ministers with a view to future adoption. In this case key guidance is that relating to Renewable Energy, with guidance on Natural Heritage, Landscape, Sustainable Design, and Resources relevant too. Also relevant is the CNPA Landscape Toolkit.

CONSULTATIONS

48. **The CNPA Landscape Officer** assessed this application when originally submitted and a copy of the full response is attached as **Appendix 5**. The officer noted that most of the built components are outwith the National Park and that the dam and reservoir will not be visible from the Park other than at distances beyond 8 or 9 km. Around 5km of the construction corridor will be visible from the western edge of the Park and the abstraction of water will have an effect of the waterfalls within the National Park at Linn of Pattack, Falls of Pattack and the Pattack Falls by the A86. Accordingly there was a risk of temporary, but significant, landscape and visual impacts, and temporary and longer term impacts on the experience of the special qualities of the National Park for walkers and cyclists.
49. Whilst the officer generally concurred with the findings of the applicants Environmental Statement (ES) that there will be moderate adverse, localised impacts at the construction stage from this development, it was considered

that (using the CNPA small hydro landscape sensitivity map) the sensitivity of the Pattack Glen/Strathmashie Landscape Character Area for this kind of development was higher than assessed by the ES and that the visual impacts had been underestimated.

50. In view of the sensitivity of the landscape and the need for elements of the development within the Park to meet the requirements of policy to complement and enhance the landscape character, and to mitigate any adverse impacts upon special landscape qualities experienced within the Park the landscape officer recommended that conditions be attached to cover the following matters:
- a) upgrading of the access onto the A86
 - b) consideration of a small car park close to the bridge over the River Pattack site establishment area
 - c) riparian planting at the second site establishment area beside River Pattack
 - d) restoration to native woodland of land at site establishment area at junction of Gallovie/Pattack track and Kinloch/Pattack tracks
 - e) advance planting along western edge of National Park where the pipeline Route and temporary access track are proposed
 - f) provision of evidence of the accuracy of the methodology for the visual assessment carried out by the applicants for the Falls of Pattack given that there are three sets of significant falls on the River Pattack, all located within the National Park, and that rivers and waterfalls contribute to the special qualities of the Park
 - g) protection of trees identified for protection around the new powerhouse and finishes on the building to reflect other buildings on the estate.
(Although this part of the scheme lies outwith the National Park it will be glimpsed from the A86 and from within the Park).
51. The Officer has now considered the additional material provided (which seeks to address these matters) and advises that in relation to the junction onto the A86 vegetation is required to be managed to maintain sightlines for the duration of the works, which will include the felling of some trees. Trees alongside the A86 are a characteristic feature of this route and the experience of the journey. Advice should be sought from an arboriculturalist on the best management to retain trees in a healthy form during and post-construction, i.e. coppicing, and identifying where trees are best felled and then later replaced.
52. The approach to improved public access at eastern edge of Estate is welcomed. Information on the approach to landscaping mitigation around the site establishment area by the River Pattack and the pipeline route is satisfactory and this will be passed onto CNPA Land Management colleagues who deal with the Estate Long term Forest Plans to ensure that this is included next time round. Information relating to the powerhouse details and impacts is also considered to be satisfactory. Finally, the analysis by SEPA of the likely visual changes to the Pattack Waterfalls and the conclusion of no significant effect is also accepted.

53. The Scottish National Park Authorities have agreed an arrangement with Scottish Natural Heritage (SNH) on respective roles in advisory casework. This sets out that SNH will take the lead role in considering the impacts on the National Park designation of proposals outside the Park, with the National Park Authority supporting. Accordingly the views of SNH are also important in this case where the main components of the development lie outwith the National Park.
54. **Scottish Natural Heritage** has advised the determining authority (The Highland Council) that landscape impacts, although significant, would be localised along part of the River Pattack and would be unlikely to have a significant impact across the wider area which includes the Rannoch – Nevis - Mamores - Alder Wild Land Areas and the Cairngorms National Park. A copy of their comments is attached as **Appendix 6**.
55. Specifically in relation to landscape and visual impacts upon the National Park they note that the underground pipeline will run some 0.2 km from the National Park boundary, but as it is to be reinstated there should be no residual landscape and visual impacts providing reinstatement is carried out properly. The proposal for planting here is welcomed and should help alleviate any impacts. The impacts upon the Falls of Pattack has also been considered with the Environmental Statement concluding that changes in appearance due to flow changes would be of low magnitude. They advise that it will be important to ensure that adequate flow rates are maintained to ensure the amenity value of the waterfalls and rivers.
56. SNH conclude that due to the distance, type of development and proposed mitigation there will not be significant impacts upon the integrity or special landscape qualities of the National Park.
57. They further advise that ecology issues raised by the Agency in July 2014 have been addressed by provision of additional information in the Addendum to the Environmental Statement which included satisfactory consideration of lower plant species and protected species.
58. **Scottish Environment Protection Agency (SEPA)** previously advised The Highland Council (as determining authority) that they would be taking into consideration, as part of their Controlled Activities Regulations (CAR) determination, the impact the proposal would have upon the Falls of Pattack. SEPA also clarified to CNPA officers that such consideration would include the visual impacts using SEPA's published methodology. They also clarified that they would be fully considering impacts upon riverine ecology, including fish habitat.
59. SEPA subsequently confirmed in December 2014 that they had completed their assessment of the costs and benefits of the Pattack scheme and concluded that the adverse impacts upon the water environment were of, at most, low significance. The Agency explained that this did not mean there is no impact, but rather that the impact, with mitigation in place is likely to

maintain the ecological function of the river and the species which depend on these characteristics.

60. They also concluded that the impact on the visual amenity of the lower falls (as well as the upper falls which they considered earlier) is likely to be negligible using their standard methodology which considers the importance of the waterfalls as a visual feature and the magnitude of the reduction in opportunity to view the falls at various flows. They noted that although there will be a reduction in medium flows there is still a good range of flows available for viewing. Accordingly, in 2015 SEPA issued the CAR license with appropriate conditions.
61. SEPA also confirmed to Highland Council in April 2015 that their initial objection to the proposed development (which related to lack of information) had been addressed by the additional Addendum. They highlighted in this consultation response that the conditions attached to their CAR authorisation are derived to ensure protection of the water environment and take account of sensitive uses, water dependent species and ecosystems. Accordingly they requested that planning conditions are not imposed related to the protection of the water environment in relation to the hydro scheme element of the planning application. This is in order to avoid duplication by regulatory bodies.
62. **CNPA Ecology Officer** originally noted that the ecological impacts of the proposed scheme were largely considered to be outwith the National Park with Scottish Natural Heritage and The Highland Council's Forestry Officer to consider these matters in their responses. On considering the additional addendum provided by the applicants the Officer is content with the conclusions in relation to the National Park and in particular bryophytes.
63. **CNPA Access Officer** has been consulted on the additional information now provided in relation to impacts upon public access and the potential for improved access links to the National Park as set out in the applicant's response to the CNPA concerns. The Officer considers that the idea of a parking area should be dropped in favour of the current proposal for a link path which will offer clear public benefit and appears readily achievable. The Officer considers this should be secured under the current application in order to provide an informal line for a path by clearing vegetation and so paving the way for further improvements in the future.
64. In relation to the information provided regarding maintaining access along core paths, it is considered that the proposals for mitigation are innovative and well thought out and will secure continuity of access along the core path concerned. It is recommended that conditions be attached to ensure implementation along with provision of appropriate directional signage during construction.

APPRAISAL

65. The proposed development (as noted throughout this report) lies largely outwith the National Park boundary with some components and the main access point located within the Cairngorms National Park. The application therefore requires to be considered in relation to the CNPA Local Development Plan policies (for those parts within the Park), and the aims and policies of the National Park Partnership Plan. Consideration should also be given to national planning policy and the National Park Partnership Plan in relation to assessing the wider impacts upon the National Park arising from works outwith the National Park boundary. These policies all seek to ensure that the landscape character of the National Park is complemented and enhanced and that the special qualities of the Park and the objectives of the designation are not compromised.
66. In this case the key planning issues for consideration are the visual and landscape impact, impacts upon the setting of the Cairngorms National Park and its special landscape qualities, and the impact upon the enjoyment of the Park. The Committee previously considered that further information in a number of areas (as set out earlier in this report) would be required in order to assess these impacts and come to a conclusion. The information provided by the applicant and the responses of consultees to this is outlined earlier. The appraisal of the key areas as identified previously now follows.

Junction Upgrade onto A86 Trunk Road

67. It is considered that in the interests of road safety it is inevitable that a safe junction for the level of traffic generated will be necessary during the construction period. The applicants proposals will avoid the need for intrusive kerbing which would be out of character here whilst vegetation could be trimmed (as suggested by the CNPA landscape officer) to ensure it is capable of regeneration with any trees identified as having to be felled replaced with suitable species. Planning conditions could be imposed to this end. On this basis, and providing the junction is reinstated to its original configuration following completion of the construction phase, it is considered that the proposals are acceptable in policy terms on a short term basis.

Parking Provision beside Bridge over River Pattack

68. When this application was considered previously at Committee, the Officer report considered that any impacts arising from the effects on the Falls of Pattack could potentially be partially off-set by ensuring that some visitor enhancement is secured. For example, through considering the long term provision of a small, informal car parking area close to the Pattack Bridge on the land proposed for temporary office and parking area or in the general vicinity of this area. It was therefore recommended that this be given some further consideration and the Planning Committee agreed with this suggestion.

69. The applicant has explored this possibility and concluded that provision of footpath links would be a better option in terms of achieving the objective of enhanced visitor experience by way of improved public access to the Falls of Pattack. This is indeed considered to be a preferable option which would provide an attractive and safe walking route if it could be delivered.
70. From the material provided to date there does seem to be a reasonable prospect of delivery of such a link. Whilst this is outwith the control of the current applicants as the crossing over the River Pattack is under the control of a third party (Forestry Commission), this party has indicated both to the current applicants and to CNPA planning officers (during current consideration of the application to retain the Bailey bridge and section of track) that they are willing to participate in provision of this link.
71. In such circumstances it is considered that the desire of the CNPA that the applicants consider provision of parking in the general area to enhance public access has been satisfactorily investigated with a potential solution identified. It is therefore considered that all reasonable measures have been taken to provide a solution and that potentially an appropriately worded suspensive condition /information note could be attached (or other mechanism as considered appropriate by the determining authority) to support this objective whilst recognising it may not be deliverable solely by the current applicant.
72. It is however considered that that the applicants have gone as far as they can to achieve the objective of enhanced public access and this is welcomed. Furthermore, it should also be recognised that if the impacts upon the Falls of Pattack are not considered to be adverse it may be overly onerous to insist upon this enhancement.

Landscaping at Site Establishment Area by River Pattack and Pipeline Construction.

73. Further information was sought to ensure any impacts of these works could be satisfactorily mitigated. This included consideration of the impacts outwith the National Park arising from the construction of the pipelines. As noted by the Landscape Officer these impacts will be relatively long lasting (construction and post construction restoration for up to 5 years) and will have an adverse impact upon the special qualities of the National Park and visitor experience in the short term. This could be mitigated by planting.
74. The information provided achieves this objective, identifying suitable areas for future planting with suitable species. Detail of species etc can be covered by planning conditions and on this basis it is considered that the policy objectives of the Local Development Plan Policy 5 - Landscape to complement and enhance the landscape character will be readily met in the longer term.
75. The final site establishment area at the junction of the Gallovie/Pattack and Kinloch/Pattack tracks has been removed from the application so there is no need for further action in that respect.

Impacts of Powerhouse

76. It is considered that sufficient information has been submitted to demonstrate that the powerhouse (which is sited outwith the National Park) in terms of design, siting and landscaping will not have an adverse impact upon the National Park as required by National Park Plan policy.
77. Implementation of landscaping and details of finishes can be satisfactorily controlled by the determining authority and it is recommended that conditions be attached to this end.

Impacts upon the Falls of Pattack

78. As noted in the previous Committee report, in relation to the infrastructure and development outwith the National Park there are limited visual impacts upon the National Park as a result of the proposed dam on the River Pattack due to its location relative to the National Park and the distances and topography involved. However, there were potential impacts as a result of the loss of water flows over the Falls of Pattack downstream located within the National Park and the consequent implications for visual impacts. These falls are an important visitor attraction sitting well with the aims of the Park in relation to promoting understanding and enjoyment of the special qualities of the area by the public. It is therefore important to ensure that these falls, which are accessible and popular, are not adversely affected by this development.
79. The applicants Environmental Statement (ES) originally highlighted that the Falls of Pattack waterfall is located downstream of the proposed dam and intakes and the scheme would divert water from this part of the river whereby the amount of water flowing over the waterfall would be reduced for much of the year. It also highlighted that during low water flows (estimated to be around 5% of the year) the waterfall would not be affected as it is proposed to release water from the dam as compensation flows. The ES states that the falls would be unlikely to be visibly affected during times of large flood flows because the amount of water being abstracted at such times relative to the total peak flood flows would be much smaller, and that during normal operations the reservoir is expected to spill between 25-40 days of an average year so providing significant additional water downstream to the waterfall on those occasions. It was therefore concluded that there will always be some level of flow variability over the falls throughout the year.
80. The applicant's initial visual assessment concluded that there would be a limited impact and this is reinforced in the more recent study of the impacts upon the waterfalls which provided more detailed evidence and photographs to demonstrate that there would not be significant impacts. This information has been fully considered in detail by SEPA during their licensing determination using a recognised methodology and they have concluded that the impacts will be negligible.

81. It is considered that these assessments by both the applicants and SEPA give sufficient comfort that there will not be an adverse visual effect upon the Falls of Pattack and so meet the initial requirement to demonstrate the robustness of the methodology employed.
82. Finally, in this regard information was previously provided to demonstrate that all efforts have been made to safeguard the ongoing use of the river by canoeists and it is considered there is no further information that can be provided to address the priority to be accorded to recreational users of the river.
83. No further planning conditions are recommended on this point as it is considered that the licensing requirements of SEPA will control water flows rather than the planning process.

Ecology Impacts

84. The Committee wished to establish that there would be no adverse impacts upon the riverine habitats including algae, migratory fish and bryophytes. This has been demonstrated to the satisfaction of the technical experts (SEPA, SNH and the CNPA Ecology Adviser) and no further planning conditions are recommended other than those advised by SNH which the determining authority will be considering in any event.

Impacts on Core Paths

85. Impacts upon the core path running to Dalwhinnie/Ben Alder have been addressed within the submission which makes satisfactory arrangements for pedestrian use during construction in accordance with planning Policy 3 on sustainable design. Diversions to the core path are located outwith the National Park, to the south, and these aspects are more properly considered by Highland Council's Access Officer although the measures outlined do give comfort that pedestrian access will be maintained.
86. As noted by CNPA's Access Officer, there are various measures that could be taken to minimise conflicts between construction vehicle and pedestrian use for the areas of core path within the National Park such as at the Gallovie Bridge entrance. It is therefore considered important that appropriate conditions are attached to secure proper signage and implementation of the measures outlined by the applicants all as suggested by the CNPA Access Officer.

CONCLUSION

87. Following initial consideration by the Planning Committee in October 2014 the applicants have worked closely with CNPA officers, Highland Council and SEPA to address the concerns raised in a positive manner. This has resulted in the provision of sufficient detail to fully assess the proposed development and its impacts.

88. It is considered that, following assessment of the additional information provided, the proposed development could proceed without detriment to the landscape character and special qualities of the National Park, subject to implementation of the various mitigation measures identified and, over time, could complement and enhance the landscape as required by policy.
89. Implementation of the suggested measures will ensure that the development complies with Local Development Plan and National Park Plan policies and aims to complement and enhance the landscape and promote understanding and enjoyment of the area. It also will ensure compliance with Scottish Planning Policy which seeks to ensure that new development outwith a National Park, (and which affects the Park) complies with the aims of the National Parks to conserve and enhance the natural heritage and promote understanding and enjoyment of the area.
90. In these circumstances, it is recommended that the CNPA raise no objection subject to the matter outlined above being covered by appropriate planning conditions and agreements as necessary.

RECOMMENDATION

That Members of the Committee support a recommendation of NO OBJECTION to the proposed Hydro Electric Scheme at Pattack River, Kinloch Laggan, subject to planning condition being attached to cover the following matters: (all submission of information to be made to and approved by the determining authority, The Highland Council, in consultation with the CNPA as necessary):

1. Access Junction onto A86 – details to be submitted and approved of the future reinstatement (and implementation of such works) of junction following completion of construction phase back to original configuration: landscape scheme including details of trimming of vegetation to ensure it may regenerate successfully; replacement of any trees to be felled with suitable species: and the requirement for no formal kerbing of the upgraded junction.
2. Enhanced Public Access to Falls of Pattack – consideration of condition/commitment/information note or agreement to secure the delivery of a footway link from Ardverikie Estate to the paths/tracks leading to the falls of Pattack car park together with provision of appropriate signage/interpretive material.
3. Second site establishment area beside River Pattack within National Park - details to be submitted and approved (area, species, number, spacing, protection and maintenance) of provision of riparian tree planting to enhance the existing tree cover in accordance with the indicative details and timetabling provided in the applicant's response to the Cairngorms National Park Authority dated May 2015.
4. Pipeline Route and temporary access track - details to be submitted and approved (area, species, number, spacing, protection and maintenance) of planting of native broadleaf trees to be carried out along this western edge of the National Park in accordance with the indicative details and timetabling

provided in the applicant's response to the Cairngorms National Park Authority dated May 2015.

5. Powerhouse – landscaping and tree protection to be implemented in accordance with the submitted details and samples of external finishes submitted and approved.
6. Core Path - works for mitigation to enable safe pedestrian use to be implemented in accordance with the mitigation detailed in the applicant's response to the Cairngorms National Park Authority dated May 2015. Details to be submitted and approved of appropriate warning/guidance signage to be retained during duration of works along with segregation of users in order to minimise any potential conflicts between construction vehicles and pedestrians.

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29th May 2015

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