Onshore electricity generation: Consultation on increasing the threshold for applications under the Electricity Act

We are consulting on increasing the 50MW threshold which determines whether applications for onshore electricity generating stations are decided by Scottish Ministers or by the relevant planning authority.

December 2025

Scottish Government
Riaghaltas na h-Alba

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Introduction

In Scotland, applications for onshore electricity generation projects are considered through two different routes.

The Scottish Ministers are responsible for deciding applications to build, operate or modify onshore electricity generating stations with capacities exceeding 50 megawatts (MW) under powers contained in the Electricity Act 1989. Where consent is granted under Section 36 of the Electricity Act 1989, Scottish Ministers have the power under the Town and Country Planning (Scotland) Act 1997 to grant 'deemed' planning permission.

Applications concerning onshore electricity generating stations with capacities of 50 MW or less are largely decided by planning authorities under the Town and Country Planning (Scotland) Act 1997, as amended.

This consultation invites views on increasing the current 50MW threshold which determines whether applications for onshore electricity generating stations are made to Scottish Ministers or the relevant planning authority.

Previous engagement

Fulfilling a commitment to the Scottish Parliament's Citizen Participation and Public Petitions Committee in response to Petition PE1864, the February 2024 Investing in Planning consultation invited views on whether the 50MW threshold should be altered, whether different thresholds should apply for different technologies, and on the likely resourcing implications of increasing the threshold. The consultation asked two questions.

- Should the current threshold of 50MW for applications for electricity generation which are to be determined by authorities be altered?

This question received 101 responses with 83 respondents providing comments. Of those responding to this question, 41 respondents agreed the threshold should be altered, 20 disagreed, and 40 expressed no view.

- Should different thresholds apply to different types of generating stations?

This question received 91 responses with 62 respondents providing comments. Of those responding to the question, 26 agreed different thresholds should apply, 27 disagreed, and 38 expressed no view.

A full summary of responses to the consultation can be found online. Broadly speaking, views were mixed with planning authorities, communities, and third sector groups generally in favour of change, whilst industry, including property and the land management sector, represented the majority of those not in favour.

Officials undertook further informal engagement in July and August 2025 and this has also helped to inform this consultation paper.

Background

Tackling the climate emergency has led to a significant increase in proposals for new electricity generation and storage. Our statistics show that the volume of applications made to Scottish Ministers has more than quadrupled over the last 20 years, with 15 applications made between 2001/03 and 70 applications made between 2021/23.

Wind farm proposals today may include turbines greater than 180m in height and with a generation capacity of 5-7MW each. This means a wind farm proposal comprising approximately 8 or 9 turbines is now likely to meet the 50MW threshold and require determination by Scottish Ministers. In contrast, an application for a wind farm submitted in 2004 comprised 22 turbines of 111.5m in height and a generation capacity of 2-3 MW each, with a maximum combined generation capacity of 51MW, whilst an application submitted in 1996 comprised 31 turbines with a maximum generating capacity of only 18.6MW.

Scottish Ministers can make changes to the type, characteristics and capacity of electricity generating stations which require consent under section 36 (S36) of the Electricity Act by an order which must be laid before the Scottish Parliament. Increasing the 50MW threshold, whether for all or only some technologies, would transfer responsibility for deciding more applications to planning authorities for consideration at a local level.

National Planning Framework 4 (NPF4)

Scotland's Fourth National Planning Framework (NPF4) was published on 13 February 2023, following approval by the Scottish Parliament in January 2023. NPF4 places climate and nature at the centre of our planning system and makes clear our support for all forms of renewable, low-carbon and zero emission technologies, including transmission and distribution infrastructure.

Strategic Renewable Electricity Generation and Transmission Infrastructure is identified as a significant development of national importance in NPF4 (National Development 3). National development status establishes the need for such infrastructure and ensures the principle of development does not need to be assessed again at the consenting stage. This helps to provide more certainty for developers and communities.

Scottish Ministers' role in determining applications under the Electricity Act 1989

The consent of the Scottish Ministers is required under Section 36 of the Electricity Act 1989 for the construction and/or operation of generating stations of a capacity which exceeds 50MW in Scotland.

When an application for consent is received, under applicable legislation Scottish Ministers must consult with statutory consultees, comprising of the relevant planning authority, NatureScot, Scottish Environmental Protection Agency (SEPA) and Historic Environment Scotland. A range of other organisations are consulted, including community councils. Ministers are also required to invite representations from members of the public.

Once all information is received, Ministers must consider the application and environmental information, and balance all material considerations including those raised in objection, before making any determination.

If a consent has been granted to a developer under the Electricity Act 1989, any change in ownership or operation of the generating station can only be done under the approval of, and by way of assignation by, the Scottish Ministers.

Scottish Ministers' role in planning applications under the Planning Act

The primary responsibility for the operation of the planning system and service lies with local and national park authorities, but there can be some occasions when the Scottish Government will become involved in the planning application process.

Scottish Ministers have a general power to intervene in the determination of a planning application and call in an application to take on the decision-making role themselves. This power is exercised by giving a direction under section 46(1) of the Town and Country Planning (Scotland) Act 1997 requiring an application to be referred to them instead of being dealt with by the planning authority. Further information on the circumstances in which Ministers may consider it appropriate to give a direction under section 46(1) of the Planning Act are set out in Planning applications call-in: Ministerial statement – 28 June 2023.

In cases where an application for planning permission has been refused, or not decided within statutory timeframes, developers have the right to appeal to Scottish Ministers. The vast majority of appeals are considered and decided by reporters working in the Scottish Government's Department for Planning and Environmental Appeals (DPEA).

A very small number of appeals are not delegated to reporters for decision; but instead are 'recalled' by Scottish Ministers who will then make the final decision themselves. In those cases, the appeal will still be examined by a reporter, who will then write a report and make a recommendation for Ministers to consider before they make their decision. Ministers do not have to agree with the reporter's recommendation.

Technologies considered under Section 36 of the Electricity Act 1989

Applications made under the Electricity Act 1989 which Scottish Ministers determine cover a broad range of technologies including:

Onshore Wind

Onshore wind is a relatively cheap and reliable source of electricity generation, with Scotland's resource and commitment seeing us lead the way in onshore wind deployment and support across the UK. As indicated above, recent years have seen changes in the scale and generation capacity of onshore wind turbines.

Information from the Renewable Energy Planning Database (REPD) shows that during **Q2 2025** there were a total of 43 S36 applications for onshore wind between 50 – 99.99MW and 31 of 100MW or above. See Annex A for further information.

Solar Photovoltaics

Solar power is an established renewable technology in Scotland, and will play an important role in the net zero energy transition. Solar photovoltaics (PV) are used to generate electricity and may be roof mounted, or ground mounted for larger arrays.

Information from the Renewable Energy Planning Database (REPD) shows that during **Q2 2025** there were a total of 6 S36 applications for solar between 50 – 99.99MW and 1 of 100MW or above. See Annex A for further information.

Battery Energy Storage Systems (BESS)

Battery storage will play a role in the future energy mix of Scotland and offers fast responding, dispatchable power when required. BESS can play an important role in managing the variability and intermittency of renewable energy sources, balancing the grid and enhancing security of supply.

As set out in the Chief Planner letter of 27 August 2020, the Scottish Government considers that a battery installation generates electricity. As a result, a battery installation is treated as any other generating station for the purposes of deciding whether S36 consent is required for its construction and operation.

Information from the Renewable Energy Planning Database (REPD) shows that during **Q2 2025** there were a total of 15 S36 applications for BESS between 50 – 99.99MW and 30 of 100MW or above. See Annex A for further information.

Pumped Storage Hydro (PSH)

Pumped Storage Hydro (PSH) is a method of storing energy by pumping water uphill to a reservoir, then releasing it downhill to generate electricity when needed.

Information from the Renewable Energy Planning Database (REPD) indicates that, during Q2 2025, there were 4 live applications for PSH schemes. 3 of these applications were for projects with a generation capacity in excess of 200MW and 1 project had a capacity of between 100MW and 149.9MW

Hydropower Schemes

Run-of-river hydropower is a type of hydroelectric generation that utilizes the natural flow of a river to produce electricity, with little to no water storage. Information from the Renewable Energy Planning Database (REPD) indicates that, during Q2 2025, 2 hydropower projects were under consideration in Scotland. Both of these projects were of a ‘local’ scale with a generation capacity of less than 20MW.

Bioenergy

Bioenergy is a low-carbon energy type which uses organic matter (biomass) to make fuel or generate electricity.

Information from the Renewable Energy Planning Database (REPD) indicates that, during Q2 2025, 2 applications for biomass projects were under consideration in Scotland. These projects were both determined by local authorities.

Energy from Waste (EfW)

NPF4 policy 12 sets out that development proposals for energy-from-waste facilities will not be supported except under limited circumstances. In instances where a planning authority is minded to grant permission for an energy-from-waste facility, the Energy from Waste Direction (2021) requires that Scottish Ministers are notified. This gives an opportunity for Scottish Ministers to consider whether to 'call-in' such applications for their own determination.

Information from the Renewable Energy Planning Database (REPD) indicates that, during Q2 2025, 1 application was under consideration in Scotland. Historically, applications for EfW have included proposals for development with a range of generating capacities from approximately 10 to 55 MW.

Mixed development / co-location

Developers proposing projects featuring a mix of different electricity generation technologies must calculate the overall maximum generation capacity of their development so as to determine whether an application for Section 36 consent or a planning application is required. It is possible that changing the 50MW threshold could lead to some behaviour change, perhaps for developers to either combine different technologies within a single project so as to meet an increased threshold, or to bring forward applications individually to fall below the threshold.

Other technologies

Where applications come forward for any other form of generating station, the amended threshold would also apply. This could include proposals for emerging storage technologies that will be required to balance supply and demand of the electricity network in Scotland, or for which the Scottish Government has a policy of no support, such as nuclear power or oil and gas fuelled power stations.

Considerations

Respondents to the Investing in Planning consultation raised a number of potential considerations ahead of any changes to the threshold. These were also explored through our subsequent informal engagement and broadly include the following:

Local Decision-Making

The Verity House Agreement (30 June 2023) sets out that decision-making should be 'local by default, national by agreement', recognising that public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen.

The majority of public sector, third sector and community respondents to the 'Investing in Planning' consultation were in favour of the threshold being increased. A range of reasons were given for this view including greater local autonomy and

community involvement in decision making, primacy of the development plan[1] under the Planning Act, and additional fees for local authorities (see 'resourcing and fees' below).

Time to determine applications

Historically, timescales for S36 applications and planning applications have varied and there can be many factors influencing the speed of decision-making.

There is a likelihood that average timescales for decision making under S36 of the Electricity Act will decrease in the coming years. The On-Shore Wind Sector Deal (September 2023) commits Scottish Ministers to determining S36 applications for new sites, and for the re-powering of existing operational sites, within 12 months where there is no public inquiry, or 24 months if there is a public inquiry, from 2025 onwards.

Improvements to the S36 application process set out in the UK Government's Planning and Infrastructure Bill (detailed below) would also be expected to reduce decision-making timescales.

Similarly, work is ongoing to improve planning authority timescales, including through the National Planning Hub and the National Planning Improvement Champion's programme of work.

UK Government: Planning and Infrastructure Bill

The Scottish Government has been engaging with the UK Government on reforms to the Electricity Act 1989. These reforms are included in the UK Government's Planning and Infrastructure Bill and seek to better align the consenting process under the Electricity Act 1989 with Scotland's planning processes set out under the Town and Country Planning (Scotland) Act 1997, as amended.

Specifically, the reforms seek to introduce a statutory requirement for pre-application engagement with communities directly affected by the proposed development. Developers would have to demonstrate that they have considered comments arising from this engagement. Scottish Ministers would also be able to refuse applications if they do not meet the required pre-application development engagement.

There would also be new powers to set time limits for responses from statutory consultees to better facilitate the decision-making process and reduce inefficiencies.

The bill also seeks to make changes to the process that applies when objections are made by planning authorities. At present, if a planning authority raises an objection within statutory timeframes, a public local enquiry (PLI) must be held.

Proposed reforms would retain a PLI as an option among many to be considered by an independent reporter appointed by Scottish Ministers, to make an examination into the application, giving them powers to determine what form that examination takes.

[1] In Scotland the development plan is comprised of the National Planning Framework and the relevant Local Development Plan

Consistency in Decision-Making

Analysis from the Investing in Planning consultation and our subsequent informal engagement indicates that some developers value the strategic oversight and consistency which can be afforded where decision-making is centralised, and decisions made by the Scottish Ministers. Irrespective of the current proposed reforms to the Electricity Act 1989, industry respondents note that procedures under the Electricity Act are well-established and understood.

In contrast, respondents from public sector, third sector and community groups were more likely to value the primacy of the development plan under the Planning Act, which requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

In Scotland, the development plan comprises the National Planning Framework and the relevant Local Development Plan.

Resourcing and Fees

Under current arrangements, planning authorities are assigned a voluntary contribution, amounting to 50% of the fee paid to Scottish Ministers for applications made under the Electricity Act 1989, so that they can undertake work to consider the application as a statutory consultee.

Some respondents to the Investing in Planning consultation queried whether there would be sufficient local authority resourcing and capacity within planning authorities to determine an increased number of applications. Planning authorities however highlight that limited additional resource is required to determine such applications when compared to the significant work they already undertake as statutory consultees under the Electricity Act, and that determining more such applications might bring in greater fee income. We would expect such income to be reinvested in the planning service to optimise the handling of applications.

Scottish Ministers have significantly increased the Scottish Government's Energy Consents Unit (ECU) resourcing over the last year, in response to the growing number and complexity of applications, demonstrating their commitment to meeting Onshore Wind Sector Deal timescales of 12 months consenting.

Equivalent thresholds elsewhere in the UK

In England, large scale major development projects are determined centrally by the UK Government Secretary of State through the 'Nationally Significant Infrastructure Projects' (NSIP) consenting regime. Through the Clean Power 2030 Action Plan, the UK Government will reintroduce on-shore wind into the NSIP consenting regime with a threshold of 100MW and increase the threshold for solar to 100MW from 31 December 2025.

For BESS applications, The Electricity Storage Facilities (Exemption) (England and Wales) Order 2020 says that all applications for BESS should be decided by planning authorities at a local level, regardless of electricity generation capacity.

Proposal

The Scottish Government is inviting views on increasing the 50MW threshold. Any change would apply to new applications submitted after the change came into force, and not to applications already made.

Annex A - Relevant Statistics

Criteria	Section 36 Consent Applications	Planning Applications
Number of determinations in 2025/2025 financial year.	**33** Section 36 applications for electricity generating stations determined in 2024/2025. Source: ECU operational statistics	**64** 'major' electricity generation planning applications determined in 2024/2025. 22 of these were subject to a processing agreement. Source: Planning Application Statistics 2024/2025
Approvals	**32** approvals **1** refusal 96.9% approval rate. Source: ECU operational statistics	**53** approvals **11** refusals 82.8% approval rate. Source: Planning Application Statistics 2024/2025
Appeals / Inquiries	In 2024/2025 DPEA issued **5** wind farm PLI Reports to Scottish Ministers. It took them on average **47.6 weeks** to issue an inquiry report. Source: DPEA operational statistics	In 2024/2025 DPEA determined **4** wind farm appeals made under the Town and Country Planning (Scotland) Act 1997. It took them on average **27.6 weeks** to make a determination. Source: DPEA operational statistics

Profile of Projects

Information from the Renewable Energy Planning Database (REPD) shows that during **Q2 2025** there were **352** on-shore renewable electricity generation projects currently going through the planning/consenting process in Scotland ('application submitted'). Of these, **320** projects had information about the generating capacity of the development. The breakdown of these 320 projects is as follows:

Capacity of Project	**Category of Development**	**Determining Authority**	**Number of projects**
0 – 19.99MW	'local' development (Planning Act)	planning authority	80
20MW – 49.9MW	'major' development (Planning Act)	planning authority	109 (32 of these projects had a generation capacity of 49-49.99MW)
50MW – 99.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	64
100MW – 149.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	39
150MW – 199.99MW	S36 development (Electricity Act 1989)	Scottish Ministers	5
200MW Upwards	S36 development (Electricity Act 1989)	Scottish Ministers	23
Total Projects			320

'Local' developments (0-19.99MW) by technology type	
Solar Photovoltaics	18
Battery	20
Wind Onshore	38
Small Hydro	2
EFW Incineration	1
Biomass	1
Total Projects	80

'Major' developments (20 – 49.99MW) by technology type	
Solar Photovoltaics	12
Battery	62
Wind Onshore	35
Small Hydro	0
EFW Incineration	0
Biomass	0
Total Projects	109

S36 developments (50 – 99.99MW) by technology type	
Solar Photovoltaics	6
Battery	15
Wind Onshore	43
Small Hydro	0
EFW Incineration	0
Biomass	0
Total Projects	64

S36 developments (100 – 149.99MW) by technology type	
Solar Photovoltaics	1
Battery	14
Wind Onshore	23
Small Hydro	0
EFW Incineration	0
Biomass	0
Pumped Storage Hydro	1
Total Projects	39

S36 developments (150 – 199.99MW) by technology type	
Solar Photovoltaics	0
Battery	2
Wind Onshore	3
Small Hydro	0
EFW Incineration	0
Biomass	0
Total Projects	5

S36 developments (200MW upwards) by technology type	
Solar Photovoltaics	0
Battery	14
Wind Onshore	5
Small Hydro	0
EFW Incineration	0
Biomass	1
Pumped Storage Hydro	3
Total Projects	23

Annex B – Impact Assessments

We have undertaken different impact assessments in support of our proposals and, also, screened our proposals to understand whether certain impact assessments are required. Our initial assessments are set out in this annex, and we would be grateful for feedback on the partial Business and Regulatory Impact Assessment (BRIA) as part of the consultation process. The draft assessments and screening assessments undertaken include the following:

- A partial Business and Regulatory Impact Assessment (BRIA) that considers the costs and benefits, particularly with regard to business, of our proposals.

- An Equality Impact Assessment (EQIA) that considers the impact of our proposals on various equalities groups defined by protected characteristics such as age, sex, religious or other belief, race or sexual orientation. It is considered that an EQIA is not required and no specific actions or changes are required based on EQIA findings.

- A Children's Rights and Wellbeing Impact Assessment (CRWIA) that considers the impact of our proposals on children. Our initial conclusion following a screening of proposals is that a full assessment is not required.

- An Island Communities Impact Assessment (ICIA) that considers the impact of our proposals on Scotland's islands. Our initial conclusion following a screening of our proposals is that a full assessment is not required.

- A Strategic Environmental Assessment (SEA) that considers the impact of our proposals on the environment. Our initial conclusion following a screening of our proposals is that a full assessment is not required.

- A Fairer Scotland Duty Assessment that considers how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. Our initial conclusion following a screening of our proposals is that a full assessment is not required.

- A Data Protection Impact Assessment (DPIA) was not considered relevant to these proposals because none pose any risk to privacy or data protection.

Annex C – Consultation Questions

Question 1) Should there be a single threshold applicable to all technologies?

Yes **|** no view **|** No

Please explain your view

Question 2) What threshold should apply for applications for electricity generation to be determined by planning authorities?

a) 50MW
b) 100MW
c) 150MW

Please add any comment in support of your answer.

Question 3) Any change to the threshold would apply only to new applications. Do you have any comments on transitional arrangements?

Question 4) Do you have any other comments to add?

Please add any comment in support of your answer.

Question 5) Do you have any comments on the partial and draft impact assessments undertaken?

Please add any comment in support of your answer.

Question 6) Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

Please add any comment in support of your answer.

Annex D - Responding to this Consultation

We are inviting responses to this consultation by **27 March 2026**. Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space by accessing and responding to this consultation online at: https://consult.gov.scot/planning-architecture-and-regeneration/electricity-act-thresholds/

You can save and return to your responses while the consultation is still open.

If you are unable to respond using our consultation hub, please send your response, together with the Respondent Information Form, to: planningconsultations@gov.scot

or

Directorate for Planning, Architecture and Regeneration, Scottish Government, Area 2F South, Victoria Quay, Edinburgh EH6 6QQ

Handling your response

If you respond using the consultation hub, you will be directed to the "About You" page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to published. If you ask for your response not to be published, we will regard it as confidential, and will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise. To find out how we handle your personal data, please see our privacy policy: https://www.gov.scot/privacy/

Next steps

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be published at http://consult.gov.scot. If you use the consultation hub to respond, you will receive a copy of your response via email. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted,

please send them to the contact address above or at:

planningconsultations@gov.scot

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: http://consult.gov.scot. Each consultation details

the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Electricity Act Thresholds

Respondent Information Form

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: https://www.gov.scot/privacy/

Are you responding as an individual or an organisation?

☐ Individual

☐ Organisation

Full name or organisation's name

Phone number	

Address

Postcode	

Email Address	

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

☐ Publish response with name

☐ Publish response only (without name)

☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☐ Yes

☐ No

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