

## The Draft Energy NPSs – a summary of the changes

October 2021





The recent release of the draft new energy NPSs (EN-1 to EN-5) is a significant milestone, being the first time the suite of NPSs has been reviewed in their ten year life. The Department for Business, Energy & Industrial Strategy (BEIS) is seeking comments by a deadline of 29 November 2021.

The review has been thorough, but they remain far from being settled policy. Government will need to consider the consultation responses received, and the parliamentary scrutiny period will last until the end of February 2022, which suggests that the new NPSs will not be published until well into 2022.

Transitional provisions contained in the draft (2021) NPS EN-1 at paragraph 1.6.2 state that the new NPSs, when published in final form, will only formally apply to projects not yet submitted for examination. The draft NPSs (2021) are still likely to be “important and relevant” to decisions on NSIPs in the coming months (S104(2)(d)). This possibility is recognised at paragraph 1.6.3 of the draft NPS EN-1. When published, they might also be “important and relevant” to projects already submitted for examination in spite of the transitional provision contained in the draft.

As before the NPSs may be material (relevant) to planning applications outside the DCO regime, such as for smaller scale solar projects.

## **NPS EN-1 part 2 (overall government policy)**

This contains comprehensive updates, setting a very different tone to the current EN-1 around fossil fuels. There is a large focus on net zero and what

this means for the energy sector. For the first time, solar energy is covered. The capacity threshold is on AC (50MWe or more AC requires a DCO).

This includes producing enough energy that can be transmitted around the UK, which means a high quality infrastructure that is secure, reliable, affordable and consistent with net zero targets. There will be an increase in low carbon source fuels: the lowest cost Net Zero consistent system for generating electricity is likely to be composed predominantly of wind and solar.

There is a recognition that natural gas will still be required during the transition to net zero and incentives for deployment of carbon, capture, utilisation storage are being developed by the Government.

## **NPS EN-1 (need case)**

This area is updated but less substantially: the role of the energy system and the role of planning in delivering it is not greatly altered - calling for a mix of energy sources including transitional fuels such as unabated gas.

Planning policy will not set limits on different technologies, except coal or large-scale oil-fired electricity generation. Storage is important in providing flexibility so high volumes of low carbon power, heat and transport can be integrated.



An urgent need is identified for all types of low carbon hydrogen infrastructure is to allow hydrogen to play a role in net zero transition.

By 2030 there is an expectation of at least one power CCS plant to be operational; identification that 100% hydrogen fuelled turbines need to be developed at commercial scale; and additional nuclear beyond Hinkley Point C may include large-scale nuclear, small modular reactors, advanced modular reactors and fusion power plants.

Combustion of waste is recognised as having a primary purpose of reducing landfill levels, as energy recovery from residual waste has a lower GHG impact.

It is explained that there are no realistic alternatives to new CCS infrastructure; achieving negative emissions from CCS infrastructure are essential to delivering the country's net zero target. Gas-fired electricity generation with CCS will help deliver affordable, reliable electricity. The electricity system may be decarbonised if large volumes of low cost, low carbon hydrogen are viable.

## **NPS EN-1 'generic impacts' and 'assessment principles'**

The draft NPS EN-1 section 4 'assessment principles' are not significantly changed. The policy on good design is relatively unaltered; biodiversity net gain is to be encouraged but not mandatory; and there is a tightening of combined heat and power and climate change adaptation policy.

Generic impacts include new stipulations around the inclusion and scope of carbon assessments. The SoS must be satisfied that applicants have assessed GHG and taken reasonable steps to reduce GHG emissions at construction and decommissioning stages.

Energy infrastructure is steered towards areas of low flood risk so they can remain operational during times of flooding.

There is some tightening of policy apparent such as around non designated heritage assets protection; and low carbon building materials are to be encouraged. The visual impacts of acoustic barriers are noted as a factor to consider in deploying this form of mitigation.

The changes to the assessment principles are fairly limited in number and tend to be changes of just a few words or the addition of one or two sentences. Applications for new energy from waste generation capacity need to show compatibility with recycling targets; and there is some tightening of policy around residue management, non methane volatile organic compounds, and noise and vibration.

**We will be publishing further insights into the Draft NPSs and their reception over the coming weeks. Thank you for reading.**



**Geoff Bullock**  
Partner – Planning  
020 7489 4892  
geoff.bullock@dwdllp.com



**Sarah Price**  
Partner – Planning  
020 7332 2111  
sarah.price@dwdllp.com



**Barry Murphy**  
Partner – Planning  
020 7332 2116  
barry.murphy@dwdllp.com



**Serena Page**  
Partner – Planning  
020 7332 2118  
serena.page@dwdllp.com



**Colin Turnbull**  
Partner – Planning  
020 7489 4897  
colin.turnbull@dwdllp.com

For more information on Energy and Infrastructure, or support with responding to the BEIS consultation, contact the DWD Planning team

+44 (0) 20 7489 0213  
info@dwdllp.com  
www.dwdllp.com