

# Policy and Sustainability Committee

10.00am, Tuesday 6 October 2020

## Council Response to the Scottish Parliament's Call for Views on the Heat Networks (Scotland) Bill

Item number  
Executive/routine  
Wards  
Council Commitments

### 1. Recommendations

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- 1.1 It is recommended that Policy and Sustainability Committee agree the consultation response.

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## Council Response to the Scottish Parliament's Call for Views on the Heat Networks (Scotland) Bill

### 2. Executive Summary

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- 2.1 This report provides a summary of the proposed Council response to a call for views made by the Scottish Parliament's Economy, Energy and Fair Work (EEFW) Committee on the Heat Networks (Scotland) Bill.
- 2.2 The report also notes that heating, and the systems and energy used to provide it, are a crucial aspect of our 2030 net zero target. Heat networks, in combination with a range of heat and energy generation models, are a key consideration of our work to develop a 2030 Sustainability Strategy for the city.

### 3. Background

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- 3.1 In March 2020, the Scottish Government introduced the Heat Networks (Scotland) Bill to the Scottish Parliament. This was followed by a call for views by the Scottish Parliament's EEFW Committee. The Committee is accepting responses until the end of November.
- 3.2 Heat networks (sometimes also known as 'district heating') supply heat from a central source and delivers it to a number of domestic or non-domestic buildings, via a network of underground pipes carrying hot water. They can vary in size and serve various combinations of building types with new heat demands and heat sources added to a network over time.
- 3.3 It is estimated that there are more than 830 heat networks currently operating in Scotland, however studies suggest that only around 1% of Scotland's total heat demand (hot water and space heating) was met by heat networks in 2018.
- 3.4 The heat network sector is currently unregulated, and the overarching aim of this Bill is, according to Scottish Ministers, "to encourage greater deployment of heat networks in Scotland, in order to help reduce emissions from heating homes and buildings".
- 3.5 The overarching aim of this Bill will introduce licensing and regulating arrangements of heat networks including, making applications, identifying exemptions, granting licenses, and setting up heat network zones. For local authorities, additional duties

will be allocated to consider undertaking the designation of heat network zones. Further duties will also be placed on public sector building owners (including Councils) to assess the viability of connecting their building to a heat network and to report to their local authority and Scottish Ministers to enable appropriate zoning and to encourage connection networks.

- 3.6 From September 2017 to March 2019, Edinburgh was one of 13 Local Authority areas that undertook a Scottish Government pilot scheme on Local Heat and Energy Efficiency Strategies (LHEES) with guidance produced for designing heat networks in challenging settings. The learning from this pilot is being applied as the Council considers the potential for developing heat network opportunities across the city, within the context of current and future development and retrofit activity.
- 3.7 Domestic and commercial heating, and the systems and energy used to provide it, are a crucial aspect of our 2030 net zero target. Heat networks, in combination with a range of heat and energy generation models, are a key consideration of our work to develop a 2030 Sustainability Strategy for the city and this is being informed by a range of work already underway.
- 3.8 The Council's existing local development plan identifies heat network opportunities and the Council is currently assessing the potential for heat networks with partners at sites including Bioquarter, Fountainbridge, Meadowbank and Granton. This will include considering the viability and economy of utilising energy from waste generated by the Millerhill facility to service a heat network for the Bioquarter development. City Plan 2030 will integrate this work and provide policies to help secure more energy efficient heating solutions within new developments.
- 3.9 Both mapping and pilot work have helped to identify opportunities for developing shared networks with partners, including the University of Edinburgh, who (along with the Council) are one of the largest building owners in Edinburgh. Key areas of focus include considering the scope for heat network development to also secure fair and green employment opportunities and contribute to tackling poverty across the city. The Council is also working with neighbouring authorities such as Midlothian to share learning in this area.
- 3.10 Challenges the Council faces in developing heat networks include the limitations associated with historic building infrastructure; the requirement for evenly distributed demand across a 24-hour period to secure efficiency; the technology required to join existing heat networks without losing heat performance; and citizen perception of reliability and cost-effectiveness. There is also a need to continually assess the performance and best value of heat networks when compared to other technologies such as solar PV as these technologies evolve and improve.
- 3.11 The Council's Healthy Clean Cities programme, funded through Climate KIC, will be utilised to explore these challenges as part of the 'tests of change' being scoped with Climate KIC design partners. Specifically, tests of change focused on energy efficient community retrofit and the Granton Waterfront Development will consider innovative approaches to heat and energy generation within the context of carbon

neutral place-making. Further detail is available in the 'Sustainability Programme Update' report approved by Policy and Sustainability Committee on 23 July 2020.

## 4. Main report

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- 4.1 This Parliamentary call for views centres on seven key questions in response to the Bill's proposals (in bold), with a final question asking for additional comments. A brief summary of the Council's responses is included below each proposal.
- 4.2 Overall, the Council's response highlights that ultimately there is no 'one size fits all' solution to setting up heat networks in Scotland. It is paramount that Local Authorities must have a new transformative model of governance that gives the flexibility and accountability needed to locally respond to challenges, now and in future, around economic change, as well as future health and climate emergencies.

### **The most relevant Part(s) of the Heat Networks Bill and its impact on the Council**

- 4.3 Parts 3 and 5 are of a particular focus as respective duties are placed on Local Authorities and public sector building owners.
- 4.4 The Council is concerned that Part 3 will place new duties on Local Government that will incur capacity, financial and technical implications, and Part 5, which will create new and additional administrative costs for Local Authorities and public sector partners.

### **The definition of heat networks used in Section 1 of the Bill**

- 4.5 Further clarification of Section 1(7) of the Bill is proposed by the Council. This is the circumstances in which Scottish Ministers would modify the regulations to further define the meaning of "heat network", "district heat network" or "communal heating system".
- 4.6 The definition could also be further enhanced for Local Authorities by emphasising the importance of utilising renewables in heat networks, and providing scope for the potential of emerging technologies that may suit small scale community heat systems.

### **The priorities of this Bill, including transition to low-carbon or renewable energy, tackling fuel poverty, and ensuring consumer protection.**

- 4.7 The Council welcomes the spirit and intentions of the Bill, particularly in its efforts to push towards transitioning to a low carbon economy, tackling fuel poverty and ensuring consumer protection. However, there are concerns that greater detail is required, especially in looking at how this legislation will work in the long-term, including:
  - 4.7.1 How this Bill complements and works with existing and planned legislation on energy efficiency and fuel poverty.

- 4.7.2 The financial challenge of providing sustainable low carbon solutions in replacing the low cost of gas in public sector and domestic buildings, primarily at a time of economic uncertainty.
- 4.7.3 Whether or not the Green Heat Networks Fund will be adequate to support the heat network ambitions.
- 4.7.4 How the Scottish Government will balance this Bill with its existing energy efficiency programme.

#### **The licensing regime as envisaged by the Bill.**

- 4.8 The Council recognises that the Bill provides a framework for the assignation and control of licences. However, a more robust definition of the types of licences to be issued is required to better understand the level, and scale and associated costs of the mechanisms that can be utilised to promote the creation of low carbon heat networks.

#### **The approach taken with Heat Network Zones (in Parts 3 and 4 of the Bill).**

- 4.9 There is a lack of clarity in the Bill on the requirement for Local Authorities to designate heat zones within their area, including what constitutes “an area” and under what circumstances Scottish Ministers would designate an area as a heat zone.
- 4.10 Under Section 38, on Local Authorities carrying out a review on the potential of an area or areas being designated a heat network zone, it is not evident if any funding or resources will be provided for Local Government to achieve this.
- 4.11 There are further concerns that creating additional duties that are unfunded could be disadvantageous to local government and have a knock-on effect on communities. If Councils are expected to balance current demands with additional priorities without supplementary funding or resources, then it is highly likely that this will cause an adverse impact across service areas.

#### **The impact of the Bill on local authorities, including the assessment of the suitability of their own buildings and also the power to designate heat network zones.**

- 4.12 Given the growing demands on Local Government budgets and resources, it is clear that further pressures on local authorities must be matched with appropriate support.
- 4.13 If Local Authorities are to assess their own buildings and designate heat network zones, then additional financial support will be required from the Scottish Government to enable this work to be carried out.
- 4.14 For Section 40, which allows Scottish Ministers to designate a heat network zone, either following a Local Authority request, or on their own initiative, the Council proposes that legislation should be set out on what the conditions are surrounding a zone being designated.

- 4.15 Clarification on further funding mechanisms or financial support and technical and professional support that could be provided to Local Government and partners is required.

**The extent of powers in Part 6 of the Bill for the compulsory acquisition of land and wayleave rights; to survey land for the purpose of construction or operating a heat network, and to access land in order to carry out repairs.**

- 4.16 The Council identifies that this seems to be an approach that is described with bringing heat networks in line with the current arrangements the compulsory acquisition of land and wayleave rights that utility companies have.
- 4.17 There is clearly a balance in this part of the Bill, especially with the provision of compensation and removal of assets should they no longer be used. As the infrastructure that will be subject of wayleave will be largely hidden, the installation should provide a temporary inconvenience that will be worth bearing for the benefits it will provide.

**Additional comments**

- 4.18 The City of Edinburgh Council welcomes the intention of the Bill to create a more co-ordinated and strategic approach to heat generation as part of the transition to a low carbon Scotland.
- 4.19 The Council understands that this Bill will allow Local Authorities greater flexibility to develop heat networks that will be beneficial for communities by enhancing energy efficiency, tackling fuel poverty, reducing carbon output and improving citizens' health and wellbeing.
- 4.20 It is apparent that the development of heat networks chimes with aspects of the Council's Adaptation and Renewal Programme to plan for the city's recovery and to build a future for Edinburgh's citizens that is fairer and greener; tackling poverty and ensuring the city is well placed to be carbon neutral by 2030.
- 4.21 Local Authority will have their own unique challenges that will require flexibility within the heat networks legislation to allow local solutions to be developed for local demands and priorities. This cannot be a 'one size fits all' solution.
- 4.22 The city centre of Edinburgh, for example, has key challenges of implementing heat networks within and around the sensitivity of the historic built environment and architecturally significant listed buildings. It is imperative that the core principles of conservation and sustainability are aligned, and any projects that are devised and developed must reflect the distinctiveness of surrounding environments.
- 4.23 To enable the capacity of Local Authorities to effectively deliver the proposals presented in the Bill, the Scottish Government must build in appropriate financial and support resources to boost the roll out of heat networks.
- 4.24 As a final point, the City of Edinburgh Council is keen to work with both the Scottish Government and the Scottish Parliament to put in place a workable Heat Networks Bill that supports a green recovery and benefits from place-based climate action.

- 4.25 A full draft Council response to this call for views are provided in Annex A to this paper.

## **5. Next Steps**

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- 5.1 The Consultation response will be submitted to the Parliament following approval by Policy and Sustainability Committee.

## **6. Financial impact**

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- 6.1 There is no financial impact associated with this report.

## **7. Stakeholder/Community Impact**

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- 7.1 The response has been drafted with reference to the Local Governance Review consultation response; the Scottish Parliament's Green Recovery Inquiry consultation response; the Economy Advisory Board Consultation and the Edinburgh Climate Commission report endorsed by Committee.

## **8. Background reading/external reading**

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- 8.1 [Heat Networks \(Scotland\) Bill](#)
- 8.2 Policy and Sustainability Committee, 23 July 2020 – [Council response to Edinburgh Climate Commission and Sustainability Programme Update](#)

## **9. Appendices**

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Appendix: Consultation response

# Appendix

EEFW/S5/20/HN/

**ECONOMY, ENERGY AND FAIR WORK COMMITTEE**

**HEAT NETWORKS (SCOTLAND) BILL**

**SUBMISSION FROM**

**[The City of Edinburgh Council]**

**In most cases we will publish your written submission on the Scottish Parliament's website. What you send us may also be quoted in the Committee's report or in its Committee meetings. These are public meetings that are broadcast online.**

If you wish to request that your submission be published without your name, please contact the Clerks at the following email address:

[economyenergyandfairwork@parliament.scot](mailto:economyenergyandfairwork@parliament.scot)

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## **Heat Networks (Scotland) Bill**

### **1. Which part of the Heat Networks Bill is of most relevance to you or your organisation, why, and what do you consider its impact will be?**

This consultation is very timely and welcomed by the City of Edinburgh Council. We note that all parts of the Bill are of relevance, but as a local authority, we focus on Parts 3 and 5, which respectively:

- place a duty on local authorities to consider undertaking the designation of heat network zones, and
- place a duty on public sector building owners to undertake an assessment of the suitability of their building stock to connect to a heat network.

However, we are concerned that:

- Part 3 will place new duties on local government which will incur capacity, financial and technical implications, and
- Part 5 will create new administrative costs for local government and public sector partners.



**2. Are you content with the definition of heat networks used in section 1 of the Bill? (If not, please elaborate.)**

The definition would benefit further by:

- Clarifying Section 1(7) as to under what circumstances Scottish Ministers would modify the regulations to further define the meaning of “heat network”, “district heat network” or “communal heating system”.

It is understandable that Scottish Ministers will want to provide scope to future proof this legislation, however, without providing clarification, this leaves the definition and the circumstances under which it could be re-visited open to future interpretation in a way which could prove unhelpful.

As such, regulations, which may allow modification must be clearly defined from the outset. This is already utilised in other pieces of legislation, and Section 1(5) of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019, is a recent example, which states the specific reasons for which Ministers can amend definitions. The Heat Networks Bill would benefit from a similar provision being included.

Furthermore, in terms of future proofing, the following points should also be added to further enhance the definition of heat networks:

- The importance of utilising renewables in such systems, and
- The inclusion of potential emerging technologies that may suit small scale community heat systems.

These additional features will extend the capacity of the Bill so that heat networks will be of greater value to communities across Scotland in the future as we work towards augmenting our use of renewables and newer technologies on a greater scale.

**3. Previous consultations have identified different priorities for this legislation – including transition to low-carbon or renewable energy, tackling fuel poverty, and ensuring consumer protection. To what extent do you think such priorities are reflected – and balanced – in the Heat Networks (Scotland) Bill?**

While the spirit of the Bill’s priorities is seen to be along the right lines, such as transitioning to a low carbon economy, tackling fuel poverty and ensuring consumer protection. It must be stressed that a range of unanswered questions and unintended consequences must first be considered and explored in greater detail, particularly in looking at this in future years:

- Firstly, more clarity is needed on how this legislation fits in with other proposed Bills, including on Local Heat and Energy Efficiency Strategies (LHEES) and what funding and support (or other resources) there will be to enable local authorities to produce or implement this Bill and a LHEES.

- Secondly, there is also the financial challenge of providing sustainable low carbon solutions in replacing the low cost of gas in public sector and domestic buildings. For local authorities this may come at a time when local government faces further cuts to budgets, and for householders this may affect those who are struggling to pay their bills as inflation rises but wages stay constant.
- Thirdly, the Green Heat Networks Fund will apply in Scotland and be made available from 2022. It would be helpful to understand whether the Scottish Government considers that the scale of funding that will be available will be adequate to support its heat network ambitions and the relationship between funding and low-carbon requirements in the Bill or subsequent regulations.
- Finally, fuel poverty is proposed as an assessment criterion for both heat network consents and zone assessments, with the detail left to secondary legislation. Although the Council supports this approach, we would like greater clarity regarding how Scottish Government incentives and regulation to drive energy efficiency (e.g. through the Energy Efficient Scotland Programme) in domestic and non-domestic buildings will integrate with the Bill.

It is imperative that this Bill should enable heat networks to be successfully developed to have the potential to play a significant role in Scotland's green recovery and just transition. Yet, we believe that in its current form, the priorities need to progress further, and we recommend the above points as key aspects to consider.

#### **4. What are your views on the licensing regime as envisaged by the Bill?**

Although the licensing regime proposed in the Bill provides the starting point for a framework for the assignment and control of licences, with ongoing monitoring and enforcement where necessary, to be developed. It is apparent that a more robust definition of the types of licences to be issued is required to better understand the level and scale of the mechanisms that can be utilised to promote the creation of low carbon heat networks.

#### **5. What is your opinion of the approach taken with Heat Network Zones (see parts 3 and 4 of the Bill)?**

In its current form, there is a lack of clarity in the Bill on the requirement for local authorities to designate heat zones within their area, including what constitutes "an area" and under what circumstances Scottish Ministers would designate an area as a heat zone.

Care must also be taken not to overload local authorities in the process of reviewing and assigning zones. Under Section 38, on local authorities carrying out a review on the potential of an area or areas being designated a heat network zone, it is not evident if any funding or resources will be provided for local government to achieve this. Likewise, in Section 38(2a), it is not clear if zones established or identified in a local authority LHEES will be considered sufficient to meet with the requirement set out.

Accordingly, more detail is required in this Bill to better understand what impact the designation of an area as a zone would have on the installation of alternative heat provision that is not linked to a heat network.

Overall, we propose that further guidance on identifying opportunities to work collaboratively with adjacent local authorities would also be helpful, particularly as Councils across the country are engaged in developing joint working, particularly on infrastructure projects, through the City Region Deals programme.

**6. How will the Bill impact on local authorities? (In terms both of the assessment of the suitability of their own buildings and also the power to designate heat network zones)**

Given the growing demands on local government budgets and resources, it is clear that further pressures on local authorities must be matched with appropriate support. If local authorities are to assess their own buildings and designate heat network zones, for example as part of the development of a LHEES, then additional financial support will be required from the Scottish Government to enable this work to be carried out.

Support too will determine the number of zones that local authorities will have the capacity to establish. Although local authority Planning departments can currently use heat map and Energy Performance Certificate (EPC) data to identify potential district heat networks, it is more than likely that additional resources and skillsets will be required to allow for sufficient evaluation of submissions for licenses and permits, which will become an additional cost to local authorities.

Attention in particular is drawn to Part 5 of the Bill, which set out network zoning. As zoning means that designated areas can switch to district heating by default, as proposed in the Bill, domestic homes may be required to be given notice to switch to such a scheme when their existing heating fails and needs replaced, or by a specified deadline. Reflecting on zoning trials through the Scottish Government pilot scheme, Local Heat and Energy Efficiency Strategies (LHEES), it is apparent that zoning can be a demanding process for local authorities, in terms of finance, resources and staffing, therefore Councils will require additional financial and resources support to initiate any schemes effectively.

On a technical point, it would be helpful to have clarity around Section 40 on allowing Scottish Ministers to designate a heat network zone, either following a local authority request, or on their own initiative. We propose that Scottish Ministers should set out in legislation what the conditions are conditions surrounding a zone being designated.

Moreover, it would also be helpful to understand how local authorities will be supported in carrying out actions as a result of this Bill. Financial support from LHEES is just one part of the solution. However, it will be necessary to have clarification of other funding mechanisms or financial support and technical and professional support that could be provided to local government and partners.

- 7. Part 6 of the Bill confers powers for the compulsory acquisition of land and wayleave rights; to survey land for the purpose of construction or operating a heat network, and to access land in order to carry out repairs. What do you think of the extent of the powers in the Bill for licensed heat network operators (similar, in some respects, to those of utility companies)? Has a balance been struck with the rights of others (property rights for example)? If not, what would that balance be?**

This seems to be an approach that is described with bringing heat networks in line with the current arrangements the compulsory acquisition of land and wayleave rights that utility companies have. There is clearly a balance in this part of the Bill, especially with the provision of compensation and removal of assets should they no longer be used. As the infrastructure that will be subject of wayleave will be largely hidden, the installation should provide a temporary inconvenience that will be worth bearing for the benefits it will provide.

- 8. Please feel free to provide your views on any other aspects of the Bill or the policy aims underpinning it if not covered above.**

The City of Edinburgh Council welcomes the intention of the Bill to create a more co-ordinated and strategic approach to heat generation as part of the transition to a low carbon Scotland. Indeed, from September 2017 to March 2019, Edinburgh was one of 13 Local Authority areas that undertook a Scottish Government pilot scheme on Local Heat and Energy Efficiency Strategies (LHEES) with guidance produced for designing heat networks for the Royal Mile and Old Town areas.

Our reading of heat networks in this Bill chimes with aspects of our Adaptation and Renewal Programme to plan for the city's recovery and to build a future for Edinburgh's citizens that is fairer and greener; tackling poverty and ensuring the city is well placed to be carbon neutral by 2030.

In particular, we propose that a successful green recovery should be one that delivers for the long term, catalyses job creation into growth industries, empowers citizens, improves public health and drives innovation while tackling climate change. Consequently, heat networks present ample opportunities to deliver on these issues and more.

Yet, we cannot allow this to be just a statement of intent.

To enable the capacity of local authorities to effectively deliver the proposals presented in the Bill, the Scottish Government must build in appropriate financial and support resources to boost the roll out of heat networks.

As a final point, the City of Edinburgh Council is keen to work with both the Scottish Government and the Scottish Parliament to put in place a workable Heat Networks Bill that supports a green recovery and benefits from place-based climate action.

We know that the advantages of acting on climate change must also be shared widely, and the costs must not burden those who are least able to pay or whose livelihoods are most at risk as the economy changes. To be successful, all public bodies and wider stakeholders need to commit to systemic change built around this shared purpose and together we welcome the Bill's recognition that that there are concomitant opportunities and benefits for heat networks in communities across Scotland.