



T: 0131 244 1197
E: ruth.findlay2@gov.scot

Joe Somerville
Associate Director
RSK Management Ltd
65 Sussex Street
Glasgow
G41 1DX

15 December 2023

Dear Mr Somerville,

CONSENT UNDER SECTION 36 OF THE ELECTRICITY ACT 1989 AND DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 FOR THE CONSTRUCTION AND OPERATION OF CHLENSAID WIND FARM WITHIN THE PLANNING AUTHORITY AREA OF THE HIGHLAND COUNCIL.

Application

I refer to the application made on 30 March 2022 (“the Application”) under section 36 of the Electricity Act 1989 (“the Electricity Act”) by RSK Environment Limited on behalf of ESB Asset Development UK Limited, a company incorporated under the Companies Acts with company number 06925667 and having its registered office at Tricor Suite, 4th Floor, 50 Mark Lane, London, UK, EC3R 7QR (“the Company”), for the construction and operation of ChleNSaid Wind Farm.

The Application proposes 16 wind turbines and a battery energy storage system (“BESS”) (“the proposed Development”). The proposed Development is an electricity generating station with a total generating capacity in excess of 50 megawatts (“MW”). The period of consent applied for is 35 years.

This letter contains the Scottish Ministers' decision to grant section 36 consent for the proposed Development as described at Annex 1.



Planning Permission

In terms of section 57(2) of the Town and Country Planning (Scotland) Act Scottish Ministers, may on granting consent under section 36 of the Electricity Act for the construction and operation of a generating station, direct that planning permission be deemed to be granted in respect of that generating station and any ancillary development.

This letter contains the Scottish Ministers' direction that planning permission is deemed to be granted.

Background

The proposed Development comprises of 16 wind turbines (with external transformers) with ground to blade tip heights of the wind turbines numbered T1 to T12 not exceeding 200 metres, those numbered T13 to T16 not exceeding 180 metres. The proposed Development is located within the Dalnessie Estate, approximately 13km to the north-east of Lairg in the Scottish Highlands, near the A836–A838 junction, wholly within the planning authority area of The Highland Council. The area within the Application boundary is privately owned and is currently used as a sporting estate and rough grazing for sheep. The surrounding land uses include commercial forestry, agricultural and sporting and recreational uses.

There are no international or regional landscape designations on the site. The closest designated landscape is the Ben Klibreck and Loch Choire Special landscape Area ("SLA"), located 3.5 km to the north of the site. The proposed wind turbines are located outside and adjacent to the south-western boundary of the Ben Klibreck and Armine Forest Wild Land Area ("WLA").

Once operational the proposed Development is estimated to have an installed generating capacity of around 96MW with a further 20 MW associated with the BESS.

Legislation and Consultation

Under Schedule 8 to the Electricity Act, and the Electricity (Applications for Consent) Regulations 1990 ("the Consents Regulations") made under the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application. In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the EIA Regulations") and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, the Company submitted an Environmental Impact Assessment report ("the EIA report") in support of the Application describing the proposed Development and giving an analysis of its environmental effects.

To comply with the EIA Regulations, the Scottish Ministers are required to consult the relevant planning authority, as well as NatureScot (formally known as Scottish Natural Heritage), the Scottish Environment Protection Agency ("SEPA") and Historic Environment Scotland ("HES") as well as other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

In accordance with requirements of both the Consent Regulations 1990, the Electricity

Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and the EIA Regulations, a notice of the proposed Development was published on the Company's website and advertised in local and national press. The Application was made available in the public domain, and the opportunity given for those wishing to make representations to do so. Notifications were sent to The Highland Council (the "Planning Authority") as well as to NatureScot, SEPA and HES, and other persons that are likely to be concerned by the proposed Development by reason of their specific environmental responsibilities.

The Scottish Ministers have had regard to the matters set out in Schedule 9 of the Electricity Act in respect of the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. The Scottish Ministers shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

Scottish Ministers have given consideration to the extent to which the Company has demonstrated in the Application submitted that it has done what it reasonably can to mitigate any effect, which the proposals would have on the natural beauty of the countryside or such flora fauna, features, sites, buildings or objects.

In accordance with section 36(5A) of the Electricity Act, before granting any section 36 consent Scottish Ministers are also required to:

- obtain SEPA advice on matters relating to protection of the water environment; and
- have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

As required by section 36(5A) of the Electricity Act, SEPA's advice has been considered by the Scottish Ministers with due regard given to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003. SEPA have no objection to the proposed Development subject to conditions which are included in Annex 2, part 2. In their response to Scottish Ministers, it directs the Company to the Regulations section of the SEPA website for advice on Regulatory requirements and good practice advice. SEPA also confirmed, based on the available evidence, it would expect the proposed Development to fall into Category 1 - 'capable' of being authorised under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR).

The Scottish Ministers are satisfied that the EIA report has been produced in accordance with the EIA Regulations. The Scottish Ministers have assessed the environmental impacts of the proposed Development and taken the environmental information, being the Application, EIA report, consultation responses and the representations into consideration in reaching their decision.

The Scottish Ministers consider that there is sufficient information to allow Ministers to be satisfied that the Company has had regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest.

The Scottish Ministers are satisfied that the Company has done what it reasonably can to mitigate any effect, which the proposals would have on the natural beauty of the countryside, or any such flora, fauna, features, sites, buildings or objects.

The Scottish Ministers are satisfied that the Company has avoided so far as possible, causing injury to fisheries or to stock of fish in any waters.

The Scottish Ministers have had regard to the requirements regarding publicity and consultation laid down in the Consents Regulations, EIA Regulations, and are satisfied the general public as well as statutory and other consultees have been afforded the opportunity to consider and make representations on the proposed Development.

Conservation of Habitats and Species Regulations

The Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) require Scottish Ministers to consider whether the proposed Development would be likely to have a significant effect on a European site, as defined in the Habitats Regulations, and if the development is directly connected with or necessary to the management of the European site.

The proposed Development does not form part of any statutory designated site for nature conservation with qualifying ornithological features, however the site is located approximately 3km from Loch Beannach which is a component of the Lairg and Strath Brora Lochs Special Protection Area (“SPA”). The site lies within the known foraging distance of breeding black throated diver, the qualifying species of the SPA, therefore may have potential connectivity with the SPA.

The site is also just under 20km to the north of the Dornoch Firth and Loch Fleet SPA and Ramsar, which is within the known foraging distance of wintering greylag geese, one of the qualifying features for this SPA, therefore potential for connectivity for this particular SPA species.

Consequently, Scottish Ministers are required to consider the effect of the proposed Development on the SPAs by carrying out a Habitats Regulations Appraisal (“HRA”) for each site (as required). Scottish Ministers concluded, following advice from NatureScot, in relation to:

Lairg and Strath Brora Lochs SPA – that the proposed Development is unlikely to have a significant effect on black throated divers, noting there is no evidence of breeding black-throated diver recorded during surveys, only one ‘at risk’ flight recorded, and given the proposed Development is approximately 3km from the SPA, it will not affect the supporting habitats for black throated divers nor cause significant disturbance to them during the construction or operational phases.

Dornoch Firth and Loch Fleet SPA – that the proposed Development is unlikely to have a significant effect on wintering greylag geese, noting only 6 ‘at risk’ flights were recorded during 2020/2021, NatureScot agree with the EIA report which states that these are likely to be flights of resident species rather than birds from the SPA population, and given the distance between the site and the SPA in addition to the absence of known greylag feeding

areas close to the application site, then disturbance and displacement is considered unlikely.

The Scottish Ministers appraisal concludes the proposed Development is unlikely to have a significant effect on the qualifying interests of the above SPAs, and appropriate assessments are therefore not required.

Consultation as a consequence of Scotland's fourth National Planning Framework (NPF4)

The Application was submitted prior to consultation on draft NPF4, a revised draft of which was subsequently laid in Scottish Parliament in November 2022 and then ultimately adopted on 13 February 2023.

As a consequence of the revised draft NPF4 being laid in Parliament in December 2022 the Company and parties who had provided a consultation response or made a representation to the Application were invited to provide updated responses in respect of relevant policies in NPF4. The Company provided an updated position statement with regards to NPF4 which is available to view on our website at [Scottish Government - Energy Consents Unit](#)

The Planning Authority has addressed the revised draft NPF4 in their consultation response dated 12 December 2022 and have made no further representation in relation to the now adopted NPF4. Not all of the invited parties made further comment. Where further comments have not been made and the original response or representation was made in terms of an objection, it has been assumed that the position remains the same and NPF4 has not changed their position.

Although not changing their position, **Mountaineering Council** did provide further comments in response to NPF4.

NatureScot withdrew their initial objection in relation to wild land areas as a consequence of a change in national planning policy. SEPA, HES and Transport Scotland had no further comments. The responses are available to view on our website:

Any responses received have been considered in addition to all other representations and consultation responses.

Consultees Responses

A summary of all consultation responses is provided below and are available on the Energy Consents Unit website at www.energyconsents.gov.scot

Statutory Consultees

The Planning Authority, do not object and are satisfied that the environmental effects of the proposed Development can be addressed by way of mitigation. They have incorporated the requirement for a schedule of mitigation within the conditions of their response to Scottish Ministers. The Planning Authority, having taken all relevant matters into account when appraising the application, consider that the proposed Development

accords with the principles and policies contained within the Development Plan, national planning policy, and energy policy and is acceptable in terms of all other applicable material considerations.

The Scottish Ministers have given consideration to the Planning Authority's response and have imposed appropriately worded conditions at **Annex 2**.

SEPA do not object to the proposed Development subject to a range of conditions to secure: a finalised Peat Management Plan; micro siting restrictions to minimise effects on peat and watercourses, enhancements to wetland and peatland and to improve carbon sequestration and natural water management; adherence to a finalised Habitat Management Plan; protection of the water environment; that construction works are carried out in line with the measures outlined in the schedule of environmental commitments set out in the EIA report; that reinstatement and decommissioning works are carried out in a way that is sensitive to the environment, including the restoration of the Borrow Pit 2 and a final decommissioning and restoration plan. SEPA had no further comments in response to the publication of NPF4.

Scottish Ministers have given consideration to SEPA's response and imposed appropriately worded conditions at **Annex 2** requiring submission of a Peat Management Plan, a Habitat Management Plan, Construction Environmental Management Plan and Decommissioning and Restoration Plan.

NatureScot do not object. Having initially objected solely in relation to significant adverse effects of the proposed Development on WLA 35 Ben Klibreck – Armine Forest, as a consequence of the adoption of NPF4 and a shift on WLA policy, NatureScot withdrew their objection noting that *"effects of development outwith wild land areas will not be a significant consideration."*

With regard to wider landscape and visual effects, NatureScot did not raise an objection and agreed with the findings of the Company's LVIA in relation to the landscape and visual effects. It found overall that the visual effects associated with visible aviation lighting were not significant.

NatureScot concluded it was unlikely that the proposed Development will have a significant effect on any qualifying interests, either directly or indirectly, of the Lairg And Strath Brora Special Protection Area (SPA) and the Dornoch Firth and Loch Fleet SPA. Scottish Ministers have addressed this above at **Conservation of Habitats and Species Regulations**. NatureScot was also satisfied the proposed Development is unlikely to have any significant cumulative collision mortality related impacts on golden eagle or hen harrier.

NatureScot note the application site is largely made up of Class 1 and Class 2 nationally important carbon-rich soils, deep peat and priority peatland habitat. It advised that if there is potential to microsite off of areas of the better condition M17 blanket bog then this should be considered by the Company providing this doesn't move turbines into areas of deep peat. NatureScot advised on some additional points in relation to blanket bog restoration to be considered within the Company's outline Habitat Management Plan ("OHMP").

Scottish Ministers have imposed an appropriately worded condition requesting submission of a habitat management plan (“HMP”) prior to commencement of development.

HES do not object. It advised of the potential for adverse impacts on Dalnessie, Settlement N of Feith Osdail (SM4563) and the Cnoc a’ Bhreac-leathaid, sheilings and cairnfield 700m NNE of (SM5300) scheduled monuments as a consequence of the proposed upgrading of tracks in these areas. Following consideration of the clarification provided by the Company in relation to the proposed measures to be employed, to avoid impacts on the scheduled monuments during the construction period, HES concluded that accidental damage on the aforementioned scheduled monuments would be avoided.

HES were satisfied the publication of NPF4 did not alter their views as set out above.

Internal Scottish Government Advisors

Ironside Farrar, advisors to the Scottish Ministers on the Peat Landslide and Hazard Risk Assessment (“PLHRA”) presented by the Company in the EIA report. Following clarification provided by the Company, the revised PLHRA submitted by the Company was considered as being sufficient.

Transport Scotland advise the impacts of the proposed Development are acceptable subject to imposition of a condition for construction traffic management, covering proposed routes and movement of abnormal loads. It further advised that any proposed additional signing or temporary traffic control measures deemed necessary during delivery period of the wind turbine construction materials must be undertaken by a recognised QA traffic management consultant.

Transport Scotland confirmed it was satisfied NPF4 did not alter their conclusion as set out above.

The Scottish Ministers have given consideration to Transport Scotland’s response and have imposed appropriately worded conditions at **Annex 2** to address these recommendations.

Marine Scotland (now known as Marine Directorate – Science Evidence Data and Digital (“MD-SEDD”)) advise, in relation to freshwater and diadromous fish and fisheries, of the requirement for submission of a water quality and fish monitoring plan be a condition of any consent granted.

The Scottish Ministers have imposed appropriately worded conditions which address the requirement of MD–SEDD at **Annex 2**.

Non-statutory consultees

Defence Infrastructure Organisation do not object subject to conditions in respect of aviation mapping and aviation safety lighting scheme.

The Scottish Ministers have given consideration to Defence Infrastructure Organisation’s

response and have imposed appropriately worded conditions at **Annex 2**.

Fisheries Management Scotland advise the proposed Development falls within the catchment relating to the River Brora DSFB, and full consultation should be directed to River Brora DSFB.

The Scottish Ministers note River Brora DSFB had no comment on the Application.

Highlands and Islands Airports (“HIAL”) do not object. HIAL are satisfied the proposed Development would not infringe the safeguarding criteria for Inverness Airport.

Kyle of Sutherland Fisheries Trust do not object. It welcomed proposed mitigation measures regarding water crossings and buffer zones near watercourses. It asks the Company to note that the Tirry water bodies are presently downgraded for fish passage and fish ecology reasons only. Given that mitigation is now in place to try and remedy the lack of salmon smolt passage at SSEs hydroelectric facility further downstream, it is vital that all efforts are made to prevent pollution etc. occurring during any development project.

Mountaineering Scotland object on the grounds of visual impact, concluding the proposed Development would have a substantial adverse visual impact upon hillwalkers in the Klibreck-Armint hills and, by adding to the scatter of wind farms across the Shin Basin, and upon hillwalkers on the more distant hills west of the basin. Mountaineering Council state these adverse impacts are a direct effect of the location of the proposed Development and cannot be mitigated.

In response to the publication of NPF4, Mountaineering Scotland maintained their objection, concluding *“harms outweigh the benefits by a considerable margin”*. It advised that the local adverse visual and perceptual impacts upon the hills of the Klibreck-Armint area and the wide-reaching potential impact of further scattered developments, such as Chleansaig, upon the look and feel of the Shin basin are sound reasons, even under NPF4, to refuse the proposed Development.

Scottish Water do not object, confirming there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed Development. It would not support surface water drainage connections to the public sewer network

RSPB Scotland do not object, however, have significant concerns regarding the high predicted collision rate for golden eagle, suggesting turbines 12, 13, 14 and 15 should be removed to reduce collision risk and loss of foraging. RSPB request that mitigation measures outlined in sections 8.12 and 9.11 of the EIA report regarding the appointment of an Ecological Clerk of Works, protected species surveys and bird protection plans and a detailed HMP be secured by condition.

RSPB confirm in its response the proposed Development is unlikely to result in an adverse effect on the integrity of the Lairg and Strath Brora Lochs SPA, Caithness and Sutherland Peatlands SPA and Ramsar site.

The Scottish Ministers have given consideration to RSPB's response and have imposed appropriately worded conditions at **Annex 2**.

Community Councils

Bettyhill Strathnaver and Altnaharra Community Council do not object. It is of the view that the proposed Development will not be excessively visible in its location and support the project.

Lairg Community Council do not object and support the proposed Development as it will contribute towards Scotland achieving net zero targets, provide economic benefits, community benefits and the opportunity for shared ownership.

Rogart Community Council object to the proposed Development due to quantum of abnormal loads on the A839 and proposed increase in HGV construction traffic all through Rogart, and further increases in HGV traffic if neighbouring windfarms proceed. It considers planners do not appear to consider the cumulative transport impacts of so many windfarm developments, making life unpleasant for several years.

With the likelihood of UNESCO World Heritage status being conferred on Flow Country, the Community Council believe that in a few years when the peatland around Chleansaid has been managed back to its natural state and habitats improve, the planting of a wind farm next to such a valuable international resource will appear to be short-sighted.

Golspie Community Council do not support the building of more on-shore wind farms unless and until the national grid is upgraded. Any approval of new on-shore wind installations should be conditional on substantial investment from the energy companies themselves to implement the necessary improvements to the national infrastructure. Sutherland already generates 9 times more electricity than is consumed by the residents of the county. Residents of this area must be properly compensated for the installations of turbines around their homes with long term guaranteed reductions in fuel bills.

British Telecom (BT), The Crown Estate, Joint Radio Company, NATS (En Route) and have no objection to the proposed Development.

The following consultees did not respond:

British Horse Society, Civil Aviation Authority – Airspace, River Brora District Salmon Fisheries Board (DSFB), John Muir Trust, Scottish Forestry, Scottish Rights of Way and Society (ScotWays), Scottish Wildlife Trust, Scottish Wild Land Group (SWLG), Visit Scotland, Brora Community Council, Helmsdale Community Council, Dornoch Community Council and Creich Community Council.

Representations

A total of three representations were received, which were all objections. The issues raised objecting to the proposed Development include:

visual impacts; cumulative impacts; creating a windfarm landscape; adverse effect on

tourism and local economies; loss of peatland; proximity to Flow Country World Heritage site; effect on highway safety and traffic impacts on the community; threat to wildlife; loss of amenity; impacts on land, flora and fauna and geological harm; and long term erosion and toxic side effects of wind farm material.

The representations are available to view in full on the Energy Consents Unit website at [Scottish Government - Energy Consents Unit](#)

The effects of the proposed Development on the landscape and visual amenity, tourism and the local economy, peatland, traffic, habitats and wildlife have been assessed in the EIA report and considered by consultees. The Scottish Ministers are satisfied that the matters raised by representations have been given due consideration by the Company in the provision of the EIA report and recognise that in addition to a HMP, the Company will provide a scheme for the delivery of biodiversity enhancement, a construction traffic management plan, and a pollution prevention and control statement prior to commencement of development. Further, at the end of the 35 year operating period, the Company shall submit a site decommissioning and aftercare plan for approval.

Scottish Ministers are satisfied the matters raised in the representations have been considered by the statutory consultative bodies in the process and responses provided and have been appropriately assessed and taken into account in the determination of the proposed Development.

The Scottish Ministers are satisfied, having considered the EIA report that the environmental impacts of the proposed Development have been largely mitigated by design. Further environmental mitigation has been secured by the Scottish Ministers through the imposition of conditions attached to the planning permission. The remaining impacts, mainly landscape and visual impacts are considered to be acceptable in light of the overall benefits of the proposed Development. The reasoning is set out in more detail under the heading “Assessment of Determining Issues” at pages 11 through to 17 of this decision letter.

Public Inquiry

In terms of paragraph 2(2) of Schedule 8 to the Electricity Act if a planning authority make an objection and that objection is not withdrawn, the Scottish Ministers must cause a public inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority. Following the consultation, the Planning Authority did not object and therefore a public inquiry is not a statutory requirement.

Paragraph 3 of Schedule 8 provides that where the Scottish Ministers are not by virtue of paragraph 2(2) to cause a public enquiry to be held, but objections or copies of objections have been sent to the Scottish Ministers, the Scottish Ministers must consider those objections together with all other material considerations with a view to determining whether a public inquiry should be held with respect to the application and, if they think it appropriate to do so, they must cause a public inquiry to be held.

The Scottish Ministers have considered the objections raised by Mountaineering Council, Rogart Community Council, Golspie Community Council and the three representations. In
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Glasgow
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deciding not to invoke the discretionary power to cause a public inquiry to be held, the Scottish Ministers have taken all material considerations into account and are content that adequate opportunity was afforded for public representation, and that the objections received have been taken into account in the determination.

The Scottish Ministers are content there is sufficient information to be able to make an informed decision on the Application and that it would not be appropriate to hold a public inquiry.

The Scottish Ministers' Considerations

Main Determining Issues

Having considered the Application, the EIA report, responses from consultees, the representations, and Scottish Government policies, Ministers consider that the main determining issues are:

- the environmental impacts of the proposed Development, in particular the landscape and visual impacts and their cumulative effects including the effects of aviation lighting;
- the estimated economic and renewable energy benefits which the proposed Development is likely to bring; and;
- the extent to which the proposed Development accords with and is supported by Scottish Government policies.

Assessment of the Determining Issues

Landscape and Visual impacts and their cumulative effects including the effects of aviation lighting.

The proposed Development site is not located within any landscape designations or within a WLA. The closest designated landscape is the Ben Klibreck and Loch Choire Special SLA, located 3.5 km to the north of the site. The proposed turbines are located outside and adjacent to the south-western boundary of the Ben Klibreck and Armine Forest WLA.

The Company provided a detailed assessment of the landscape and visual impacts of the proposed Development in Chapter 6, **Landscape and Visual Impact Assessment** ("LVIA") which includes in its accompanying appendices and figures an **Aviation Lighting Assessment** at Technical Appendix 6 (2) of the EIA report.

In landscape terms, the proposed Development's turbine area is located on the lower slopes of a rounded hill, above an area of sweeping moorland and flows to the east of Strath Tirry, where there would be widespread visibility within 20 km. This hill forms part of the south western edge of the Ben Armine Forest and is one of the lower-lying hills in the surrounding area. The landform of the turbine area slopes down to the south-west, away from the ridge to the north and north-east formed by the hills of Sron Leathad Chleansaid and Creag Dhubh which runs north-west to south-east. Land to the immediate south and west of the turbine area is forested.

The southern part of the turbine area of the proposed Development is located within the Scottish Government, 5 Atlantic Quay, 150 Broomielaw, Glasgow
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Sweeping Moorland and Flows Landscape Character Type (“LCT”) with the northern part of the turbine area hosted in the Rounded Hills – Caithness and Sutherland LCT. The Company’s LVIA concluded at Chapter 6, that the overall effect of the proposed Development on these LCTs is judged to be significant (Major) for the turbine/site area, significant (Moderate) locally within approximately 5km and not significant (Minor) for the wider Sweeping Moorland and Flows and Rounded Hills LCT. The Company’s LVIA found the total cumulative effects were judged to be not significant for both LCT’s. No significant effects are predicted for any other LCTs.

The Ben Klibreck and Loch Choire SLA is located within 5km to the north of the site. The Company’s LVIA found the proposed Development was not judged to compromise the reasons for it’s designation. Total cumulative effects were not also judged to compromise the reasons for designation.

With regard to visual effects, significant effects are predicted for 5 of 12 representative viewpoints (VP) within 12 km of the site which are:

- VP 1 : Right of Way near Dalnessie
- VP 2 A836 near Rhian Bridge
- VP 3 Saval, Lairg
- VP 5 The Ord above Ferrycroft Visitor Centre
- VP 8 Ben Klibreck, Meall nan Con

Significant ‘total’ cumulative effects were identified from Viewpoint 5: The Ord above Ferrycroft Visitor Centre and Viewpoint 10: Reay – Cassley WLA Ben Sgeireach.

Significant effects were found on views from A836 and Nation Cycle Route 1 and Right of Way HS29 both of which pass within 5km of the site, although no significant cumulative effects are noted.

The Company’s Aviation Lighting Assessment (Appendix 6.2) concluded no significant effects on landscape character, designated landscapes or WLAs are anticipated. In terms of visual effects, no significant visual effects are predicted.

The EIA report’s technical appendix (TA 6.3) considers the effects of the proposed Development on the wild land qualities of 3 WLAs within a 10 km radius of the proposed Development site. At chapter 3.8.8 the assessment concludes that although localised significant effects for one wild land quality of Ben Klibreck and Armine Forest WLA would be experienced, effects on the majority of wild land qualities identified within the assessment are not judged to be significant.

Mountaineering Council and a number of people who made representation to the application, object to the proposed Development on the grounds of landscape and visual impacts. Mountaineering Council are of the view the proposed Development would have a substantial adverse visual impact upon hillwalkers in the Klibreck-Armine hills, and adding to the scatter of wind farms across the Shin Basin impacting upon the look and feel of the Shin basin.

NatureScot had no objection to the proposed Development. It agreed with the Company’s

LVIA conclusions, that the proposed Development will result in large scale significant change to both the Sweeping Moorland and Flows and the Rounded Hills Landscape Character Types (LCT) within 20km. It also agreed the gaps between individual wind farms and emerging clusters of wind farms is such that total cumulative effects are judged to be not significant. NatureScot confirm there would be some significant effects from turbine lights on the Sweeping Moorland Flows, Rounded Hills and Lone Mountain LCTs.

NatureScot agree with the Company's LVIA that proposed Development would result in significant visual effects on local residents and road users in addition to significant visual effects from remote elevated hill tops.

NatureScot advise turbine lights would be most visible from within 20 km of the proposal on site facing hill flanks and summits including Ben Klibreck and Ben Armine to the north; and localised areas of high ground to the west and north of Loch Shin. However, it recognises that instances of full brightness as illustrated by the Company's visuals will be very limited in duration due to seasonality and weather conditions, concluding whilst there will be some significant visual effects from remote areas, the overall visual effect associated with visible aviation lighting in their view is judged to be not significant.

In their consideration of landscape and visual effects the **Planning Authority** had no objection, and concluded in their consultation response to Scottish Ministers that in landscape terms the proposed Development is assessed to be not significantly detrimental overall with impacts on the local landscape composition, including the hosting and adjacent LCTs as well as the hosting and neighbouring LCT receptors, judged to be within acceptable limits.

The Planning Authority when considering visual effects concluded the larger part of the proposed Development's visual influence will be contained to a relatively small geographical area and that this limited visibility is somewhat unexpected for a development of this scale. It concludes *"While significant landscape and visual impacts are expected and while the larger part of any detrimental impacts are expected to be experienced by recreational users of the countryside, and in particular hillwalkers, these impacts are generally considered to be amplified by the in combination effects with the approved Strath Tirry Wind Farm. Overall the siting, design and scale of the development results in a scheme which will not have unacceptable impacts on key transport routes or residential receptors."*

In consideration of the proposed Development, the Scottish Ministers have taken into account the Landscape and Visual Impact Assessment (LVIA) and Aviation Lighting Assessment and comments made by the Planning Authority, NatureScot and representations.

Scottish Ministers acknowledge the likely effects of the proposed Development on Wild Land Areas (WLA) was assessed by the Company in its EIA report. However, due to NPF4's shift on WLA policy, effects on wild land is not a significant consideration for Scottish Ministers.

The Scottish Ministers agree with the EIA report conclusions that the proposed Development will have some significant landscape and visual impacts but overall these

would remain relatively localised with the majority of significant effects occurring not more than 12km from the proposed Development. It is therefore considered by the Scottish Ministers that the landscape and visual impacts are acceptable.

Scottish Government policies and local development plan including estimated economic and renewable energy benefits

Economic Benefits

The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Company sets out the Socio-Economic position at Chapter 14 of the EIA report where it estimates a positive effect during development and construction. The Company estimate development expenditure during the construction phase to be approximately £146.9 million, approximately £17.6 million of which would be spent in the local (The Highlands) economy and approximately £54.2 million in Scotland as a whole. During the 21 month construction phase it is estimated to support approximately 52 jobs locally and 158 jobs nationally. The Company estimate the local economy to be boosted by a total of £7.2 million of net Gross Value Added (GVA) during the construction phase and the Scottish economy would benefit by £21.8 million net GVA.

During the 35 year operational phase, the proposed Development is expected to support 21 full time equivalent jobs locally and 28 nationally. During this phase, the proposed Development is estimated to contribute lifetime GVA of around £1 million for the local area and £1.5 million for Scotland as a whole.

Whilst the overall net economic benefits are estimations of the effects of the proposed Development, Scottish Ministers are satisfied the proposed Development has the potential for significant positive net economic benefits for the local community, the Highlands and Scotland.

Climate Change and Renewable Targets

The seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority of Scottish Ministers. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, introduced a target of net zero greenhouse gas emissions by 2045 at the latest. Scotland will also have to reduce emissions by at least 75% by 2030 and 90% by 2040. Scotland's Climate Change Plan 2018-2032, sets out the road map for achieving those targets and has set the goal of 50% of Scotland's energy need to be met by renewable energy by 2030. The Climate Change Plan Update (CPPu) was published in December 2020 and sets out the Scottish Government's approach to deliver a green recovery and pathway to deliver world leading climate change targets.

The Company sets out its Climate Change mitigation at Chapter 16 of the EIA report, stating the proposed Development has been designed to minimise disturbance to peat and carbon losses by avoiding deep peat where possible, although acknowledging there will be some disturbance. Subject to appropriate storage and handling of excavated peat, there are opportunities to utilise excavated peat for reinstatement on site.

The carbon payback figures for the proposed Development have been presented in Chapter 16, and at appendix 16.1 of the EIA Report, using the approved Scottish Government carbon calculator. Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format. This shows that the proposed Development, if built, in the worst case scenario would be expected to have a payback period of 1.8 years (against a fossil fuel mix of electricity).

Whilst noting the limitations of any such calculations, the online carbon calculator provides the best available means by which carbon calculations can be provided in a consistent and comparable format. Once operating, the proposed Development is predicted to save around 132,451 tonnes CO_{2e} per annum, and the proposed Development over its 35 year lifetime is estimated to save 4,461,952 tonnes of carbon dioxide.

The Scottish Ministers consider the proposed Development, over its 35 year lifetime, will make a valuable contribution towards meeting greenhouse gas emission and renewable electricity targets with an anticipated generating capacity of around 96MW for the wind turbines and up to 20MW for the battery storage facility. The deployment of this amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045. The Scottish Ministers are satisfied that the proposed Development would provide carbon savings, and that these savings would be of an order that weighs in favour of the proposed Development.

Scottish Energy Strategy and Onshore Wind Policy Statement

Scottish Energy Strategy ("SES") was published in 2017 SES sets out a vision for the future energy system in Scotland through to 2050 and sets out the priorities for an integrated system-wide approach that considers the use and supply of energy for heat, power and transport. The strategy provides a long-term vision to guide energy policy decisions to tackle the challenges of decarbonising heat and transport in order to meet Scotland's long-term energy and climate change targets.

The Onshore Wind Policy Statement ("OWPS") was published in December 2022. This sets out that the deployment of onshore wind is mission-critical for meeting our climate targets. The statement renews the commitment to onshore wind technology and sets an ambition for a minimum installed capacity of 20GW of onshore wind in Scotland by 2030, while recognising that we are in a nature crisis and that onshore wind farms must strike the right balance in how we care for and use our land.

Scotland's National Planning Framework

On 13 February 2023 National Planning Framework 4 (NPF4) was adopted by Scottish Ministers. NPF4 sets out the spatial principles and by applying these, the national spatial strategy will support the planning and delivery of: sustainable places, liveable places, and productive places. The national spatial strategy acknowledges that meeting the climate ambition will require rapid transformation across all sectors of our economy and society. It states that this means ensuring the right development happens in the right place. NPF4 recognises that every decision on future development must contribute to making Scotland

a more sustainable place. The strategic renewable electricity generation and transmission infrastructure is a national development within NPF4 and supports renewable electricity generation, repowering, and expansion of the electricity grid. The energy policy principles encourage, promote and facilitate all forms of renewable energy development onshore and offshore, including energy generation and storage.

Development proposal for all forms of renewable technologies will be supported including wind farms and where they maximise net economic impact. Wind farms will not be supported in National Parks and National Scenic Areas.

The energy policy sets out the matters that are to be addressed in the design and mitigation of a development which include:-

- impacts (including cumulative) on communities and individual dwellings;
- significant landscape and visual impacts; historic environment;
- biodiversity;
- trees and woodlands;
- public access;
- aviation and defence interests;
- telecommunications and broadcasting;
- road traffic;
- water environment; and
- decommissioning of developments and site restoration.

The policy requires that in considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. The policies within NPF4 require to be considered and balanced when reaching a decision on applications for wind energy development. The Scottish Ministers are satisfied that the matters pertaining to NPF4 have been assessed in the Application, EIA report and considered in responses from the Planning Authority, HES, SEPA, NatureScot and other relevant bodies.

As stated above, NPF4 supports the planning and delivery of sustainable places, liveable places, and productive places, and that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits over the longer term. Decisions should be guided by policy principles including, among others, giving due weight to net economic benefit; supporting the delivery of renewable energy infrastructure; reducing greenhouse gas emissions and responding to the nature crisis.

The Scottish Ministers acknowledge that the proposed Development will have some significant landscape and visual impacts but overall these would remain relatively localised with the majority of significant effects occurring not more than 12km from the proposed Development, but that these impacts are considered acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit, contributing to renewable energy and climate change targets, while protecting the natural environment.

The Scottish Ministers, in making their determination on the Application, have had to
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Glasgow
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balance the above considerations, decide what weight is to be given to each and reach a view as to where the balance of benefit lies. On balance, it is considered that the proposed Development is acceptable.

Compatibility with the Local Development Plan and Supplementary Guidance

The Planning Authority assessed the proposed Development against relevant policies of the Highland-wide Local Development Plan 2012 (HwLDP) and Onshore Wind Energy Supplementary Guidance ((OSWESG). Following appraisal of the Application the Planning Authority were satisfied that the proposed Development accords with the principals and policies contained within the HwLDP, concluding that it considers the proposed Development accords with the principles and policies contained within the Local Development Plan, national planning policy and energy policy, and is acceptable in terms of all other applicable material considerations.

The Scottish Ministers acknowledge the Planning Authority's views and take into account that no objection was received from the Planning Authority in the consideration of the Application.

The Scottish Minsters' Conclusions

Reasoned Conclusions on the Environment

The Scottish Ministers are satisfied that the Application and EIA report, have been produced in accordance with the Consents Regulations, EIA Regulations and The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020, and that the procedures regarding publicity and consultation laid down in the those Regulations have been followed.

The Scottish Ministers have fully considered the Application, including the EIA report, consultation responses, representations, and all other material information and, are satisfied that the environmental impacts of the proposed Development have been assessed, and have taken the environmental information into account when reaching their decision.

Taking into account the above assessment, subject to conditions to secure environmental mitigation, the Scottish Ministers consider the environmental effects of the proposed Development are mostly overcome with the exception of significant landscape impacts and limited visual impacts which remain relatively localised.

The Scottish Ministers are satisfied having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. Ministers are satisfied that this reasoned conclusion is up to date.

Acceptability of the proposed Development

Scotland's renewable energy and climate change targets, energy policies and planning policies are all material considerations when weighing up this proposed Development.

NPF4, the Energy Strategy, and the OWPS make it clear that renewable energy deployment remains a priority of the Scottish Government. This is a matter which should be afforded significant weight in favour of the proposed Development.

As set out above, SES and OWPS set out targets for the increase in the supply of renewable energy. The OWPS in particular reaffirms the vital role for onshore wind in meeting Scotland's energy generation and net zero emissions targets. This is also a matter which should be afforded significant weight in favour of the proposed Development.

The transition to a low carbon economy is an opportunity for Scotland to take advantage of our natural resources to grow low carbon industries and create jobs. The Scottish Ministers are satisfied that the proposed Development will provide economic benefits and will provide a contribution to renewable energy targets and carbon savings that weigh in its favour.

The Scottish Ministers are satisfied that the proposed Development has been appropriately designed and sited to minimise impacts on the environment. The Scottish Ministers are also satisfied that the proposed Development will not have any significant effects on any protected species, National Scenic Areas or National Parks. Although there will be some localised landscape and visual effects the Scottish Ministers consider these are acceptable in the context of the benefits that the proposed Development will bring in terms of net economic benefit and contributing to renewable energy and climate change targets. The Scottish Ministers are satisfied that the proposed Development will provide a contribution to renewable energy targets and carbon savings which are entirely consistent with the Scottish Government's policy on the promotion of renewable energy and its target date for net-zero emissions of all greenhouse gases by 2045.

Taking all of the above into account, the Scottish Ministers are content that the proposed Development is supported by Scottish Government Policies and should be granted consent.

The Scottish Ministers' Determination

Subject to the conditions set out in **Annex 2 - Part 1**, the Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for the construction and operation of Chleainsaid Wind Farm in The Highland Council planning area, as described in **Annex 1**.

Subject to the conditions set out in **Annex 2 - Part 2**, the Scottish Ministers direct that **planning permission be deemed to be granted** under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the Development described in the Application and at **Annex 1**.

Section 36 consent and expiry of Planning Permission

The consent hereby granted will last for a period of 35 years from the earlier of:

- i) The date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; or
- ii) The date falling 18 months after electricity is generated from the first of the wind

turbines hereby permitted.

Section 58(1)(a) of the Town and Country Planning (Scotland) Act 1997 requires where planning permission is deemed to be granted, that it must be granted subject to a condition that the permission will expire if has not begun within a period of 3 years.

Section 58(1)(b) of that Act enables the Scottish Ministers to specify that a longer period is allowed before planning permission will lapse. Scottish Government policy is that due to the constraints, scale and complexity of constructing such developments, a 5-year time scale for the commencement of development is appropriate.

The Scottish Ministers consider that 3 years is not to apply with regard to the planning permission granted above, and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction, unless the development to which the permission relates is begun before the expiry of that period.

A condition has been imposed stating that development must be begun within 5 years beginning with the date on which the permission is deemed to be granted and if development has not begun at the expiration of that period, the planning permission will lapse in terms of section 58(3) of the Town and Country Planning (Scotland) Act 1997.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, the Company must publicise notice of this determination and how a copy of this decision letter may be inspected on the application website, in the Edinburgh Gazette and a newspaper circulating in the locality in which the land to which the application relates is situated.

Copies of this letter have been sent to the public bodies consulted on the Application including the Planning Authorities, NatureScot, SEPA and HES. This letter has also been published on the Scottish Government Energy Consents website at <http://www.energyconsents.scot>

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts:

<https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/rules-of-court/court-of-session/chap58.pdf?sfvrsn=12>

Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours faithfully

PP. *Nikki Anderson*

Ruth Findlay

A member of the staff of the Scottish Ministers

Annex 1 – Description of Development

Annex 2 – Section 36 Conditions and Deemed Planning Conditions

Annex 3 – Site Layout Plan

Description of the Development

The Development shall comprise of a wind powered electricity generating station known as Chleansaid Wind Farm, with a total generating capacity exceeding 50 megawatts, located on the Dalnessie Estate, approximately 13km to the north-east of Lairg, near the A836–A838 Junction, in the planning jurisdiction of The Highland Council.

The Development and related ancillary development shall be comprised of:

- 12 wind turbines not exceeding 200m ground to tip height and foundations;
- 4 wind turbines not exceeding 180m ground to tip height and foundations;
- Battery energy storage facility;
- Waterproof housing for external transformers and switching gear;
- Permanent crane hardstanding areas;
- A meteorological mast not exceeding 125 metres and associated hardstanding area;
- 2 permanent Lidar facilities with associated compounds;
- Access tracks and watercourse crossings;
- Substation and control buildings with parking and welfare facilities, and associated compounds;
- Temporary site construction compounds and laydown areas;
- 2 borrow pits;
- Underground cabling; and
- Telecommunications equipment.

All as shown on Figure 2.2 'Proposed Site Layout' attached at Annex 3 below.

Part 1 – Conditions attached to section 36 consent

1. Commencement of Development

- (1) The Commencement of Development shall be no later than five years from the date of this consent, or in substitution, such other period as the Scottish Ministers may hereafter direct in writing.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and Scottish Ministers no later than three weeks before that date.

Reason: *To ensure that the consent is implemented within a reasonable period and to allow the Planning Authority and Scottish Ministers to monitor compliance with obligations attached to this consent and deemed planning permission as appropriate.*

2. Notification of Date of First Commissioning and Final Commissioning

- (1) Written confirmation of the Date of First Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.
- (2) Written confirmation of the Date of Final Commissioning shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: *In order to allow the Planning Authority and Scottish Ministers to calculate the date of expiry of the consent.*

3. Non- Assignment

- (1) This consent shall not be assigned, alienated or transferred without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may authorise the assignation (with or without conditions) or refuse the assignation.
- (2) The consent shall not be capable of being assigned, alienated or transferred otherwise than in accordance with this condition.
- (3) In the event that the assignation is authorised, the Company shall notify the Planning Authority and Scottish Ministers in writing of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

Reason: *To safeguard the obligations of the consent if transferred to another company.*

4. Serious Incident Reporting

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Company shall provide written notification of the nature and timing of the incident shall be submitted to the Scottish Ministers within twenty-four hours of the incident occurring, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

Reason: *To keep the Scottish Ministers informed of any such incidents that may be in the public interest.*

5. Energy Storage Technology

- (1) No development shall commence on the energy storage facility unless and until details of the type of energy storage technology to be implemented have been submitted to and approved in writing by the Scottish Ministers.
- (2) Thereafter, the type of energy storage technology shall be implemented in accordance with the approved details, unless otherwise agreed in writing with the Scottish Ministers.
- (3) Written confirmation of when the energy storage facility is installed and commissioned shall be provided to the Scottish Ministers and the Planning Authority no later than one month after those dates.

Reason: *To allow Scottish Ministers and the Planning Authority to consider all elements of the development in order to ensure they are acceptable in terms of visual, landscape, noise, and environmental impact considerations.*

Part 2 - Conditions to be attached to deemed planning permission:

6. Commencement of Development

- (1) The Development must be begun not later than the expiration of 5 years beginning with the date of permission.
- (2) Written confirmation of the intended date of Commencement of Development shall be provided to the Planning Authority and the Scottish Minister no later than three weeks before that date.

Reason: To comply with section 58 of the Town and Country Planning (Scotland Act) 1997.

7. Turbine Design and Operation

- (1) No wind turbines shall be erected on site until full details of the proposed wind turbines (including, but not limited to, the make, model, size, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts and all associated apparatus, have been submitted to and approved in writing by the Planning Authority.
- (2) The wind turbines, any anemometry masts and all associated apparatus shall be constructed and operated in accordance with the details approved under part (1)
- (3) All wind turbine blades shall rotate in the same direction.

Reason: *To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts assessed in the EIA Report and in the interests of the visual amenity of the area.*

8. Substation and Ancillary Development Design and Operation

- (1) No development shall commence on the substation building and compound unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.
- (2) The substation building, associated compounds, fencing, external lighting and parking areas shall be constructed in accordance with the approved details.

Reason: *In the interests of the visual amenity of the area.*

9. Design of energy storage facility

- (1) No development shall commence on the energy storage facility unless and until details of the location, layout, external finishes and appearance, dimensions and surface materials of the energy storage facility have been submitted to, and approved in writing by the Planning Authority.
- (2) The energy storage facility shall be constructed in accordance with the approved details.

Reason: *In the interests of the visual amenity of the area.*

10. Signage

No wind turbine, anemometer mast, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: *In the interests of the visual amenity of the area.*

11. Micrositing

- (1) All wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks shall be constructed in the location shown on the Proposed Site Layout Plan (Figure 2.2).
- (2) Wind turbines, buildings, masts, borrow pits, areas of hardstanding and tracks may be adjusted by micrositing within the approved redline boundary shown on Proposed Site Layout Plan (Figure 2.2). However, unless otherwise approved in advance in writing by the Planning Authority in consultation with SEPA, micrositing is subject to the following restrictions:
 - (a) The wind turbines and other infrastructure hereby permitted may be micrositied within 50 metres;
 - (b) No wind turbine foundation shall be positioned higher than 3 meters when measured in metres Above Ordinance Datum (AOD) (Newlyn), than the position for that wind turbine shown on Proposed Site Layout Plan (Figure 2.2);
 - (c) No micrositing shall take place within areas of peat deeper than currently shown for the relevant infrastructure on Figure 10.3; and,
 - (d) No micrositing shall take place within areas hosting ground water dependent terrestrial ecosystems.
- (3) All micrositing permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).(see condition 13)
- (4) No later than one months after the Date of Final Commissioning, an updated plan showing the final position of all wind turbines buildings, masts, areas of hardstanding,

tracks and associated infrastructure forming part of the Development shall be submitted to the Planning Authority. The plan shall specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the Environmental Clerk of Works ("ECoW") or Planning Authority's approval, as applicable.

Reason: *To control environmental impacts while taking account of local ground conditions.*

12. Planning Monitoring Officer

- (1) There shall be no Commencement of Development until the terms of appointment by the Company of an independent and suitably qualified consultant as Planning Monitoring Officer ("PMO") have been submitted to, and approved in writing by, the Planning Authority. The terms of appointment shall:
 - (a) Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to it;
 - (b) Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and,
 - (c) Require the PMO to report to the Planning Authority any incidences of noncompliance with the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity.
- (2) The PMO shall be appointed on the approved terms throughout the period from Commencement of development to completion of post construction restoration works.

Reason: *To enable the Development to be suitably monitored to ensure compliance with the consent and deemed planning permission and the conditions attached to it.*

13. Environmental Clerk of Works

- (1) No development shall commence unless and until the terms of appointment of an independent Environmental Clerk of Works ("ECoW") by the Company have been submitted to, and approved in writing by the Planning Authority. The terms of appointment shall:
 - (a) Impose a duty to monitor compliance with the ecological, ornithological, and hydrological commitments provided in the EIA Report, the Construction Environmental Management Plan (CEMP) as required under Condition 14, Peat Management Plan (PMP) as required under Condition 20, Habitat Management Plan (HMP) as required under Condition 21, Deer Management Plan (DMP) as required under Condition 22, Species Protection Plan (SPP) as required under Condition 23, Bird Protection Plan (BPP) as required under Condition 24, Water Quality Management Plan (WQMP) as required under Condition 25, and other

plans approved in terms of the conditions of this permission ("the ECoW Works");

- (b) Advise on micrositing proposals issued pursuant to Condition 11;
 - (c) Require the ECoW to report to the nominated construction project manager any incidences of non-compliance with the ECoW Works at the earliest practical opportunity; and,
 - (d) Require the ECoW to report to the Planning Authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.
- (2) The ECoW shall be appointed on the approved terms during the establishment of the Habitat Management Plan and throughout the period from Commencement of Development to completion of post construction restoration works.
- (3) No later than eighteen months prior to Date of Final Generation or the expiry of the section 36 consent (whichever is the earlier), details of the terms of appointment of an ECoW by the Company throughout the decommissioning, restoration and aftercare phases of the Development shall be submitted for the written approval of the Planning Authority.
- (4) The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: *To secure effective monitoring and compliance with the environmental mitigation and management measures associated with the Development.*

14. Construction Environment Management Plan

- (1) There shall be no Commencement of Development unless and until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post-construction reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to, and approved in writing by, the Planning Authority.
- (2) The CEMP shall include (but is not limited to):
- (a) a site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a dust management plan;
 - (d) site specific details for management and operation of any concrete batching plant (including disposal of pH rich waste water and substances);

- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) details of soil storage and management;
 - (g) a drainage management strategy, demonstrating how all surface and waste water arising during and after development is to be managed and prevented from polluting any watercourses or sources;
 - (h) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (i) details of temporary site illumination;
 - (j) details of the construction of the access into the site and the creation and maintenance of associated visibility splays;
 - (k) a Construction Method Statement for the following:
 - i. crane pads;
 - ii. turbine foundations;
 - iii. working cable trenches;
 - iv. erection of the wind turbines and meteorological masts;
 - v. watercourse crossings.
 - (l) details of post-construction restoration/reinstatement of the working areas not required during the operation of the Development; and,
 - (m) a wetland ecosystems survey and mitigation plan;
- (3) The approved CEMP shall be implemented throughout the construction, post-construction site reinstatement and operational phases in full unless otherwise approved in advance in writing by the Planning Authority.

Reason: *To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the EIA Report which accompanied the Application, or as otherwise agreed, are fully implemented.*

15. Borrow Pits – Scheme of Works

- (1) No borrow pit shall be excavated until a scheme for the working and restoration of [the/each] borrow pit forming part of the Development has been submitted to, and approved in writing by, the Planning Authority. The scheme shall include:
 - (a) a detailed working method statement based on site survey information and ground investigations;
 - (b) details of the handling of any overburden (including peat, soil and rock);
 - (c) drainage measures, including measures to prevent surrounding areas of peatland, water dependant sensitive habitats and ground water dependent terrestrial ecosystems from drying out;
 - (d) a programme of implementation of the works described in the scheme; and

- (e) details of the reinstatement, restoration and aftercare of the borrow pit[s] to be undertaken at the end of the construction period, including topographic surveys of pre-construction profiles and details of topographical surveys to be undertaken of the restored borrow pit profiles.
- (2) The approved scheme shall thereafter be implemented in full, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA.

Reason: *To ensure that excavation of materials from the borrow pit(s) is carried out in a manner that minimises the impact on road safety, amenity and the environment, and to secure the restoration of borrow pit(s) at the end of the construction period.*

16. Borrow Pits – Blasting

Blasting shall only take place on the site between the hours of 10.00 to 16.00 on Monday to Friday inclusive and 10.00 to 12.00 on Saturdays, with no blasting taking place on a Sunday or on a Public Holiday unless otherwise approved in advance in writing by the Planning Authority. At least 24 hours prior to any blasting, nearby properties shall be duly notified and temporary signage shall be placed at suitable locations along the Dalnessie path public right of way.

Reason: *To ensure that blasting activity is carried out within defined timescales to control impact on amenity.*

17. Construction Traffic Management Plan (CTMP)

- (1) No Development shall commence until Phase 1 of a Construction Traffic Management Plan (CTMP) has been submitted to and approved by the Planning Authority in consultation with the Local Roads Authority and Transport Scotland. The Phase 1 CTMP, which shall be implemented as approved during all period of construction and decommissioning, shall include:
- (a) A description of all measures to be implemented in order to manage traffic during the construction phase (including routing strategies), with any additional or temporary signage and traffic control undertaken by a recognised suitably qualified traffic management consultant;
- (b) The identification and delivery of all upgrades to the public road network, including but not limited to upgrades to the local and trunk road network to make it suitable for construction traffic, to ensure that it is to a standard capable of accommodating construction related traffic (including the formation or improvement of any junctions leading from the site to the public road) to the satisfaction of the Roads Authorities, including but not limited to;
- Access into and egress out of the site from the A836;
 - Detailed assessment of the delivery routes site for general construction traffic;

- Details of all mitigation/improvement works for general construction traffic, to be presented as a Road Mitigation Schedule of works;
- A high-level review of the Abnormal Indivisible Loads route from the preferred Ports of Entry which are the Port of Cromarty and Port of Nigg;
- A procedure to limit HGV movements accessing and leaving the site (excluding abnormal loads and concrete delivery) during construction of the wind farm to 07.00 to 19.00 Monday to Friday, and 07.00 to 13.00 on Saturdays, with no HGV movements to or from site taking place on a Sunday or Public Holiday, unless otherwise agreed in advance in writing by the Planning Authority, and to avoid peak school drop off and pick up times;
- An initial route assessment report for abnormal loads and construction traffic, including swept path analysis and details of the movement of any street furniture, any traffic management measures and any upgrades and mitigation measures as necessary;
- An assessment of the capacity of existing bridges and other structures along the construction access routes to cater for all construction traffic, with upgrades and mitigation measures proposed and implemented as necessary; and
- Procedure for the regular monitoring of road conditions and the implementation of any remedial works required during the construction and decommissioning periods.

(2) No deliveries by abnormal indivisible loads shall commence until Phase 2 of the Construction Management Plan for Abnormal Indivisible Loads has been submitted to and approved by the Planning Authority, in consultation with the Roads Authority and Transport Scotland at least two months in advance of the first anticipated abnormal load delivery to the site, the date of which shall be notified to the Planning Authority prior to commencement of development of any development on the site. This shall include a Construction Management Plan for the routing of Abnormal Indivisible Loads, the arrangements to be made for any Highways Act Agreement that may be required, and the reinstatement of off-site works not needed to be retained after the construction phase. The Phase 2 Construction Management Plan shall include:

- (a) A videoed trial run to confirm the ability of the local road network to cater for turbine delivery. Three weeks notice of this trial run must be made to the local Roads Authority who must be in attendance;
- (b) No deliveries by Abnormal Indivisible Loads shall take place until a final assessment of the capacity of existing bridges and other structures along the Abnormal Indivisible Load delivery route is carried out and submitted to and approved by the Planning Authority and full engineering details and drawings of any works required to such structures to accommodate the passage of Abnormal Indivisible Loads have been submitted to and approved by the Planning Authority, thereafter the approved works shall be completed prior to the Abnormal Indivisible Load deliveries to the site;
- (c) A risk assessment for the transportation of abnormal loads to site during

- daylight hours and hours of darkness;
- (d) An assessment of the existing passing place provision on the A839 from its junction with the B864 through to the proposed site access junction. Including a programme of mitigation works to provide improved passing place provision, road widening, verge strengthening, associated works identified (if applicable) and restoration proposals (if applicable). The works shall be carried out in full accordance with the plans as may be approved unless otherwise agreed in writing with the Planning Authority. Thereafter, any works identified within said transport report shall be completed to the satisfaction of the Planning Authority prior to any haulage operations (either general construction vehicles or abnormal load) taking place, unless otherwise agreed in writing.
 - (e) A contingency plan prepared by the abnormal load haulier. The plan shall be adopted only after consultation and agreement with the Police and the respective roads authorities. It shall include measures to deal with any haulage incidents that may result in public roads becoming temporarily closed or restricted;
 - (f) A detailed protocol for the delivery of abnormal loads/vehicles, prepared in consultation and agreement with interested parties. The protocol shall identify any requirement for convoy working and/or escorting of vehicles and include arrangements to provide advance notice of abnormal load movements in the local media. Temporary signage, in the form of demountable signs or similar approved, shall be established, when required, to alert road users and local residents of expected abnormal load movements. All such movements on Planning Authority maintained roads shall take place outwith peak times on the network, including school travel times, and shall avoid local community events; and
 - (g) A detailed delivery programme for Abnormal Indivisible Load movements, which shall be made available to the Planning Authority and community representatives.

Reason: *In the interest of road safety and maintenance.*

18. Road Wear and Tear Agreement

There shall be no Commencement of Development until the Company has entered into a legal agreement under Section 96 of the Roads (Scotland) Act 1984 for the provision of a Road Bond or similar security, under which the developer is responsible for the repair of any damage to the public road network that can reasonably be attributed to construction related traffic. The agreement shall take account of any neighbouring significant developments that might progress concurrent with the works proposed and will provide, if necessary, a mechanism for apportionment of costs between respective developers. As part of this agreement, pre-start and post-construction road condition surveys must be carried out by the developer, to the satisfaction of the roads authority. The scope of said road condition surveys, both pre-start and post-construction, should be agreed with the roads authority prior to any works being undertaken.

Reason: To ensure the protection of the road network, and to secure the cost of repairing any damage to the road network.

19. Floating Access Tracks

- (1) Floating roads shall be installed in areas where peat depths are in excess of 1 metre. Prior to the installation of any floating road, the detailed location and cross section of the floating road to be installed shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.
- (2) The floating roads shall then be implemented as approved.

Reason: To ensure peat is not unnecessarily disturbed or destroyed.

20. Peat Management Plan

- (1) No development shall commence until a finalised Peat Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The details shall:
 - (a) include the mitigation measures described within the EIA Report and Outline Peat Management Plan (EIA Technical Appendix 10.2);
 - (b) demonstrate how micro-siting and other measures including the use of floating tracks in the areas identified on Figure 1 of the letter from WRC dated 13 September 2022, have been used to further minimise peat disturbance.
- (2) Thereafter, development shall be carried out in accordance with the approved Peat Management Plan.

Reason: To ensure that a plan is in place to deal with the storage and reuse of peat within the Application site, including peat stability and slide risks.

21. Habitat Management Plan

- (1) There shall be no Commencement of Development until a Finalised Habitat Management Plan ("HMP"), has been submitted to, and approved in writing by the Planning Authority in consultation with SEPA. The information shall include:
 - (a) the mitigation measures described within the EIA Report received March 2022 and be based upon the Outline Habitat Management Plan provided (EIA Report Volume 3, Appendix 8.5) with the minimum restoration works areas as shown on Figure 1 of the Appendix of the draft Habitat Management Plan and Figure 2 of the letter from WRC dated 13 September 2022;
 - (b) the proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring, and reporting of habitat on site;

- (c) measures to ensure that planting of riparian native woodland is not located on peat including shallow as well as deep peat;
 - (d) measures to ensure that riparian areas of blanket or mosaic blanket bog habitat undergo peatland restoration rather than native woodland planting;
 - (e) the provision for regular monitoring and review to be undertaken to consider whether amendments are needed to better meet the habitat plan objectives and measures for securing amendments or additions to the HMP in the event that the HMP objectives are not being met. In particular, the approved habitat management plan shall be updated to reflect ground condition surveys undertaken following construction and prior to the date of Final Commissioning and submitted for the written approval of the Planning Authority in consultation with SEPA.
- (2) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time) shall be implemented in full.

Reason: *In the interests of habitat management and protection.*

22. Deer Management Plan

- (1) There shall be no Commencement of Development until a Deer Management Plan ("DMP") has been submitted to and approved in writing by the Planning Authority.
- (2) The Deer Management Plan shall set out proposed long term management of deer using the wind farm site and shall provide for the monitoring of deer numbers on site from the period from Commencement of Development until the date of completion of post-decommissioning site restoration.
- (3) The approved Deer Management Plan (as amended from time to time with written approval of the Planning Authority) shall thereafter be implemented in full.

Reason: *In the interest of good land management and the management of deer.*

23. Species Protection Plan

- (1) There shall be no Commencement of Development unless and until protected species surveys (including but not limited to otter, badger, pine marten, red squirrel and wildcat) have been carried out by a suitably qualified person. The surveys shall inform the mitigation measures, if required, for the protection of such species which shall be incorporated into a Species Protection Plan.
- (2) The Species Protection Plan shall be submitted to and approved in writing by the Planning Authority
- (3) The approved Species Protection Plan (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

Reason: *In the interests of nature conservation.*

24. Bird Protection Plan

- (1) There shall be no Commencement of Development unless and until a Bird Protection Plan has been submitted to and approved in writing by the Planning Authority. The Bird Protection Plan shall set out measures to protect bird interests including pre and post construction ornithology surveys.
- (2) The approved Bird Protection Plan (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

Reason: *In the interests of protecting birds through the life time of the wind farm.*

25. Water Quality and Fish Monitoring Plan

- (1) No development shall commence unless a Water Quality and Fish Monitoring Plan (WQFMP) has been submitted to and approved in writing by the Planning Authority in consultation with Marine Directorate – Science Evidence Data and Digital (MD-SEDD) and any such other advisors or organisations.
- (2) The WQFMP must take account of the Scottish Government’s MD-SEDD guidelines and standing advice and shall include:
 - (a) water quality sampling should be carried out at least 12 months prior to construction commencing, during construction and for at least 12 months after construction is complete. The water quality monitoring plan should include key hydrochemical parameters, turbidity, and flow data, the identification of sampling locations (including control sites), frequency of sampling, sampling methodology, data analysis and reporting etc.;
 - (b) the fish monitoring plan should include fully quantitative electrofishing surveys at sites potentially impacted and at control sites for at least 12 months before construction commences (unless a reduced period is justified, guided by survey results and to be agreed with the Planning Authority in consultation with the MD-SEDD), during construction and for at least 12 months after construction is completed (unless a reduced period is justified, guided by survey results and to be agreed with the Planning Authority in consultation with the MD-SEDD) to detect any changes in fish populations; and
 - (c) appropriate site specific mitigation measures detailed in the Environmental Impact Assessment and in agreement with the Planning Authority and MD-SEDD.

- (3) Thereafter, the WQFMP shall be implemented within the timescales set out to the satisfaction of the Planning Authority in consultation with MD-SEDD and the results of such monitoring shall be submitted to the Planning Authority on a 6 monthly basis or on request.

Reason: *To ensure no deterioration of water quality and to protect fish populations within and downstream of the development area*

26. Archaeology

- (1) There shall be no Commencement of Development unless and until a programme of archaeological works to be carried out during construction of the Development has been submitted to, and approved in writing by, the Planning Authority.
- (2) The programme of archaeological works shall include measures to be taken to protect and preserve any features of archaeological interest in situ and the recording and recovery of archaeological features which cannot be protected or preserved.
- (3) The approved programme of archaeological works (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

Reason: *To protect and/or record historic resources and features of archaeological importance on and adjacent to the development site.*

27. Radio and Television Reception

- (1) There shall be no Commencement of Development unless and until a Radio [and Television] Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Radio [and Television] Reception Mitigation Plan shall provide for a baseline radio [and television] reception survey to be carried out prior to the installation of any turbine forming part of the Development. The results of the baseline radio [and television] reception survey shall be submitted to the Planning Authority prior to the installation of any turbine forming part of the Development.
- (2) The approved Radio [and Television] Reception Mitigation Plan shall be implemented in full.
- (3) Any claim by any person regarding radio [or television] interference at their house, business premises or other building, made during the period from installation of any turbine forming part of the Development to the date falling twelve months after the Date of Final Commissioning shall be investigated by a qualified engineer and the results of the investigation shall be submitted to the Planning Authority.
- (4) Should any impairment to the radio [or television] signal be attributable to the Development, the impairment shall be remedied so that the standard of reception at the affected property is equivalent to the baseline radio or television reception.

Reason: *To ensure local television services are sustained during the construction and operation of this development.*

28. Shadow Flicker

- (1) There shall be no Commencement of Development unless and until a scheme for the avoidance or mitigation of shadow flicker at residential and commercial properties situated at a distance which is within the equivalent to 11 rotor diameters of any wind turbine forming part of the Development and which lawfully exist or for which planning permission has been granted as at the date of the section 36 consent, has been submitted to, and approved in writing by, the Planning Authority.
- (2) The approved mitigation scheme (as amended from time to time with written approval of the Planning Authority) shall be implemented in full.

Reason: *To offset any impacts of shadow flicker on residential and commercial property amenity.*

29. Redundant Turbines

- (1) If one or more wind turbines fails to generate electricity for a continuous period of 12 months, then unless otherwise agreed in writing by the Planning Authority, the Company shall:
 - (a) Within one month of the expiration of the 12 month period, submit a scheme to the Planning Authority setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored; and
 - (b) Implement the approved scheme within six months of the date of its approval, all to the satisfaction of the Planning Authority.

Reason: *To ensure that any redundant wind turbine is removed from Site in the interests of safety, amenity and environmental protection.*

30. Aviation Safety - Lighting

- (1) No wind turbine shall be erected until a scheme for aviation lighting for the Development consisting of Ministry of Defence accredited infra-red aviation lighting has been submitted to and approved in writing by the Planning Authority in consultation with the MoD.
- (2) The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission.

Reason: *In the interests of aviation safety.*

31. Aviation Safety

- (1) At least 14 days prior to the commencement of the erection of the wind turbines the Company has provided the Planning Authority, Ministry of Defence, Defence Geographic Centre and National Air Traffic Services ("NATS") with the following information and has provided evidence to the Planning Authority of having done so:
 - (a) the date of the commencement of the erection of wind turbine generators;
 - (b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
 - (c) the date any wind turbine generators are brought into use; and,
 - (d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

Reason: *In the interests of aviation safety.*

32. Decommissioning, Restoration and Aftercare Strategy

No development shall commence, unless and until a decommissioning, restoration and aftercare strategy has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The strategy shall outline measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include proposals for the removal of the Development, the treatment of ground surface management and timing of the works and environmental management provisions as set out in Condition 33.

Reason: *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.*

33. Decommissioning, Restoration and Aftercare Plan

- (1) The Development shall cease to generate electricity to the grid network by no later than the date falling 35 years from the Date of Final Commissioning.
- (2) No later than one year prior to the Date of Final Generation or the expiry of the section 36 consent (whichever is earlier) a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted for the written approval of the Planning Authority in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include (but is not limited to):

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases and, including details of measures to be taken to minimise waste associated with the Development and promote the recycling of materials and infrastructure components);
 - (b) details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) a dust management plan;
 - (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
 - (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) details of measures for soil storage and management;
 - (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
 - (h) details of measures for sewage disposal and treatment;
 - (i) temporary site illumination;
 - (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
 - (k) details of watercourse crossings; and
 - (l) a species protection plan based on surveys for protected species (including birds) carried out no longer than eighteen months prior to submission of the detailed decommissioning, restoration and aftercare plan.
- (3) The Development shall be decommissioned, the site restored, and aftercare undertaken prior to the date falling three years after the Date of Final Generation, or as otherwise agreed in writing with the Planning Authority and in accordance with the approved detailed decommissioning, restoration and aftercare plan.

Reason: *To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection*

34. Financial Guarantee

- (1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 33 is submitted to the Planning Authority.

- (2) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition 33.
- (3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 33.
- (4) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason: *In order to ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.*

35. Biodiversity Enhancement

There shall be no Commencement of Development until a scheme for the delivery of biodiversity enhancement has been submitted to and approved in writing by the Planning Authority. This shall include a suitable financial mechanism for the delivery of the scheme. Thereafter the scheme shall be implemented prior to first export of electricity from the site and maintained throughout the operation and decommissioning of the Development.

Reason: *To ensure that the Development secures positive effects for biodiversity.*

36. Outdoor Access

- (1) There shall be no Commencement of Development until a detailed Outdoor Access Plan of public access across the site (as existing, during construction and following completion of construction and remediation works) has been submitted to, and approved in writing by, the Planning Authority. The Outdoor Access Plan shall include details showing:
 - (a) All existing access points, paths, core paths, tracks, rights of way and other routes (whether on land or inland water), and any areas currently outwith or excluded from statutory access rights under Part One of the Land Reform (Scotland) Act 2003, within and adjacent to the application site.
 - (b) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or effect on curtilage related to buildings or structures.
 - (c) All proposed paths, tracks and other alternative routes for use by walkers, riders, cyclists, canoeists, all-abilities users, etc. and any other relevant outdoor

access enhancement (including construction specifications, signage, information leaflets and proposals for on-going maintenance etc.).

- (d) Any diversion of paths, tracks or other routes (whether on land or inland water), temporary or permanent, proposed as part of the Development (including details of mitigation measures, diversion works, duration and signage).
- (e) Signage to inform recreational visitors to the area of any blasting activity.

- (2) The approved Outdoor Access Plan, and any associated works, shall be implemented in full prior to the Commencement of Development or as otherwise may be agreed within the approved plan.

Reason: To ensure that public access is managed throughout the lifetime of the Development.

37. Noise

- (1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the Development (including the application of any tonal penalty) when determined in accordance with the Guidance Notes for this condition shall not exceed the values for the relevant integer wind speed set out in, or derived from, Tables 1 and 2 at any dwelling which is lawfully existing or has planning permission at the date of this consent.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (easting, northing grid - coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
LA90 Decibel Levels										
Dalnessie (263026/915249)	26.5	29.0	33.8	35.9	37.8	38.2	38.2	38.2	38.2	38.2

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location (easting, northing grid - coordinates)	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels										
Dalnessie (263026/915249)	26.5	29.0	33.8	37.9	38.2	38.2	38.2	38.2	38.2	38.2

- (2) The turbines shall be designed to permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria.
- (3) The Company shall continuously log power production, wind speed and wind direction. These data shall be retained for a period of not less than 24 months. The Company shall provide this information to the Planning Authority within 14 days of receipt in writing of a request to do so.
- (4) Prior to the Date of First Commissioning, the Company shall have submitted to, and received written approval of the Planning Authority to, a list of proposed independent consultants who will undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.
- (5) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the Company shall, at its expense, employ a consultant approved by the Planning Authority in terms of paragraph (4) above to assess the level of noise immissions from the wind farm at the complainant's property. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (6) The assessment of the rating level of noise immissions in terms of paragraph (5) above shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location(s) where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to

determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (5) above.

- (7) Where the property to which a complaint is related is not listed in Tables 1 or 2, the Company shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in Tables 1 and 2 to be adopted at the complainant's property for compliance checking purposes. The proposed noise limits are to be those limits selected from Tables 1 and 2 specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's property. The rating level of noise immissions resulting from the combined effects of the wind turbines shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's property.
- (8) The Company shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions within two months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (5), unless the time limit is extended in writing by the Planning Authority. Certificates of calibration of the instrumentation used to undertake the measurements shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (9) Where a further assessment of the rating level of noise immissions from the wind farm is required, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (8) above unless the time limit has been extended in writing by the Planning Authority.

Reason: *In the interest of amenity*

38. Community Liaison Group

- (1) No development shall commence until a community liaison group is established by the Company, in collaboration with the Planning Authority and affected local Community Councils. The group shall act as a vehicle for the community to be kept informed of project progress and, in particular, should allow advanced dialogue on the provision of all transport-related mitigation measures and to keep under review the timing of the delivery of turbine components. This should also ensure that local events and tourist seasons are considered and appropriate measures to co-ordinate deliveries and work with these and any other major projects in the area to ensure no conflict between construction traffic and the increased traffic generated by such events/seasons/ developments.

- (2) The liaison group, or element of any combined liaison group relating to this development, shall be maintained until the wind farm construction has been completed and is fully operational.

Reason: *To assist project implementation, ensuring community dialogue and the delivery of appropriate mitigation measures for example to minimise potential hazards to road users, including pedestrians, travelling on the road networks.*

Guidance Notes for Operational Noise Condition – Condition 37

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- (a) The LA90,10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant’s dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90,10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean wind speed in metres per second and wind

direction in degrees from north for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, such as direct measurement at a height of 10 metres, this wind speed, averaged across all operating wind turbines, and corrected to be representative of wind speeds measured at a height of 10m, shall be used as the basis for the analysis. It is this 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

- (e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

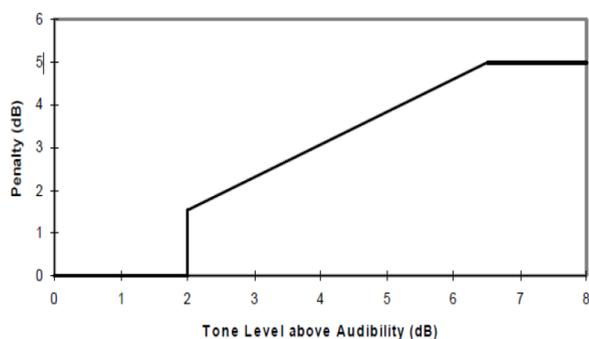
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (6) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute 10- metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the 10- metre height mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (6) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted

uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its written protocol under paragraph (6) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) In the event that the rating level is above the limit(s) set out in the Table attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (7) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The Company shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- (e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range

requested by the Planning Authority in its written request under paragraph (5) and the approved protocol under paragraph (6) of the noise condition.

- (f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Table attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (7) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set o the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (7) of the noise condition then the Development fails to comply with the conditions.

Definitions

In this consent and deemed planning permission:-

“the Application” means the application submitted by the Company on 30 March 2022.

“Commencement of Development” means the date on which development shall be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997 (as amended).

“the Company” means ESB Asset Development UK Limited, a company incorporated under the Companies Acts, registration number 06925667, having its registered office at Tricor Suite, 4th Floor, 50 Mark Lane, London, UK, EC3R 7QR, or such other person who from time to time may lawfully have the benefit of this consent.

“Date of First Commissioning” means the date on which electricity is first exported to the grid network on a commercial basis from any of the wind turbines forming part of the Development.

“Date of Final Commissioning” means the earlier of (i) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the Development erected in accordance with this consent; or (ii) the date falling eighteen months from the Date of First Commissioning.

“Date of Final Generation” means the date that the Development ceases to generate electricity to the grid network.

“the Development” means Chleansaid Wind Farm as described in Annex 1 authorised by this section 36 consent and deemed planning permission.

“dwelling” means a building within Use Class 9 of the Town And Country Planning (Use Classes)(Scotland) Order 1997 which lawfully exists or had planning permission at the date of this consent and deemed planning permission.

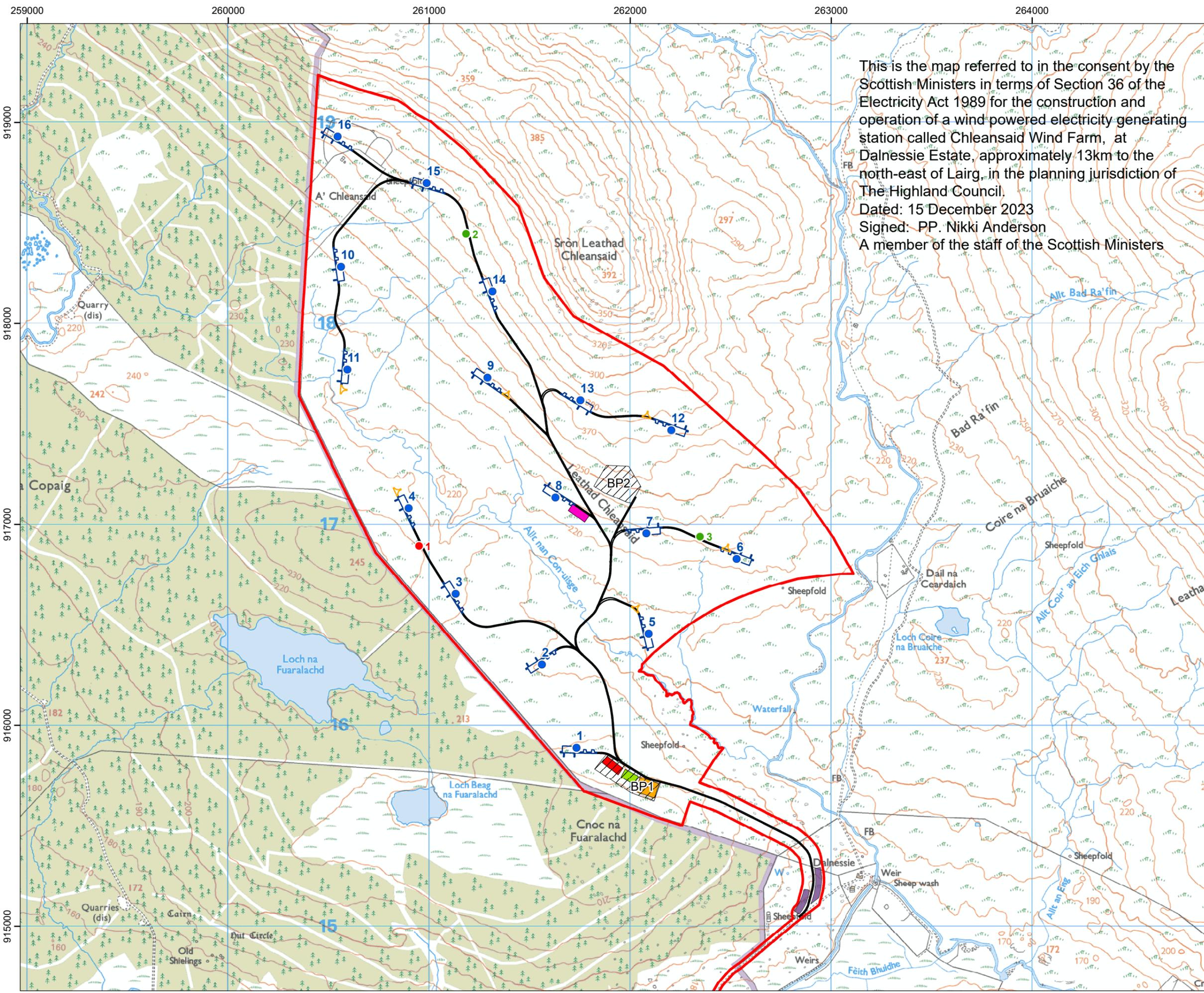
“EIA Report” means Environmental Impact Assessment Report in respect of the Development dated March 2022.

“NatureScot” means Scottish Natural Heritage now operating as NatureScot.

“Planning Authority” means The Highland Council.

“SEPA” means Scottish Environmental Protection Agency.

“site” means the area of land outlined in red on Figure 2.2 Proposed Site Layout of the EIA Report dated March 2022.



This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of a wind powered electricity generating station called Chleansaid Wind Farm, at Dalnessie Estate, approximately 13km to the north-east of Lairg, in the planning jurisdiction of The Highland Council.
 Dated: 15 December 2023
 Signed: PP. Nikki Anderson
 A member of the staff of the Scottish Ministers

- Legend:**
- Proposed Turbine Locations
 - Permanent Met Mast
 - Permanent Lidar Location
 - Application Boundary
 - Turning Head
 - Hardstanding
 - Access Track
 - Control Building and Substation Compound (100m by 75m)
 - Substation Construction Compound and Battery Energy Compound (75m x 45m)
 - Main Construction Compound (100m by 40m)
 - Additional Construction Compound (100m by 40m)
 - Mobilisation Compounds
 - Borrow Pit

Coordinate System: British National Grid
 Projection: Transverse Mercator
 Datum: OSGB 1936
 Units: Meter



Rev	Date	Description	Drn	Chk	App
03	19/01/2022	BP1 extents	NH	GA	JS
02	24/11/2021	Borrow Pit extents	NH	GA	JS
01	05/11/2021	Met mast/lidar	NH	GA	JS
00	01/10/2021	First Draft	NH	AP	JS

Chleansaid Wind Farm

TITLE: **Figure 2.2: Proposed Site Layout**

0 250 500
Metres
SCALE: 1:17,500 @ A3

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