

THE HIGHLAND COUNCIL

**NORTH PLANNING APPLICATIONS COMMITTEE
19 November 2013**

Agenda Item	6.1
Report No	PLN/100/13

**12/03577/FUL : Scottish Water
Waternish Water Treatment Works, Lochbay, Waternish**

Report by Area Planning Manager

SUMMARY

Description : Erection of three 5kw 22m high wind turbines

Recommendation - GRANT

Ward : 11 - Eilean A' Cheò

Development category : Local Development

Pre-determination hearing : Not required

Reason referred to Committee : Community Council objection.

1. PROPOSED DEVELOPMENT

1.1 This application seeks full planning permission for a development of three Evance R9000 wind turbines consisting of 5.5m diameter three-bladed rotors mounted on 18.5m high towers – an overall height of 22m. The R9000 is a design seen elsewhere on the island and consists of a small turbine body with a projecting stabilising tail-plane to the rear.

The turbines are to be positioned in an L-shape pattern to fit within the operational area of the Waternish water treatment works (WTW).

The application proposes RAL 7000 Dark Squirrel Grey as the colour for the turbines and masts.

1.2 The proposal is one of a number of very similar schemes put forward by Scottish Water at various WTWs across Skye. Several of these were subject to some informal pre-application advice. Two schemes – at Portree and Broadford – have been granted permission with the latter being operational for the last few months.

1.3 This proposal meets the definition of a 'small-scale' wind energy development as defined at paragraph 2.1 of the Council's Interim Supplementary Guidance: *Small-Scale Wind Turbine Proposals* approved by Committee in November 2012;

- Hub height no more than 30m
- Rotor diameter of no more than 40m

- No more than 3 turbines in the array

- 1.4 The WTW benefits from an existing tarmaced access track down to the settlement road
- 1.5 The application has been submitted with a Design and Access Statement, a Landscape and Visual Impact Statement and an Acoustics report.
- 1.6 **Variations:** A set of photomontages of the turbines was submitted on 20 July 2013. However, these were not considered to be of a sufficient quality to present to Committee and a further, much more comprehensive set, were submitted on 8 October 2013 for presentation to Committee.

2. SITE DESCRIPTION

- 2.1 The Waternish WTW is positioned on rising land to the east of the B.886 settlement road at that part of the settlement known as Lusta. To the west of the road the land continues to fall away to the shores of Lochbay. The WTW is some 350m from the road.
- 2.2 The settlement pattern is closely related to the line of the road with Stein Conservation Area down on the Lochbay shore some 850m to the west.
- 2.3 The WTW is not readily seen from the public road although the intervening land has a large number of electricity transmission posts and structures running through it to the transformer station at Trumpan at the northern end of the peninsula.

3. PLANNING HISTORY

- 3.1 04/00077/FULSL - Construction of Water Treatment Works – Approved – 08.04.2004

4. PUBLIC PARTICIPATION

- 4.1 Advertised : Unknown neighbour – expiry date: 12.10.2012
Representation deadline : 16 August 2013 following re-notification in respect of submission of new photomontage information
Timeous representations : 3 from 3 households
Late representations : 0
- 4.2 Material considerations raised are summarised as follows:
- When erecting a deer fence, the Grazings Committee were advised by RSPB that this area is a designated protected site (for hen harriers in particular)
 - Access to the common grazings will involve moving animals within 10 metres of one of the turbines
 - Tourism value of the area is based upon its natural beauty and staggering views – visual impact of the turbines on these views may damage tourism potential
 - Economic and ecological benefits do not outweigh this local harm
 - White-tailed Eagles and Corncrakes are present in the area

- The turbines will intrude and damage the unspoilt nature of the area
- They will have an impact on the setting of the Stein Conservation Area
- There is no other industrial development in the area
- Turbines introduce alien regular rhythmic movement into the landscape
- Turbines are much higher than existing electricity infrastructure in the vicinity
- Location of turbines is entirely the product of the location of the WTW and not one derived from taking other considerations into account
- Installation is on the skyline
- Photomontages (20 July) do not change the CC view that the turbines will have a detrimental visual impact

4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Access to computers can be made available via Planning and Development Service offices.

5. CONSULTATIONS

5.1 **TECS - Environmental Health:** Objection resolved through submission of background noise information

5.2 **Waternish Community Council:** Object on visual and ecological grounds to both the original and subsequent consultations

5.3 **Scottish Natural Heritage:** No objection

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 Highland Wide Local Development Plan 2012

Policy 28	Sustainable Design
Policy 29	Design Quality and Place-making
Policy 36	Development in the Wider Countryside
Policy 57	Natural, Built and Cultural Heritage
Policy 58	Protected Species
Policy 61	Landscape
Policy 67	Renewable Energy Developments

6.2 West Highland and Islands Local Plan 2010

Policy 2	In respect of land allocations and settlement development areas
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7. OTHER MATERIAL CONSIDERATIONS

7.2 Highland Council Supplementary Planning Policy Guidance

Interim Supplementary Guidance: Small-scale Wind Turbine Proposals

This proposal meets the definition of a 'small-scale' wind energy development as defined at paragraph 2.1 of the Council's Interim Supplementary Guidance: *Small-Scale Wind Turbine Proposals* approved by Committee in November 2012;

7.3 Scottish Government Planning Policy and Guidance

Online planning advice – Onshore Wind Turbines

8. PLANNING APPRAISAL

8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

8.3 Development Plan Policy Assessment

The land falls outwith any Settlement Development Area and so Policy 36 of the Highland-wide Local Development Plan applies. Policy 36 supports development proposals which are not significantly detrimental in terms of their siting and design, sympathy to existing patterns of development, compatibility with landscape character, contribution to the existing mix of development types, avoidance of the loss of locally important croftland and which can be adequately serviced without undue public expense or incongruous development in a rural area.

Development proposals should also meet the Design for Sustainability requirements of Policy 28 and Policy 29 repeats this emphasis on good design in terms of compatibility with the local settlement pattern. Policy 61 further emphasises the need for development to respect the landscape character of their surroundings.

There is also a requirement to judge proposals in terms of their impact upon the natural, built and cultural heritage features identified by Policy 57. The site falls within the North-West Skye Special Landscape Area in respect of which Policy 57.1 states that developments will be supported where they can be shown not to have an unacceptable impact upon the identified protected amenity resource.

Policy 58 requires survey work to be carried out when there is good reason to believe that a protected species may be present on the site or affected by the development.

Policy 67 lays out the Council's approach to renewable energy developments, requiring them not to have a significantly detrimental impact on those matters covered and protected by other policies of the development plan such as visual impact, ecology, cultural heritage etc.

For the reasons laid out below, the proposal is considered to comply with these policy requirements and to be acceptable in principle.

8.4 **Material Considerations**

EIA Screening – As it consists of more than one turbine, this proposal requires to be screened under the EIA Regulations. This has been carried out and the Council's opinion is that the proposal does not constitute EIA development.

Design, Appearance and Landscape Impact – At the suggestion of the case officer with a view to bringing this application to committee, the agent has submitted a number of photomontage visualisations to aid understanding of the visual and landscape impact of the proposal. This supplements those originally submitted as part of the Landscape and Visual Impact Assessment. A further set of these visualisations, reproduced at a higher quality to comply with the Council's adopted visualisations guidance, has also been submitted for presentation to Committee. In this set the original VP7 viewpoint is correctly identified as VP6.

The Landscape and Visual Impact Assessment document briefly describes a visual argument in favour of the turbines in which their design, location, remoteness from nearby dwellings and the surrounding transmission infrastructure is stressed.

The proposal must also be understood in the context of its scale. As a proposal falling within the definition of 'small-scale' contained in the adopted Interim SPG, the visual impacts of this proposal are significantly less and more finite than those of the larger windfarm developments more usually assessed at Committee.

The photomontages were requested in order to provide evidence to support the conclusions of the original Visual Assessment. These visualisations are based upon photographs taken from five locations within the Lochbay/Stein settlement area and one from a more remote location in the neighbouring settlement further north at Hallin.

The use of visual aids are only one guidance tool within the wider process of assessing the suitability of a proposal and its visual impact.

VP1 – this is taken from a location adjacent to the settlement road some 770m to the south of the turbines. All three turbines are clearly visible over a sloping croftland landscape above the linear settlement pattern and in a partially sky-lined and prominent position.

However, although they are the tallest structures in the landscape and are more noticeable as a group of three than they would be individually, from this distance they are a small element within the wider landscape and are quite readily absorbed by it. Their visual impact is undoubtedly further mitigated by the unusually large number of electricity poles and other transmission infrastructure passing through the landscape at this point. The vertical pattern of this equipment, some of which lies closer to the viewpoint than the turbines, undoubtedly ameliorates the similar vertical visual emphasis of the turbines.

It should be noted in this context that the recently installed and identical turbines at Broadford WTW have shown that with a nominal rotation speed of 200rpm, the blades of this model are visually blurred in operation and have much less impact

than the slower blade movement of larger machines. Consequently, the visual impact of this model is focussed upon its tall slender supporting poles, small hub and stabilising tailfin.

VP2 – in this visualisation, again taken from a position adjacent to the settlement road but this time just 400m to the south-west of the proposal, the turbines are much more clearly visible in their raised position above the road and also above the gorge cut by the Lusta Burn as it flows just to the south of the WTW.

However, even in an entirely bare landscape it is not considered that the visual and landscape impact of the turbine group would be unacceptable. They still appear as a relatively small feature within the wider landscape, the quality of which is rather more defined by the very fine views available in the other direction – to the west – out to sea, the Conservation Area, the Special Landscape Area and the Outer Isles. The turbines do not impair these public views in any way. But again, it must be stressed that inclusion of a large number of electricity transmission poles of varying sizes, design and position within this visualisation serve to reduce the effect of the vertical form of the turbine columns.

VP3 – is taken from a point about 450m due west of the turbine group and once more on the B886 road. The turbines are particularly visible at this point being sky-lined at the crest of the sloping land. Also there is less transmission infrastructure in this view.

Although a prominent feature within the landscape at this point, it cannot be concluded that the turbine group has an unacceptable impact on the overall natural quality of the surrounding countryside. Once again, it must be stressed that the Special Landscape Area is very much focussed on the qualities of the coastal, rather than inland landscape of the north-west of Skye.

VP4 – is at a point just over 1km to the north-west of the turbines and just at the northern edge of the Stein Conservation Area. Any impact of the development upon the conservation area is an important determination issue.

From the evidence of this photomontage any such effect is going to be very small and with little weight in this assessment. At this range the turbines are minor features within the wider landscape which has the capacity to absorb them without any loss of its character. Impact is further reduced by the turbines being set against the rising flank of Beinn a' Sgumain further to the south-east. Again, the existing transmission poles appear just as significant a visual feature within the landscape as the proposal.

In terms of the conservation area, there is no real impact upon its special qualities which derive from its historic architecture and coastal position rather than anything drawn from inland views.

VP5 – is also taken from inside the conservation area but this time at its southern boundary and a car park at the end of the public road. This point is just over 800m due west of the turbine group.

In this view the undulating coastal landscape, which rises up from Stein to the settlement road before rising again to the turbines, has the effect of placing a number of houses between the viewer and the turbines. This has the visual effect of binding the turbine development into the other built development within this visualisation and greatly reduces the impact of the turbines. No visual harm can be

identified even though the turbines are sky-lined and in relatively full view. The machines do not possess a massing or scale that could be considered a large feature within the overall landscape.

There is no negative impact upon the conservation area from this view.

VP6 – this viewpoint has presumably been chosen to show the effect of distance on the visual impact of the turbines as it is much further to the north – 2.8km to the north-west.

From this range the photomontage is able to show the turbine group in a much larger landscape setting of moorland and croftland sweeping down to the Lochbay coastline. Surprisingly, although at a relatively long distance from the viewer, the turbine group is clearly visible in this picture. They sit a little further forward in the landscape than some of the larger transmission poles and this gives them a little extra visual prominence.

However, it has to be concluded that although the turbines are visible, their impact upon the landscape can in no way be regarded as unacceptably harmful. They remain back-dropped against rising upland and demonstrate the scale of the surrounding landscape and its capacity to absorb development of this size.

In conclusion, it is considered that the chosen visualisations do much to support the application and its contention that this group of small turbines will not have any undue or negative impacts upon its wider landscape setting, the special landscape area or the conservation area. The proposal is considered acceptable in this regard.

Noise Impact – In his initial consultation response, the Environmental Health Officer concluded that the combined noise output from these turbines when assessed in respect of the nearest dwellings (317 – 352m away), was 45.07dB(A) and greatly exceeded the 40dB(A) screening level. This was likely to result in a loss of amenity for residents it was concluded.

After some lengthy discussions between the agent and Environmental Health officers in respect of alternative methodologies, the agent submitted further background noise data for the site as recommended.

The EH Officer was able to conclude, on making an assessment of this data, that it was large enough to effectively mask the noise of the turbines and thus bring their noise impact into acceptable levels. The EH objection was therefore removed.

Ecology – as stated within the submitted design and access document, this area is not statutorily protected as habitat for any protected species and there is no widely accepted evidence suggesting that turbines of this size represent a material danger to birds or other protected species.

However, a number of the third party comments received have suggested that Hen Harriers, Corncrakes and White-tailed Eagles have been sited in the vicinity of the application site.

In response to these comments and in recognition of the Policy 58 requirement to assess whether further survey work should be carried out, the case officer sought the opinion of the local SNH office. SNH were able to speak to both the local Raptor Study Group and RSPB Corncrake officer and made the following observations;

- *“Although Waternish is a hotspot for corncrakes on Skye, RSPB have no records of corncrakes in the vicinity of the proposal so there is an extremely low risk of impacts on this species in this location. In addition, SNH modelling on effects of similar turbines on a corncrake SPA showed no likely population effect.*
- *White tailed eagles are undoubtedly present in the area, but risks to this species are very low with turbines this height, especially given that the nearest nest/roost is a number of km from the proposal.*
- *The known hen harrier nest sites in the area are not near the proposal and the Raptor Study Group are not aware of hen harrier sightings in this specific location. Although it is still credible that they use the area, it is very unlikely that a proposal of this scale would have any effect on these birds, especially without a nest nearby.”*

Consequently, further survey information is not considered necessary because any level of risk to the Corncrake, Hen Harrier and/or White-tailed Eagle population is far too small to result in an ‘adverse effect’ on the local or national population of these species.

Croftland – The Grazings Committee have identified a concern that animals being moved through a gate to the common grazings lying close to the turbines will be startled by them and cause difficulties for local crofters herding their beasts.

Whilst it is recognised that this possibility exists, it is also noted that these same animals appear to readily assimilate to man-made movement and sound and will happily graze on the verges of busy roads without undue distress or panic. It is considered that the animals will become accustomed to the noise and movement patterns of the turbines. Little weight can be attached to this concern in the overall determination of the application.

Access – the application states that construction traffic will consist of mini-diggers only and will be greatly facilitated by the existing WTW access track from the road.

Conditions – standard conditions are recommended.

8.5 **Other Considerations – not material**

- Several third party comments suggested that hydro-power derived from the Lusta burn would be a better method of generating renewable energy. This may be the case, but the application has to be determined on its merits and not by reference to other development proposals which, at present, are purely speculative.
- The need for 3 turbines has been questioned, but again, the application must be determined as submitted – there is no policy support for a suggestion of an upper generating limit.
- The Grazings Committee have indicated an on-going land ownership ‘dispute’ in respect of the WTW. Although this could have serious ramifications for this development it is not a material consideration for this determination.

8.6 **Matters to be secured by Section 75 Agreement**

None

9. CONCLUSION

- 9.1 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. RECOMMENDATION

Action required before decision issued N

Subject to the above, it is recommended the application be **Granted** subject to the following conditions and reasons;

1. This planning permission shall expire and cease to have effect after a period of 30 years from the date of this decision notice. Upon the expiration of a period of 25 years from the date of this decision notice, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of the Decommissioning and Restoration Plan approved under condition 3 of this permission.

Reason : Wind turbines have a projected lifespan of 25 years, after which their condition is likely to be such that they require to be replaced, both in terms of technical and environmental considerations. This limited consent period also enables a review and, if required, reassessment to be made of the environmental impacts of the development and the success, or otherwise, of noise impact, species protection, habitat management and mitigation measures. The 30 year cessation date allows for a 5 year period to complete commissioning and site restoration work.

2. The developer shall, at all times after the date when electricity is first exported from the approved wind turbine, record information regarding the monthly supply of electricity and retain the information for a period of at least 12 months. The information shall be made available to the Planning Authority within one month of any request by them. In the event that the wind turbine, once installed and commissioned, fails to supply electricity for a continuous period of 6 months, then the wind turbine in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine, along with any ancillary equipment, fixtures and fittings not required in connection with retained turbines, shall, within 3 months of the end of the said continuous 6 month period, be dismantled and removed from the site and the surrounding land fully reinstated in accordance with a Decommissioning and Restoration Plan which shall first be submitted to, and approved in writing by, the Planning Authority.

Reason : To ensure that any redundant or non-functional wind turbines are removed from site; in the interests of safety, amenity and environmental protection

3. No later than 12 months prior to the decommissioning of the development, a detailed Decommissioning and Restoration Plan, shall be submitted to, and approved in writing by, the Planning Authority.

For the avoidance of doubt, the DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. The detailed Decommissioning and Restoration Plan shall be implemented as approved.

Reason : To ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.

4. The development hereby approved shall not be carried out other than utilising the Evance R9000 model turbine featured in the Acoustic Noise Assessment report submitted with the application.

Reason: To define and control the permission in respect of visual and noise receptor amenity

REASON FOR DECISION

The proposal accords with the provisions of the Development Plan and applicable supplementary guidance. There are no material considerations which would warrant refusal of the application.

TIME LIMITS

LIMIT FOR THE IMPLEMENTATION OF THIS PLANNING PERMISSION

In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as dropped kerb consent, a road openings permit, occupation of the road permit etc.) from TECS Roads prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local TECS Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport/roads/Applicationformsforroadoccupation.htm>

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Notification to Ministry of Defence and Others

Before development commences the developer should provide the Ministry of Defence (MoD), the Defence Geographic Centre (AIS Information Centre), National Air Traffic Services (NATS) and Highlands & Islands Airports Ltd (HIAL) (copied to the Planning Authority) the following information in writing:

- i. The dates that construction will commence on site and will be complete;
- ii. The maximum height of each wind turbine, mast and construction-related equipment (such as cranes);
- iii. A description of all structures exceeding 90m in height;
- iv. The height above ground level of the tallest structure within the site;
- v. The latitude and longitude of every proposed wind turbine and mast;
- vi. The number of rotor blades on each turbine; and
- vii. The total number of turbines and the total generation capacity of the windfarm.

Signature:

Designation: Area Planning Manager North

Author: Mark Harvey

Background Papers: Documents referred to in report and in case file.

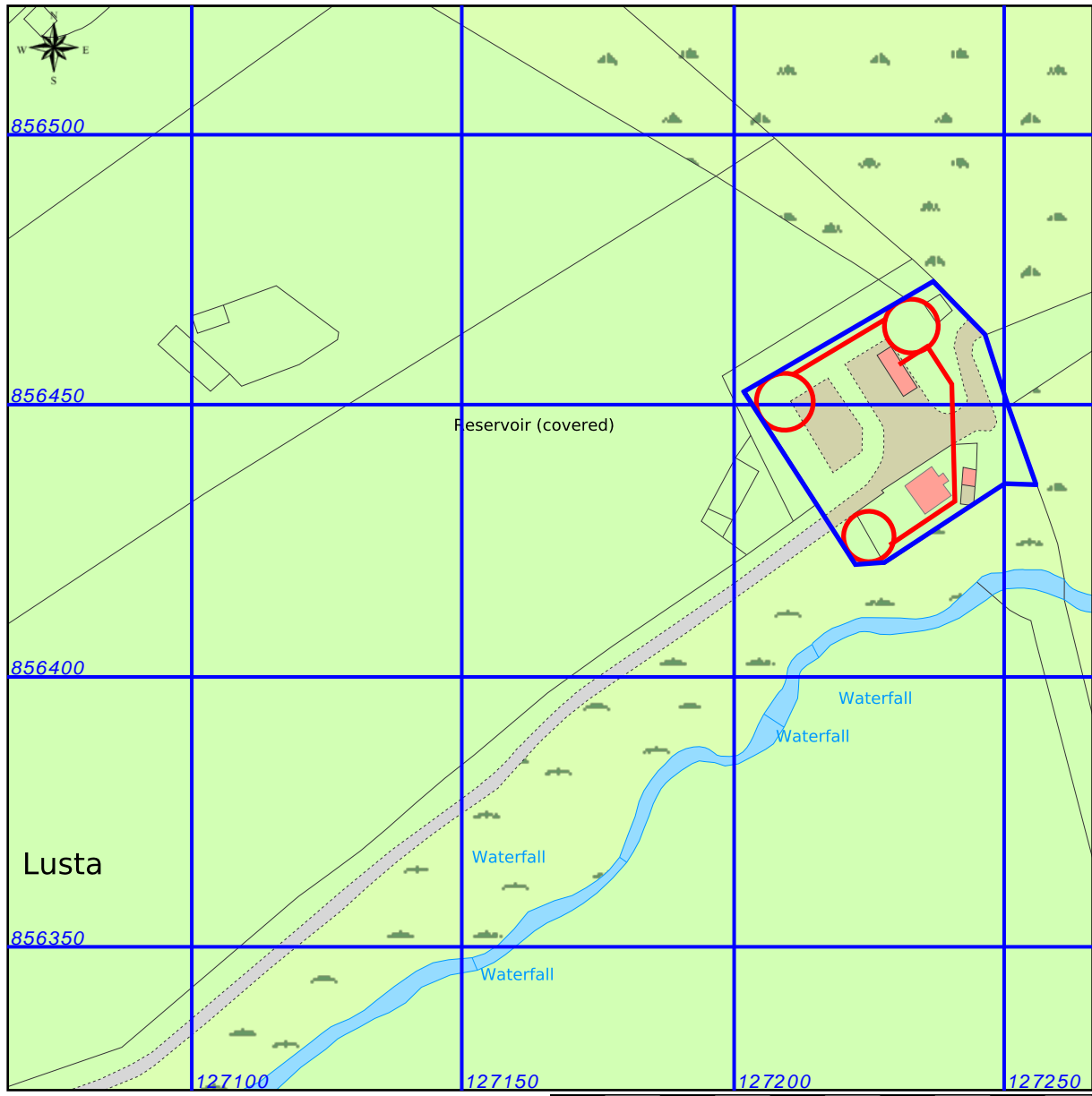
Relevant Plans: Plan 1 – Location Plan

Plan 2 – Elevations

Appendix – Letters of Representation

Name	Address	Date Received	For/Against
Mr Clive Hartwell on behalf of the Lochbay Township Grazings Committee	17 Lochbay, Waternish	5 Oct 2012 & 22 Oct 2012	Against
Theresa McGhie as Chair of “Visit Waternish”	Stein Parks Cottage, Waternish	5 Oct 2012	Against
Waternish Community Council	c/o Elaine Robertson, Tigh Seanair, 15 Lochbay, Waternish	4 Oct 2012 & 8 Aug 2013	Against
Mr Angus McGhie	Stein Inn, Waternish	9 Aug 2013	Against

Waternish WTW Site Location Plan



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0m 10m 20m 30m 40m 50m 60m 70m 80m 90m

Scale: 1:1250, paper size: A4

Figure 5: Evance R9000 and 18m Tower Dimensions

