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Energy Division

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Dear Mitsuoka

REFUSAL OF CONSENT BY THE SCOTTISH MINISTERS FOR THE CONSTRUCTION AND OPERATION OF THE GLENKIRK WIND POWERED ELECTRICITY GENERATING STATION, BALNESPICK ESTATE, NORTH-EAST OF TOMATIN IN THE PLANNING AREA OF THE HIGHLAND COUNCIL.

Application

I refer to the Application made by Eurus Energy UK Limited, ("the Company") dated 23 May 2005 for consent under section 36 of the Electricity Act 1989 ("The Electricity Act") for construction and operation of Glenkirk wind farm electricity generating station on land within the Balnespick Estate and Forestry Commission land to the north-east of Tomatin, in the planning area of the Highland Council with a generation capacity of up to 102MW, subsequently reduced to 78MW after consultation.

Consultation

In accordance with statutory requirements, advertisements of the Application had to be placed in the local and national press. Ministers note that these requirements have been met. Under Schedule 8 of the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent application.

Notifications were sent to The Highland Council as the Planning Authority, as well as to Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA).

The objection from the Highland Council was maintained and a public local inquiry held to jointly consider both this application and Infinergy's application for the proposed Tom nan Clach wind farm development, as both sites lie close to each other in an upland area to the north of the Cairngorms National Park.

Over 1100 objections had been made at the time the application was sent to Public Local Inquiry and 1325 objections overall. The details of the main concerns and opinions expressed in the responses received from consultees are summarised in the annex to this letter.

The public local inquiry was held with Inquiry sessions occurring between 23 and 25 August 2011, and 7 and 9 September 2011. The Reporter conducted accompanied inspections of the site and its surroundings on 25 August 2011 and 1 September 2011. The Reporter, Mr Dannie Onn, considered the application under section 36 of the Electricity Act 1989.

Main issues, findings and recommendations of the Report

The reporter recommends that the Section 36 application be refused and that no deemed planning permission should therefore be granted.

The report concludes that based on the evidence, including site inspections, presented to the reporter, the determining issues are deemed to be the landscape and visual impacts of the proposed wind farm and whether other relevant considerations indicate that consent should be given.

The report finds that the proposed wind farm would have a significant impact on the setting of the Cairngorms National Park and the scenic qualities of the proposed Drynachan, Lochindorb and Dava Moor Special Landscape Area. It would also dominate the scenic Findhorn Valley where it is crossed by the A9 and rail corridor. It would therefore not preserve the natural beauty of the area.

In addition the report also concludes that, overall, the proposal would not be consistent with the policies of the development plan, in particular policy 67 of the Highland Wide Local Development Plan, which was adopted in April 2012. It would also conflict with SNH guidance on the siting and designing of wind farms. In views from the east and west, the disjointed linear form along the skyline would be harmful to the special qualities of the pSLA and out of scale with the scenic Findhorn valley at Tomatin. The proximity to the national park boundary would harm its setting by distracting from the immediate backdrop to Strathspey when seen from the central mountain ranges of the park. The harmful visual impacts would not be outweighed by the renewable energy benefits, nor by the lack of any significant cumulative impact on the national park and surrounding hills.

Environmental matters

An Environmental Statement was produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations"). The environmental information, as defined in those regulations has been taken into consideration and the Scottish Ministers are satisfied that the applicable procedures regarding publicity and consultation laid down in those regulations have been followed.

Schedule 9 of the Act places a duty on the Company to have regard to 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. It requires the Company to do what it reasonably can to mitigate the effects that the Development would have on these features. Schedule 9 also requires that Scottish Ministers have regard to these features and the extent to which the Company has complied with this duty.

The Scottish Ministers have considered the characteristics and location of the development to be determined and its potential impacts on these matters and are of the view that, the Company has complied with the requirements of Schedule 9 of the Electricity Act 1989.

Paragraph 3 requires the Scottish Ministers to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Paragraph 3 of Schedule 9 also confers responsibility on the applicant to do what they 'reasonably can' to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

The consultation responses specifically raised concerns in relation to the potential impacts this development could have on flora, fauna, geological or physiographical features, buildings or objects of architectural, historic or archaeological interests. The Company sought to mitigate those impacts through a reduction in turbines and revision of the scheme. It is considered that such an action satisfies the duty imposed by paragraph 3(1)(b) of Schedule 9.

The Scottish Ministers Considerations

The Scottish Ministers have considered fully the Application and all Supplementary Environmental Information submitted in the form of addenda. Ministers have also considered all relevant consultation responses, third party representations received, the submissions of the interested parties to the PLI and the resultant PLI report.

Consistency with National Policy

Scottish Ministers aim to achieve a thriving renewables industry in Scotland, the focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. Scottish Ministers have considered material details of how this proposal can contribute to local or national economic development priorities as stated in Scottish Planning Policy (SPP). Ministers are satisfied that this development would make a valuable contribution towards renewable energy targets.

Cairngorms National Park was designated by Scottish Ministers in 2003. It is of outstanding national importance for its natural heritage in combination with its cultural heritage. The first statutory aim of designation of the park is the conservation and enhancement of the natural heritage of the area.

The Park Plan constitutes the policy of Scottish Ministers for managing the park. Section 14 of the National Parks (Scotland) Act 2000 requires Ministers to have regard to the Plan in exercising any function which has an effect on the park. In the case of consideration of an application under the Electricity Act 1989, this involves taking into account the Plan in particular in relation to the preservation of the natural beauty of the area .

Given that this would fall wholly into Scottish Ministers considerations in relation to Landscape and Visual Impacts, it is explored in further detail there. It can, however, be concluded that any proposal that contradicts the strategic objectives of the Park Plan can be said to be, by analogy, contrary to Scottish Government policy in relation to the National Park.

Consistency with Local Policy – Highland Council

In determining the consistency of the Glenkirk application with Highland Council planning policy, Scottish Ministers have considered the consultation response from Highland Council, the cases presented at Inquiry for both Highland Council and The Company, and the Findings of Fact of the Reporter, Dannie Onn.

Highland Council View

Highland Council objected to the Glenkirk development due to it being contrary to various policies within the Highland Structure Plan, Highland Renewable Energy Strategy and Planning Guidelines. These policies are listed and described in greater detail within the summary of Highland Council's consultation response.

The main objection of Highland Council in relation to Glenkirk relates to the Landscape and Visual impacts, which is discussed in greater detail below. Specifically, Highland Council asserted that the significant detrimental impact on Lochindorb and upon the special qualities of the Drynachan, Lochindorb and Dava Moor pSLA would be contrary to Highland Council policy. They also asserted that where the development plan supports renewable energy development, this is providing that its impacts are neither seriously adverse nor significantly detrimental, hence the proposal would be contrary to Highland Council Policy on further grounds. Highland Council also noted that the Glenkirk site was principally within an area where there is a presumption against major scale onshore wind development.

Applicant View

Eurus Energy agreed that Lochindorb is a key recreational centrepiece of the pSLA, however they considered that the wind farm would not be dominant in views from the loch shore and could be accommodated within views from within the SLA. The applicant further argued that the design of the wind farm is in line with SNH guidance on siting and designing and is an appropriate design response to the landscape character of the SLA.

Inquiry Reporter View

In his Report, the Inquiry Reporter, Mr Dannie Onn, concluded that the proposed wind farm would have significant adverse visual effects. These would be sufficiently detrimental to conflict with the general support of policy 67 of the Highland Wide Local Development Plan. The potential effect on amenity, tourism and recreation

interests would lead to further conflict with this policy. There would consequently be some conflict with policy 57, which provides a degree of protection to the pSLA.

View of Scottish Ministers

In relation to the consistency with the policies of The Highland Council, Ministers have considered the responses to the application consultation and the subsequent addenda, all public representations, the evidence submitted to the Inquiry and the conclusions of the Inquiry Reporter. Scottish Ministers share the viewpoint of the Reporter that the proposal conflicts with local planning policy.

Consistency with Local Policy – CNPA

In determining the consistency of the Glenkirk application with Cairngorms National Park Authority policy, Scottish Ministers have considered the consultation response from Cairngorms National Park Authority, the cases presented at Inquiry for both Cairngorms National Park Authority and The Company, and the Findings of Fact of the Reporter, Dannie Onn.

CNPA View

The objection of the CNPA is rooted in concerns in relation to landscape and visual impacts, further discussion of which can be found below. Specifically, CNPA state that while the Glenkirk Wind Farm is not situated within the park boundary, the application site is 2km away, placing it within the setting of the park. Given this, the Park Plan is a relevant consideration in the determination of the application. CNPA assert that the Glenkirk application is contrary to the first (maintenance and enhancement of the distinctive landscape), second (conservation and enhancement of the park's sense of wildness) and third (new development and infrastructure should be designed to enhance the landscape character of its setting) strategic objective for the park within the Park Plan, and given these impacts consent should be refused.

Applicant View

Eurus Energy recognised the importance of impacts on Cairngorms National Park as a consideration, but disagreed with the assessment of CNPA on the nature of these impacts. The applicant asserted that the NSA would not be subject to the scale of impacts that would compromise its integrity nor significantly affect the special qualities for which it was designated.

The applicant conceded that there would be some significant effects on landscape and visual receptors, but stated that it was important to consider the scale of the contribution Glenkirk Wind Farm would make to the renewable energy targets. The applicant stated that the SLA has a sufficient scale of landscape to accommodate the proposal. Its design would be sympathetic to the key qualities of the SLA and would fit cumulatively with other wind farms.

Inquiry Reporter View

The Reporter considered that the special qualities of the park could be affected by wind farms beyond their boundaries. Specifically, that the proposed Glenkirk turbines would stand out in the immediate backdrop of the hills beyond. That would draw the eye more readily than those further away. It would affect the immediate context and setting of Strathspey when viewed from the higher ground. There would

thus be a loss in the quality of the views northward from the heart of the park in some weather conditions. To some extent, the special qualities of the park would be harmed by this impact on its immediate setting.

The Reporter noted that wind farm developments have become established to the north of the park. They are now a part of its wider landscape setting in many directions. Cumulatively, a succession of further wind farm developments could appear to encircle the park. If too intrusive, that could appear to isolate this area from the wider Highland Landscape, of which it is a special part. That could be damaging to the character and experience of both. However, the Reporter considered that a sense of encirclement would be an unlikely consequence of the construction of Glenkirk. Significant gaps would remain between wind farms, distances from the viewer would vary and the discrete design of each would avoid the perception of a ring of turbines around the park boundary.

The Reporter concluded that there would be adverse visual impacts from the development close to the park boundary but found no significant harm in relation to the cumulative effects of the development with other wind farms or on gateways to the park.

View of Scottish Ministers

Scottish Ministers have had consideration of the responsibilities conferred upon them by the National Parks Act in the determination of this application. Ministers have considered the responses to the application consultation and the subsequent addenda, all public representations, the evidence submitted to the Inquiry and the conclusions of the Inquiry Reporter. Ministers conclude that there would be a significant impact on the setting of the park in views from its central mountain range, and, as such, could contradict the strategic objectives of CNPA, as detailed within the Park Plan.

Aviation

Scottish Ministers consulted with Highlands and Island Airports, NATS and Defence Estates at application consultation stage and for each subsequent addendum. The responses received from these Air Navigation Service Providers gave Ministers comfort that, subject to the application of suitable conditions, the proposals will have no adverse impact on airport safeguarding, or on air safety. As such, impact on aviation is not considered to be a ground on which consent should be refused.

Noise

Noise is classed as a Statutory Nuisance under Part III of the Environmental Protection Act 1990 and any states that enforcement action could be taken in cases of any noise emitted from premises so as to be prejudicial to health or a nuisance. Given that such enforcement action would be undertaken by the Planning Authority, and the expertise of the Planning Authority in the consideration of noise nuisance, Scottish Ministers have considered the content of the report by Highland Council in this regard.

In their report, Highland Council state that a noise prediction assessment was carried out for the nearest noise sensitive property and monitoring was also carried out 3 further locations. It was concluded that predicted noise level at any of these

locations would be below the lower absolute noise criteria contained within the ETSU-R-97 – *Recommended Good Practice on Controlling Noise from Wind Farms* (DTI, 1997) guidance and would be capable of complying with the conditions recommended by TEC Services – Environmental Health.

Highland Council noted to that ensure any noise from the development, or cumulative noise of this development alongside others, complies with the absolute noise criteria of ETSU-R-97, appropriate conditions should be applied to any consent. As such, concerns around noise are not considered a ground on which consent should be refused.

Public Representations

Representations from members of the public are a material consideration in the determination of applications under The Electricity Act. In considering this topic Ministers have had cognisance of the nature of the 1325 public representations received during the consideration of the application (comprising of the 1120 received prior to the Inquiry and the 215 received during the Inquiry and subsequent to the Inquiry). All of the representations received from members of the public were objections, and the majority of these objections were on the grounds of the potential detrimental impact on visual amenity, tourism and recreational use of the area.

Scottish Ministers assessment on these individual matters can be found under the relevant headings below. Ministers conclude that the volume of objections from members of the public, when considered alongside the submissions of Strathdearn Against Wind Farm Development, Save Our Dava, Strathdearn Community Council and Grantown-on-Spey & Vicinity Community Council are indicative of the strong local feeling in respect of this proposal.

Landscape and Visual Impacts

Scottish Ministers are aware of the importance of the consideration landscape and visual impact in the determination of this application. Ministers consider this aspect to be the main determining issue in their consideration of this proposal. The proposed Glenkirk wind farm site lies approximately 100m from the north-west boundary of the Cairngorms National Park, although the nearest turbine would be approximately 1.6km away from the national park. Of the 26 turbines, just under half (12) would be within the proposed Drynachan, Lochindorb and Dava Moor Special Landscape Area.

Consultation responses received from Cairngorms National Park Authority, Highland Council, Scottish Natural Heritage, Strathdearn Against Wind Farms, Save our Dava, Strathdearn Community Council, Grantown-on-Spey & Vicinity Community Council, Dulnain Bridge & Vicinity Community Council and 1258 of the 1325 public representations to the development were objections on grounds of Landscape and Visual Amenity.

The concerns in relation to landscape and visual amenity are divided into two separate potential impacts: impact on the Cairngorms National Park; impact on the proposed Drynachan, Lochindorb and Dava Moor Special Landscape Area

View of the Consultees

As detailed above, both CNPA and The Highland Council argued that the landscape and visual impacts of the proposed development were significant and adverse, and as such contradicted both local planning policy and the strategic objectives within the Park Plan. This view was reinforced by SNH (Scottish Ministers statutory advisors on natural heritage) who raised significant concerns in relation to the proposed development. SNH consider that a wind farm can be accommodated within the vicinity of the Glenkirk/Tom Na Clach area, but that the proposed Glenkirk development would have significant adverse landscape and visual impacts. SNH note that the removal of 5 turbines from the Glenkirk development - reducing the number of turbines to 26 - would not reduce the 'significance' of effects assessed (and, therefore, material considerations for determination) in relation to the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) (previously referred to as AGLV), landscape character and visual amenity (Settlements; Main Roads; Railway and from the 20 viewpoints originally assessed in the ES). SNH considered that the Glenkirk Wind Farm would have significant adverse landscape impacts from key viewpoints. They were of the opinion that the wind farm would attract the eye and become a new focus of view and that this would have an impact on key views from the park. The intrusion of turbines into these views would dominate or interrupt the strong sense of remoteness and naturalness.

View of the Applicant

Eurus Energy did not share the views of the above consultees in relation to landscape and visual impacts. The applicant was of the opinion that the design of the wind farm has responded to the visibility of the site, particularly from the pSLA to the east and the A9 trunk road and rail line to the west. The applicant acknowledges the importance of Lochindorb as a centre of recreational use within the pSLA but notes that some of the key landscape and visual characteristics identified in the citation for the SLA are those identified by SNH as most suitable for wind farm development. The applicant refutes that the wind farm would be dominant in views from the pSLA.

In relation to landscape and visual impacts on the Cairngorms National Park the applicant asserts that Glenkirk would be a small part of a large-scale landscape and that any significant effects would occur in the less sensitive areas which have been more man-modified.

View of the Inquiry Reporter

The Reporter concluded that there would be a significant impact on the setting of the park in views from its central mountain range and to a lesser extent from the surrounding hills. There would also be a significant impact at Lochindorb. Closer by, the views would be radically altered. In the area around Tomatin, the turbines would dominate the landscape, appearing overbearing. They would seem to overwhelm the visible extent of the skyline there.

View of Scottish Ministers

Scottish Ministers have considered the responses to the application consultation and the subsequent addenda, all public representations, the evidence submitted to the Inquiry and the conclusions of the Inquiry Reporter. Ministers are aware of the duties placed on them under Schedule 9 of The Electricity Act, specifically the desirability of preserving natural beauty, of conserving flora, fauna and geological or

physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. Ministers are aware of their duty to both consider these matters and to consider the extent to which the applicant has complied with their duty to do what they reasonably can to mitigate any effect their proposal would have on these matters.

Ministers conclude that the landscape and visual impacts of the Glenkirk development would be significant and adverse and that the mitigation suggested by the developer (in the form of a reduced scheme) has done little to alter this position.

Socio-Economic Benefits

Scottish Planning Policy (SPP) advises that economic benefits are material issues which must be taken into account as part of the determination process.

SPP also confirms Scottish Ministers aim to achieve a thriving renewables industry in Scotland. The focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. The planning system has a key role in supporting this aim and Scottish Ministers should consider material details of how the proposal can contribute to local or national economic development priorities as stated in SPP.

Scottish Ministers recognise that the socio-economic benefits of a development are a material consideration in the determination of the application for that development. In this regard, the applicant considers that the benefits accrued would be:

- After a 10-12 month construction period current access to the operational wind farm site will be easier due to the presence of upgraded access tracks through the forested area.
- The proposed wind farm would generate direct, and some indirect, employment opportunities for local people during the period of construction. There would also be some opportunities for employment during the operation of the wind farm.
- Some opportunities for local businesses to supply goods and services.
- Opportunities for local accommodation providers to temporarily increase occupancy levels within their hotels and bed & breakfast facilities during the construction period.
- The potential for local industries to diversify into the renewables manufacturing section, dependent upon the outcome of the projects tendering processes.
- A potential educational resource provided by possible interpretation signage to be located on-site
- Diversification of rural land use for Estate owners
- Potential opportunities for direct benefit to the local community through a community fund.
- 70 full-time jobs during the construction period, including high value jobs associated with civil engineering, construction and manufacture of towers.
- A further 2 to 3 jobs would be created for full-time maintenance of the wind farm, once operational

Scottish Ministers consider that the socio-economic benefits of this scheme do not outweigh the potential detrimental impact in terms of landscape and visual amenity.

Tourism, recreation and amenity

Scottish Ministers recognise the importance of tourism, recreation and amenity to both the Cairngorms National Park and surrounding area, with 1.4 million visitors per year to the Park. One of the long-term outcomes for the park as detailed within the Park Plan is that 'The Cairngorms National Park will be an internationally recognised world class sustainable tourism destination that consistently exceeds residents' and visitors' expectations in terms of quality of environment, services and experience.'

The Reporter concludes that a detrimental impact on the landscape and visual amenity of an area must inevitably affect decisions by tourists on whether or not to visit. The Reporter also concludes that the scale and prevalence of wind farms has increased since the Moffat Report was published in 2008, and that it is possible that increasing wind development will progressively affect tourism.

Scottish Ministers accept the view of the Reporter in relation to landscape and visual amenity, and conclude (as detailed above) that the impact of the Glenkirk wind farm on the landscape would be significant and adverse. However, the link between this impact, and the decision by tourists to visit a particular area has not been proven, nor is there evidence to disprove the conclusions of the Moffat Report, which was commissioned by the Scottish Government and published in 2008.

Ecology, Habitats and Species

Scottish Ministers acknowledge that the initial concerns expressed by SNH in relation to effects on otters, bats, bird species, wildcats, red squirrel and blanket bog were withdrawn following the submission of Supplementary Environmental Information. Scottish Ministers also acknowledge that alterations in the layout of the scheme, including the removal of several turbines, allowed RSPB to withdraw their objection to the development.

The Environmental Statement notes that there are no statutory or non-statutory designated sites within the study area (an area of 10.73km²). There is no potential for the development to impact on the qualifying interests of a European Designated site, hence no requirement on Ministers to conduct an Appropriate Assessment.

Given this comfort, Scottish Ministers consider that impact on Ecology, Habitats and Species is not a ground on which consent should be refused.

Hydrological Impact (including peat slide)

When considering the hydrological impact of the development, including the risk of peat slide, Scottish Ministers have considered the information provided by applicant in the Environmental Statement and subsequent Supplementary Environmental Information statements (addenda), the responses to the application and addenda consultations, specifically those from Forestry Civil Engineering and SEPA and the views of the Inquiry Reporter.

It is noted that the initial concerns by Forestry Civil Engineering were satisfied by the submission of further information. SEPA noted that peat slide assessment is not

within their main area of expertise but advised that any mitigation should be included in the Environmental Management Plan they proposed be a condition of any consent. The Reporter concluded that despite mitigation and the application of appropriate conditions, some risk would remain from heavy rainfall and pockets of wet ground. The Reporter noted that these effects were likely to be localised and the risk could be minimized through monitoring and adjustment of turbine bases and access tracks.

Given this comfort, Scottish Ministers consider that impact on hydrology is not a ground on which consent should be refused.

Environmental Benefits

Scottish Ministers recognise the potential environmental benefits of this scheme. If consented, the proposed project could result in an increase in the amount of renewable energy produced in Scotland. The electricity generated by this 78 MW, 26-turbine wind farm development could annually generate renewable electricity equivalent to the consumption of an estimated 36,000 households.

Scottish Ministers consider that the environmental benefits of this scheme do not outweigh the potential detrimental impact in terms of landscape and visual amenity.

The Scottish Ministers' Determination

Scottish Ministers have concluded that consent under section 36 of the Electricity Act 1989 should be refused and that no deemed planning permission be granted.

1. In reaching their decision, the Scottish Ministers have taken into account the environmental information submitted with the Application including the Environmental Statement, the representations made by statutory consultative bodies and further representations received, including all objections in accordance with the Electricity Works (Environmental Impact Assessment)(Scotland) Regulations 2000, and in the context of the expert advice provided by statutory consultees and Government energy and climate change policy.

Scottish Ministers have also considered carefully the Reporter's findings, reasoning, conclusions and recommendation thereon. Scottish Ministers, other than to the extent that they are inconsistent with the views expressed above, adopt the Reporter's findings, reasoning and conclusions, and agree with the Reporter that consent under section 36 of the Electricity Act 1989 be refused and so no deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 be granted.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended), the Company must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

Copies of this letter have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents and Deployment Unit website.

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 –

<http://www.scotcourts.gov.uk/session/rules/print/rules/CHAP58.pdf>

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

Yours sincerely

A large black rectangular redaction box covering the signature area.

SIMON COOTE

Head of Energy Consents and Deployment Unit

A member of the staff of the Scottish Ministers

Summary of the main concerns and opinions expressed in the responses received from consultees are summarised

Statutory Consultees

SEPA – No objection. They state however that they would expect planning conditions to cover the following points:

- Full site specific construction method statement to be agreed by the planning authority in consultation with the SEPA and SNH.
- A planning condition requiring that full details of bridging (rather than culverting) solution for all water crossings be submitted to and approved in consultation with SEPA prior to the works commencing on the site.
- No turbine closer than 50 metres to a watercourse.
- SEPA states that no impact of the re-opening of three existing borrow pits intended to supply the bulk of the stone has been detailed. If the re-opening of the borrow pits is subject to a separate planning application SEPA would welcome the opportunity to be consulted.

They have also commented on the managements of Peat Slide, Foul Drainage and Private Water Supplies and they note that the issues of Carbon Balance has been addressed within the Environmental Statement.

SNH – SNH objected to the initial application stating that the proposal would have significant adverse landscape and visual impacts. It also objected due to there being insufficient information on bats and otter, although it said additional information could address this. It suggested that there may be scope for a sensitively designed wind farm of a lesser scale in this general area providing that it does not visually dominate the landscape, adding that there would then be no scope for further development in the vicinity without significant adverse landscape impacts. It made a number of recommendations including:

- removal or relocation of 7 turbines in proximity to the habitats of wading birds Dunlin and Golden plover;
- conducting collision risk assessment for Golden plover;
- making a clear statement of the precautionary approach and mitigation measures that will be taken to avoid disturbance to wildcat;
- providing more detail on measure that will be taken to mitigate impacts on red squirrel, including through future management of woodland on site;
- the use of alternatives to lateral drains with tracks, which it considers inappropriate on blanket bogs;
- that there be further studies carried out under the peatslide risk assessment to assess the sedimentation risk for riverine/estuarine species.

SNH subsequently withdrew its objection after considering the revised proposal in the Company's first addendum to the Environmental Statement, but clarified that it

had not drawn any conclusions on the impact on the landscapes of the Cairngorms National Park, which would be a matter for the Cairngorms National Park Authority. It recommended that any decision to consent should be subject to conditions safeguarding natural heritage, including:

- additional surveys for breeding waders;
- avoiding construction works during the breeding season for waders round certain turbines;
- steps to be taken to mitigate possible impacts on European Protected Species otter, bats and wildcat;
- pre-construction surveys for red squirrel so that steps can be taken and agreed with SNH to mitigate possible impacts on their dreys;

SNH noted that the revised layout had reduced the landscape and visual impact and reiterated its advice from the December 2005 letter that, should this proposal proceed, there would be no scope for further wind farm developments immediately to the north and east without significant adverse landscape impacts.

After considering the Company's second addendum, SNH concluded that it was satisfied that studies conducted by the Company demonstrated that there were no signs of pine marten or water vole and only limited field signs of red squirrel; that there were no suitable potential bat roost sites that would be affected by the Development; that there was evidence of otter but no sign of structures for their shelter or protection; and that while there was habitat which wildcat may use periodically there were no signs of wildcat on site. It recommended further conditions for any consent, including

- production of a protected mammals method statement
- use of a free span replacement bridge at Allt Seileach
- the mitigation measures set out in paragraph 6.1.1.1 of the Environmental Statement

Commenting on the third addendum, SNH indicated it had reservations about the quality of the cumulative assessment of Glenkirk and Tom nan Clach provided by the Company, which it regarded as incomplete, and therefore SNH said it would not be able to provide Ministers with detailed advice on that assessment. It referred to the cumulative assessment provided via the Tom nan Clach application which it advised it was broadly in agreement with and advised Ministers that the development of both Glenkirk and Tom nan Clach would increase the severity of these residual landscape and visual impacts and would exceed the capacity of the combined site.

SNH advised Ministers that the peat slide assessment which comprised the fourth addendum had neglected to include the potential impact of peat entering the freshwater environment. It supported SEPA's advice that a site specific environmental management plan (EMP) should be produced at least two months prior to work commencing on site, and that this should include details of how site waste and peat would be managed. It made a number of technical comments on the assessment regarding issues such as the need for greater clarity on the methodology, more up to date sampling, road construction methodology, forestry and forest management and their impacts on site hydrology.

After considering the fifth addendum, SNH indicated that although there was a reduction in the number of turbines, there was no significant change to the

landscape and visual impact of the proposal. It confirmed that its advice to Ministers remained broadly unchanged, and highlighted some inconsistencies between landscape and visual summary statements in the cumulative assessment which it considered misleading. It reemphasised that the differing arrangement and composition of the Glenkirk and Tom nan Clach Wind farms is contrary to current SNH guidance and that the proposed revisions in this addendum do not mitigate these types of cumulative effects. It also added that it left consideration of the Tourism and Recreation Impact Assessment and Peat Slide Risk aspects of the addendum to other consultees and did not comment on these.

Highland Council - Objection. Response to consultation and addenda was received on the 31 August 2010 following a meeting by the Inverness, Nairn, Badenoch and Strathspey Planning Applications committee on 27 August 2010. The committee took this decision having heard from that applicant, community councils and objectors.

The reason for the objection are:

A. Under the Town and Country Planning (Scotland) Act 1997 that:

1. The proposal is contrary to Policy E2 of the Highland Structure Plan, with regard to Wind Energy development, and Policy G2 of the Highland Structure Plan, Design for Sustainability, as it would have a significant detrimental impact upon the visual amenity and enjoyment of Lochindorb and its surrounding area, both on its own and cumulatively with Tom Nan Clach wind farm.
2. The proposal is contrary to Policy E2 of the Highland Structure Plan, with regard to Wind Energy development, and Policy G6 of the Highland Structure Plan, Conservation and Promotion of Highland Heritage, as it would have a significant detrimental impact upon the special qualities of the Drynachan, Lochindorb and Dava Moor Area of Great Landscape value/Special Landscape Area, both on its own and cumulatively with Tom Nan Clach wind farm.

B. Under the Electricity Act 1989 that:

1. The proposal would not preserve the natural beauty of the area surrounding the application site as envisaged under Schedule 9(3)(2) of the 1989 Act.

Non-Statutory Consultees

Cairngorms National Park Authority – Objection, the proposal would lead to an unacceptable degree of adverse visual impact upon the character of the Cairngorms National Park from the Glenkirk proposal itself and cumulatively with other built/consented/proposed wind farms. The unique character of the environment and the modern and traditional sporting activities attracts many tourists. They consider that the evidence of the economic impacts provided in the statement is inconclusive. In addition they believe that the proposal has the potential to set a precedence for further wind farms to be located in close proximity to the boundaries of nationally and

internationally recognised landscape. They have also highlighted that whilst not formally objecting on the grounds of impacts to bird species in the area that the proposal may affect some species such as Golden Eagles.

Civil Aviation Authority – Highlighted that there may have to be an agreement to install aviation obstruction lighting and that there is a UK requirement for all structures over 300 feet high to be charted on aviation maps.

The Climate Change Team – No objection.

The Crown Estate – No objection, no comment

Defence Estates – No objection, information on the development commencement and completion dates, heights of construction structures position and dimensions of masts requested.

Forestry Commission – No objection – no significant effects on neighbouring woodlands

Highlands and Islands Airports Limited – No objection

Historic Scotland – No objection, no comment.

HSE – No comment

Forestry Commission – No objection – no significant effects on neighbouring woodlands

JMP Consulting on behalf of SG Trunk Road Network Division – No objection recommendation that authorisation from Highways Agency for movement of difficult loads.

Licensing and Wildlife Crime Team – No Objection. They requested that further survey work on birds and mammals be undertaken prior to the start of the construction highlighting potential issues with Bats, Otters, Wildcats, Red Squirrels and Water voles. They also agreed with SNH's recommendation that that mitigation measures to reduce the effects of the breeding wader population. be considered and fully documented in the Ecological Statement of Works and that the collision risk calculations be revisited and resubmitted so that an accurate assessment can be made as to the effects of the development.

NATS – Objection, further information requested. The O.S. Grid references for the wind turbine (eastings and northings).

Ofcom – Ofcom did not respond to the Scottish Government's Consultation directly but informed Highland Council that no civil fixed links should be affected by the proposal.

RSPB – No objection.

Tinsley (Branston) Farms Ltd – No objection , however concerns over proposed access routes expressed and lack of consultation on this issue with the Company.

Water Environment Division – No objection, no comment