THE HIGHLAND COUNCIL

Agenda Item	6.1
Report No	PLS 087/15

SOUTH PLANNING APPLICATIONS COMMITTEE
14 December 2015

15/03286/FUL: Nanclach Limited
Tom Nan Clach Wind Farm, Glenferness

Report by Head of Planning and Building Standards

SUMMARY

Description: Application for the erection of 13 wind turbines, including site tracks, crane hardstanding, 80m permanent anemometer mast, substation compound, temporary construction compound and provision for 3 onsite borrow pits (Tom nan Clach Wind Farm).

Recommendation: GRANT planning permission.

Ward: 19 – Nairn

Development category: Major

Pre-determination hearing: None

Reason referred to Committee: Major development

1.0 PROPOSED DEVELOPMENT

1.1 This proposal follows on from a grant of planning permission, on appeal, for a 17 turbine development with an output of 39MW. The scheme has undergone further site optimisation study work and as a consequence has been re-designed - a process that the applicant refers to as 're-powering'. The proposal is now for 13 larger wind turbines with a combined output of 39MW (up to 3MW each), along with the associated infrastructure including control building, cabling, access tracks, watercourse crossings and hard standings, as well as a permanent anemometer mast and three on-site borrow pits. While there are fewer turbines with the same overall output the applicant believes that overall energy yield will increase by as much as 26%.

1.2 The model of proposed wind turbine is unspecified but the proposal is for a type with an overall height of 125 metres to blade tip. For the purpose of assessment the height of tower is assumed as 75m and rotor diameter 105m. The turbine height within the approved scheme is 110m.

1.3 Access to the site will be from a new junction on the B9007. This access road will be around 18km in length and involve the construction of seven new watercourse crossings. The track will have a typical running surface width of 5m.

1.4 The power produced by the turbines will be fed to a substation building, located at the southern edge of the site. No details of the proposed substation building have been given but the proposed compound will measure approximately 170m x 80m. The substation building would house switchgear, control and monitoring computers. It is likely that there would be office accommodation and welfare provision. Cabling connecting wind turbines to the substation is to be laid underground.

1.5 Although likely to be subject of a separate application under Section 37 of the Electricity Act 1989 the applicant anticipates that the grid connection would be to a new substation in Tomatin. A wooden pole type arrangement is most likely, although not confirmed.

1.6 There is potential for three borrow pits on the site, with borrow pit search area A lying outwith the original site boundary adjacent to the B9007 access. It is estimated that as much as 212,000m^3 of material could be available for use. This quantity is estimated to be required for track construction, crane hardstanding areas, as well as aggregate for the manufacture of concrete.

1.7 The development has an anticipated operational life of 25 years whereupon the turbines would be removed from site. The applicant intends to restore the access tracks as appropriate. Turbine foundations would be reduced to below ground level where required although the remaining foundations would remain in-situ. This restoration is estimated to take 12 months to complete.

1.8 As the proposal involves Environmental Impact Assessment development, the application is supported by an Environmental Statement (ES).

2.0 SITE DESCRIPTION

2.1 The wind farm site lies approximately 8km to the northeast of the nearest settlement of Tomatin, 14km south of Cawdor and 16km north-west of Grantown-on-Spey. The application site forms part of the upland land holdings of Cawdor Estate, an area used principally for grouse shooting, although part of the application site, required for the access track, is owned by the neighbouring Lethan Estate.

2.2 The proposed wind farm and access track lie within the catchment of the River Findhorn. The wind farm site includes several small watercourses; Allt a Choire Buidhe, Caochan a Ghibhais and Allt a Choire that flow north-west to the Findhorn and the Allt Carn an t-Sean Liathanaich and Allt an t-Slugain Mhoir, tributaries of the Rhilean Burn, that flow north to the Findhorn 8km upstream. The access track crosses the Rhilean Burn, Leonach Burn and the Tomlachan Burn which all drain to the north. The predominant habitat on the site is blanket bog, a priority habitat under the EC 'Habitats' Directive.

2.3 There are no statutory natural heritage designations on the site. However, parts of the site, for example those areas adjacent to the principal watercourses and the young pine woodland areas adjacent to the borrow pit search area A, are likely to support otter and wildcat respectively, both of which are European Protected Species (EPS). In addition, the habitat is likely to support breeding peregrine, golden plover and merlin, which are protected under the EC Birds Directive, as well as providing foraging for hen harrier, golden eagle and red kite. Black grouse lek sites have been known to exist within the site and surveys have identified some suitable habitat around the borrow pit search area A.

2.4 There are a number of statutory designated sites in the wider area (i.e. within 10 km of the proposed wind farm):

- Carn nan Tri-Tighearnan Sits of Special Scientific Interest (SSSI)/Special Area of Conservation (SAC) (NH 83292 38819) is the nearest statutory designated site for nature conservation and is approximately 1.3 km to the northeast of proposed wind farm and 2 km to the northeast of the proposed access track. The qualifying interests of the site are Blanket Bog and upland habitats including sub-alpine dry heaths;

- Slochd SAC (NH 82159 27049) is approximately 7.5 km south of the wind farm and 9 km south of the access track. The qualifying interests of the site are European Dry Heath;

- Kinveachy Forest SSSI, Special Protection Area (SPA) and SAC (NH 85744 17432) (NH849 169) is approximately 12 km to the south of the wind farm and 13.5 km south of the access track. The qualifying interests of the site is Capercaillie;

- Cawdor Wood SSSI (NH84882 48667) is situated approximately 12 km to the north of the wind farm and 10.5 km north of the access track;

- Moidach More SSSI/SAC (NJ 03452 41634) is approximately 16 km northeast of the wind farm and 8 km northeast of the access track;

- The Allt A'Choire SSSI lies approximately 500m from the access track. This has been designated for its geomorphology value;

- Findhorn Terraces SSSI, the highest set of river terraces in Scotland, is approximately 1 km from the nearest wind turbine and approximately 1.4 km from the proposed access track.

2.5 The wind farm site is located on a landscape character type described as ‘open uplands’ in the Moray and Nairn Landscape Character Assessment (SNH, 1998) and on the edge of the ‘rolling uplands’ character type described in the Inverness District Landscape Character Assessment (SNH, 1999). The character of the site as a whole could be succinctly described as a remote undulating area of unenclosed upland moorland.

2.6 The site lies within the Drynachan, Lochindorb and Dava Moor Special Landscape Area (SLA).

2.7 There are two Wild Land Areas within 35km of the site; WLA 15 - Cairngorms which lies 23km south-east and WLA 20 - Monadhliath is 16km south-west of the application site.

2.8 There are five scheduled monuments within 10km of the development that the proposed turbines would be visible from; Edinchat (Cairn) 4.5km to the south-west, Soilsean (township and hut circle) 7.5km south south-west and Alltlaoigh (farmstead) 6.5km to the south-east, Burnside Bridge approximately 8km to the north-east and Lochindorb Castle situated within Lochindorb approximately 8km to the south-east. There are three Inventory garden and design landscapes sites with 35km; Cawdor Castle, Leys Castle and Castle Grant.

2.9 While the nearest settlement is the village of Tomatin, approximately 8km to the south west, the nearest residential property to the proposed turbines is at 'Ballachrochin' which is 1400m to the north of Turbine 6.

2.10 The boundary of the National Park is approximately 6km and the Cairngorm Mountain National Scenic Area (NSA) 21km south-east/south of the site respectively.

2.11 Other relevant wind farm development in proximity to the site include:

Built and / or Consented

Farr (Highland – 12 km)
Moy (Highland - 5km)
Glen Kyllachy (Highland - 12km)
Dunmaglass (Highland – 25km)

Berryburn (Moray – 23km)
Paul's Hill 1 &2 (Moray – 25km)
Rothes 1 & 2 (Moray – 34km)
Findhorn (Moray – 34km)
Broombank Farm (Moray – 21km)
Hill of Glaschyle (Moray - 20km)

3.0 PLANNING HISTORY

3.1 30.08.2010 - Planning permission refused for 17 wind turbine proposal (09/00439/FULIN).

3.2 14.06.2013 - Planning permission granted for 17 wind turbine proposal on appeal (PPA-270-2043).

3.3 The Reporter granted planning permission summarising his decision as follows:

1. In respect of the Development Plan:

- Overall, the proposal would be consistent with the policies of the development plan. Policy 67 of the HWLDP supports renewable energy development in locations such as the appeal site where there is a good wind resource, provided impacts would not be significantly detrimental.
- Here the compact arrangement and remote siting would limit the significance of the impacts on the sensitive areas of the national park and the pSLA. There would be no conflict with policy 57 of the HWLDP.
- There would be no significant consequences for protected species or habitats. Policies 58 and 60 of the HWLDP would not therefore be breached.

And, for these reasons, The Reporter considered that approval of the proposed development would be consistent with the development plan as a whole.

2. With regard to other material considerations:

- The site is outside the national park. The park's setting would not be unduly harmed either by this development alone or in conjunction with existing or planned wind farms (excepting Glenkirk).
- The impact on tourism would probably be low.

The Reporter considered that other matters had been addressed by the Environmental Statement and, subject to conditions protecting the environment and local amenity there were no overriding reasons to refuse the appeal.

4.0 PUBLIC PARTICIPATION

4.1 Advertised: The application was advertised as EIA development in the Edinburgh Gazette, Nairnshire Telegraph, Inverness Courier and Badenoch and Strathspey Herald.

Representation deadline: 26 October 2015

Representations against:	161
Comments:	1
Representations in support:	4

4.2 Material considerations raised against can be summarised as follows:

- Adverse visual impact on Drynachan, Lochindorb and Dava Special Landscape Area (SLA) and the Cairngorms National Park
- At the time of the Reporters decision the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) had 'proposed' status yet given
- Adverse cumulative visual impact
- Adverse impact on tourism/visitor experience
- Adverse impact on wildlife

- Impact of traffic through Carrbridge
- Suitability of B9007
- Impact on peat/carbon
- Additional impacts arising from grid infrastructure
- Poor quality visualisations

4.3 RSPB has objected to the scheme. It disagrees with the assessment in the ES that only half of 5 pairs of Golden Plover, an Annex 1 species, will be affected by this proposal and that the impact would only be felt for a period of two years. RSPB indicates that evidence from Gordonbush wind farm suggests that there was a reduction of 25% of breeding adults during construction.

4.4 The John Muir Trust has also objected to this proposal. It is concerned about the cumulative impact of the proposed development especially, but not exclusively, in relation to the Cairngorm National Park. It references Scottish Natural Heritage's guidance on cumulative impact (March 2012) which states that two wind farms 'need not be intervisible' to have an impact. The John Muir Trust (JMT) believes that due to the proposed increase in turbine height and therefore its visibility the proposed repowering of the wind farm would have a significant and detrimental effect both in terms of 'combined visibility' and 'sequential impact.' It considers that the landscape in this general area is already subjected to a high level of onshore windfarm development which is causing both cumulative 'overload' of the surrounding area and an increasing and very significant 'ringing effect' around the Cairngorm National Park. JMT also raise issues with loss of peat/carbon balance and the impact on tourism.

4.5 Representations against the proposal have also been received from two local interest groups that made representation on the original scheme; Save our Dava (SoD) and Strathdearn Against Windfarm Development (SAWD). SoD believes that the impact of the development will be significantly greater than the original development because the turbines are 15m higher and are more spread out across the site. It also highlights that the Council previously objected to this on the basis of the impact that the development would have on the, as then proposed, Drynachan, Lochindorb and Dava Moors Special Landscape Area (pSLA). SoD suggests that now that this designation is confirmed that the Council should afford even greater weight to it in its decision making. SoD raises concerns relating to the impact on visitor/tourist experience and the impact on the social/cultural heritage of the area. SAWD raises similar issues, with additional comments on habitat and species, and the sequential cumulative impact that the development would have on the A9(T).

4.6 4 letters in support of the development have been received. The essential points raised can be summarised as follows:

- Need a range of energy sources
- The re-design will better harness the energy potential of this location and as a result of more efficient technology, and better siting of turbines, they will produce more energy than is currently consented with fewer turbines.
- Suitable location for a wind farm

4.7 The letter of comment is from the River Findhorn District Salmon Fishery Board which essentially considers that it is now able to remove its objection to the Tom nan Clach development to which it had initially objected in 2009.

4.8 A list of all those who made representation is provided in Appendix 1 of this report. All letters of representation can be viewed via the Council's e-planning portal http://wam.highland.gov.uk.

5.0 CONSULTATIONS

5.1 East Nairnshire Community Council objects to the application on the grounds of increased damage to the landscape and increased visual impact and the subsequent affect on the area's tourist trade.

5.2 Dulnain Bridge Community Council has voted by a majority to object to this application on grounds of unacceptable visual impact, environmental disturbance and unacceptable disruption to the centre of Dulnain Bridge village by the passage of the estimated 78 oversized loads through the village.

5.3 Carrbridge Community Council objects to the above application on the basis that it would have a detrimental impact on the local and national standing of environment, heritage and economy. The Community Council considers that, contrary to the statements made by the applicant, the proposed development will not in its view enhance the tourism and leisure offer. Furthermore it wishes to highlight that visualisations taken at Viewpoint 8 - Lochindorb shore shows the unacceptable detrimental impact on the Lochindorb built heritage.

5.4 Cawdor and West Nairnshire Community Council supports this application on the basis that it will increase renewable energy output, allow almost 20,000 homes to be supplied with renewable energy and save a significant amount of CO2 per annum.

5.5 Grantown and Vicinity Community Council objects to the proposal. In its response it highlights that it objected to the original application. It considers this new application, for larger towers, much worse. The Community Council considers that the photomontage at Viewpoint 15 illustrates that 'it would be a gross desecration of the scenery and history of the Lochindorb area and ancient castle, to the detriment of Scottish Heritage and tourism.'

5.6 Strathdearn Community Council objects to this proposal. In its response the community council highlights that the community objected to the previous application at this location and do not agree that this new application offers any significant improvement. With the increase height of turbines to 125m and changes to the layout it is considered that visual and landscape impacts on Strathdearn are increased. In its view the ES understates the long term significance of the impacts this development will have on our local landscapes.

The objection is based on the following grounds:

1. The application not supported by national policy in that it is contrary to Scottish Planning Policy 29 because it does not support local economic growth, protect natural heritage or provide community or local ownership. It also impacts on views from the Cairngorms National Park.
2. The application is contrary to Policy 67 – Renewable Energy Development of the Highland Council Highland Local Development Plan. The development and its subsequent grid connection when combined with the cumulative impact of the neighbouring Moy Wind Farm, now under construction, and the existing Farr Wind Farm, will be significantly detrimental to the landscape, natural heritage, tourism and recreational features of Strathdearn and the surrounding area and are not acceptable. These impacts are not outweighed by any benefits the development might bring.
3. The application is contrary to Policy 57 - Natural and Cultural Heritage of the Highland Council Highland Local Development Plan on grounds that it compromises features and heritage resources of national importance in particular the nearby Cairngorms National Park and Lochindorb Castle. The development will not support the community in Strathdearn to keep population and services.
4. The application is contrary to Policy 61 – Landscape of the Highland Council Highland Local Development Plan. Specifically the development imposes unacceptable impacts on the SLA. The structures will break the eastern skyline and be visible to residents from many places in Strathdearn and to passing users on the A9(T) road, Highland Railway and National Cycle route. The impact of large vertical manmade structures, not back clothed, projecting starkly above the natural rolling ridge landscape features of Strathdearn are not acceptable.

5.7 Transport Planning Team has no objection in principle to the development proposed, provided suitable conditions and/or agreements to address the issues identified within its response are attached to any grant of planning permission. These being:

- Abnormal Load Route mitigation
- General Construction Traffic Route
- Construction Traffic Management Plan
- Wind Farm Maintenance measures
- Wind Farm Decommission measures
- Wear and Tear Agreement
- B9007 Mitigation Schedule

5.8 Environmental Health has no objection to the application and recommends a noise condition restricting levels to 35dB LA90 at all properties. With regard to the property Ballachrochin advice is that if the applicant wishes to utilise the higher limits referenced to background levels and the Planning Authority is in agreement to this the limits at this property should be set at 35dB LA90 or 2dB above the predicted levels whichever is higher.

5.9 Historic Environment Team considers that the cultural heritage chapter of the ES provides a good level of detail with regard to the predicted impacts on historic environment assets. It considers that the mitigation proposed for those sites directly affected to be acceptable. On the basis that this mitigation is secured the Historic Environment Team has no objection.

5.10 Access Officer objects to the proposal on the basis of the current Access Plan. The key reasons for this relate to the exclusion of the public from the whole site for the 30 month construction period, the current intention not to allow people on the tracks once they have been built and a lack of clarity on how they will accommodate public access during the operational phase. Having said that, the Access Officer would be content for this aspect of the proposal to be discussed and agreed via a pre-commencement condition.

The Access Officer requires a plan that shows the minimum areas to be excluded from public access for the minimum periods, for the majority of the lengths of tracks to accessible once they have been upgraded [even if they are being used for construction traffic] and for public access [walkers, cyclists and horse riders] to be accommodated with appropriate gates throughout.It could be resolved pretty quickly with a change in approach in the Outdoor Access Plan. commute the Plan to written approval before construction starts with the condition below

5.11 Scottish Water: No response.

5.12 Scottish Environment Protection Agency (SEPA) initially objected to this planning application on the grounds of lack of information on peat. Following submission of further information on peat by the applicant, SEPA has reviewed its position and has no objection to the proposal, subject to conditions requiring submission of a Peat Management Plan and details of gully restoration works.

5.13 Scottish Natural Heritage (SNH) has no objection to the proposal. SNH considers that the landscape and visual effects of this proposal will not be any greater than those of the currently consented scheme and its appraisal of the landscape and visual effects of this repowered proposal do not result in any change to its advice on the consented scheme.

With regards to impacts on the Cairngorm National Park and the setting of the park, again SNH do not consider that the change in layout or increase in turbine size will result in any greater effects on the Park or its setting than those of the consented scheme. This is primarily due to magnitude of change between the consented and proposed schemes, but also relates to the change in cumulative baseline since the original application was considered; namely the removal of Glenkirk, and consent of Moy and Kyllachy.

With regard to golden plover SNH's current understanding is that displacement is far less likely than thought in relation to the initial proposal and mainly occurs during the construction phase. Therefore the likely impact on golden plover from this development is less than thought probable for the consented scheme. Overall SNH advice is that this proposal will have no greater, and possibly a lesser impact, on the ornithological interests of the site and the wider Natural Heritage Zone than

the currently consented scheme.

SNH is content that provided the development is carried out strictly in accordance with the mitigation measures proposed in the ES the development is unlikely to require a species licence under protected species legislation. Subject to securing a Habitat Management Plan and other identified mitigation (Peat management plan, Pollution Prevention Plan, employment of ECoW etc) SNH is content that habitats and species can be adequately protected.

5.14 Transport Scotland has no objection subject to conditions regarding the routing of abnormal loads, accommodation measures required and any temporary signing and/or traffic control.

5.15 Historic Environment Scotland has some concerns about the potential impacts on the scheduled monument known as Lochindorb Castle (SM 1231). It recommends that mitigation measures are explored to lessen this impact of the development and would be happy to discuss the mitigation it recommends with The Highland Council or the applicant further. However, Historic Environment Scotland does not consider that the proposals raise historic environment issues of national significance and does not object.

5.16 OFCOM: No response.

5.17 National Air Traffic Services En-route (NATS) has no safeguarding objection to the proposal.

5.18 Highlands and Islands Airport Ltd (HIAL) highlights that this development would not infringe the safeguarding surfaces for Inverness Airport. It considers that as a result of the height and position of the turbines, aviation warning lights may be required to be fitted at the hub height of some turbines.

5.19 Civil Aviation Authority (Directorate of Airspace Policy) advise that any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. Although if an aviation stakeholder (including the MOD) made a request for lighting it is highly likely that the CAA would support such a request, particularly if the request falls under Section 47 of the Aviation Act. The Ministry of Defence will advise on all matters affecting military aviation.

5.20 Ministry of Defence has no objection to the application subject to a requirement for the fitment of aviation safety lighting and the requirement to be advised before the commencement of development of;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

5.21 Cairngorms National Park Authority (CNPA) has no objection to the proposal. It has assessed the current proposal against the baseline of the 17 turbine scheme granted planning permission. CNPA considers that *'although there will now be less turbines, the amendments will change the 'swept path' of the turbines as a result of*

the increased rotor diameter and overall turbine height. This will result in a change in the visual volume of the development, which is illustrated in the comparative viewpoint visualisations. However, this information is considered to demonstrate satisfactorily that the change will not be significant, and will not have any significant additional impacts upon the National Park as compared to the consented scheme and SNH, as landscape advisor, concurs with conclusion.'

6.0 DEVELOPMENT PLAN POLICY

6.1 The following policies are relevant to the assessment of the application:

Highland Wide Local Development Plan (April 2012)

Policy 28 Sustainable Development
Policy 29 Design, Quality and Place Making
Policy 53 Minerals
Policy 51 Trees and Development
Policy 55 Peat and Soils
Policy 56 Travel
Policy 57 Natural, Built and Cultural Heritage
Policy 58 Protected Species
Policy 59 Other Important Species
Policy 60 Other Important Habitats
Policy 61 Landscape
Policy 63 Water Environment
Policy 64 Flood Risk
Policy 67 Renewable Energy
- Natural, Built and Cultural Heritage
- Other Species and Habitat Interests
- Landscape and Visual Impact
- Amenity at Sensitive Locations
- Safety and Amenity of Individuals and Individual Properties
- The Water Environment
- Safety of Airport, Defence and Emergency Service Operations
- The Operational Efficiency of Other Communications
- The Quantity and Quality of Public Access
- Other Tourism and Recreation Interests
- Traffic and Transport Interests

Policy 72 Pollution
Policy 77 Public Access

Inner Moray Firth Local Plan (July 2015)

6.2 The Inner Moray Firth Local Plan does not contain any specific policies on on-shore wind energy development. The Inner Moray Firth Local Plan does however define the extent of the Drynachan, Lochindorb and Dava Moor Special Landscape Area (SLA) that is relevant to consideration of Policy 61 and Policy 67 of the Highland wide Local Development Plan (April 2012).

Supplementary Guidance

6.3 The following Supplementary Guidance forms a statutory part of the development plan and are considered pertinent to the determination of this application.

- Flood Risk and Drainage Impact Assessment (January 2013)
- Highland Historic Environment Strategy (March 2013)
- Managing Waste in New Developments (March 2013)
- Sustainable Design Guide (January 2013)
- Trees, Woodlands and Development (January 2013)
- Highland Statutorily Protected Species (March 2014)

7.0 OTHER RELEVANT PLANNING POLICY

Onshore Wind Energy: Interim Supplementary Guidance (September 2015)

7.1 This document provides additional guidance on the principles set out in Policy 67 – Renewable Energy Developments of the Highland-wide Local Development Plan and reflects the updated position on these matters as set out in Scottish Planning Policy. Once finalised, the document will include an assessment of landscape/visual sensitivity for those areas most under pressure from on-shore wind development. At this stage, the draft document is a material consideration in the determination of planning applications. It is anticipated that the document will be adopted mid-2016.

Highland Renewable Energy Strategy (HRES) (May 2006)

7.2 While superseded in many respects by the Interim Supplementary Guidance noted above, HRES is still relevant as a strategy document. HRES sets out the Council's on-shore wind energy installed capacity targets. These are 1200MW by 2015, 1400MW by 2020 and 2900MW by 2050.

7.3 Relevant policies to the current application, not otherwise superseded by the above noted Supplementary Guidance, include:

- Policy H1 Education and Training
- Policy K1 Community Benefit
- Policy N1 Local Content of Works

Scottish Government Planning Policy and Guidance (June 2014)

7.4 The Scottish Government published its updated policy statement and advice in June 2014. It advances principal policies on Sustainability and Place-making, and subject policies on A Successful, Sustainable Place; A Low Carbon Place; A Natural, Resilient Place; and A Connected Place. It also highlights that the Development Plan continues to be the starting point of decision making on planning applications. The content of the SPP is a material consideration that carries significant weight, although it is for the decision maker to determine the appropriate weight to be afforded to it in each case.

7.5 SPP contains a general support for onshore wind development. It requires Planning Authorities to progress, as part of the Development Plan process, a spatial framework identifying areas that are most likely to be most appropriate for onshore wind farms as a guide for developers and communities. It also lists likely considerations to be taken into account relative to the scale of the proposal and area characteristics, which can be summarised as: -

- Net economic impact;
- Contribution to renewable energy targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts;
- Impacts on communities and individual dwellings;
- Landscape and visual impacts, including wild land;
- Natural heritage;
- Carbon rich soils;
- Public access;
- Historic environment;
- Tourism and recreation;
- Aviation and defence interests;
- Telecommunications;
- Road traffic;
- Trunk roads;
- Hydrology and flood risk;
- Decommissioning;
- Energy storage;
- Planning obligations for site restoration.

7.6 In addition to the above, the Scottish Government sets out further advice on Renewable Energy in a number of documents and web based information that is regularly updated including: -

- National Planning Framework for Scotland 3
- PAN 56 – Planning and Noise
- PAN 58 – Environmental Impact Assessment
- PAN 60 – Planning for Natural Heritage
- Scottish Government policy on Woodland Removal
- 2020 Routemap for Renewable Energy
- Onshore Wind Turbines
- Wind Farm developments on Peat Lands

8.0 PLANNING APPRAISAL

8.1 Section 25 and of the Town and Country Planning (Scotland) Act 1997 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan in this case comprises the Highland wide Local Development Plan (April 2012).

Determining Issues

8.2 The determining issues are:

- do the proposals accord with the development plan?
- if they do accord, are there any compelling reasons for not approving them?
- if they do not accord, are there any compelling reasons for approving them?

Planning Considerations

8.3 In order to address the determining issues, the Committee must consider a) compliance with development plan policy, b) the principle of development, c) interim supplementary guidance, d) Highland Renewable Energy Strategy, e) national policy, f) the impact on roads and transport, g) the effects on peat, peat stability and carbon balance, h) construction impacts and pollution control, i) the impact on natural heritage, j) the impact on built and cultural heritage, k) the visual impact and impact upon landscape resource, l) noise, m) aviation, n) radio/television and other networks, o) decommissioning and restoration, p) access and recreation, q) the socio-economic impact, and r) any other material considerations.

Development Plan

8.4 The Development Plan comprises the adopted Highland wide Local Development Plan (HwLDP) and the Inner Moray Firth Local Plan (2015). There are no site specific policies affecting this application site within the Inner Moray Firth Local Plan although this plan does confirm the Drynachan, Lochindorb and Dava Moor Special Landscape Area (SLA) designation.

8.5 The Development Plan recognises the potential for renewable energy development in Highland. Policy 67 (Renewable Energy Developments) of the Highland-wide Local Development Plan gives general support to this type of renewable energy development and is the key policy consideration in assessing this application. However, various considerations and safeguards are built into the policy wording. Policies 28 (Sustainable Design), 57 (Cultural and Built Heritage), 58 (Protected Species) and 61 (Landscape) are all relevant to this application and require to be given due weight.

8.6 The development plan supports the broad principle of renewable energy development. Where development is located, sited and designed in such a way as not to be **significantly detrimental**, either individually or cumulatively with other developments, proposals would accord with the Development Plan.

Principle of development

8.7 The Council refused planning permission for a 17 turbine wind farm in this location. This decision was overturned on appeal by a Reporter appointed by Scottish Government. Notwithstanding the Council's position, planning permission has nevertheless been granted for a scheme on this site. That development, subject to the satisfaction of a number of pre-commencement conditions, could commence on

site soon. This is a significant material consideration in the assessment of this application.

8.8 Barring any significant change in planning policy, the consequence of this earlier decision is that the assessment need not dwell on the principle of development, which has already been established, but rather focus on whether the additional impacts created by the development now proposed would raise matters that would be significantly detrimental in their own right to the extent that the proposal would not comply with the Development Plan.

Interim Supplementary Guidance

8.9 Following the publication of SPP, in June 2014, the Council reviewed its Onshore Wind Energy: Interim Supplementary Guidance. The 2015 draft Onshore Wind Energy Supplementary Guidance is a material consideration in the determination of planning applications and supersedes the Interim Supplementary Guidance of 2012.

8.10 The Dava Moor area is to be included in the ongoing landscape sensitivity work related to this guidance. In this context, the 17 turbine Tom nan Clach development will be considered as a committed scheme and be considered as part of the established pattern of development within the area.

8.11 The site falls within a Group 2 'area of significant protection.' The reason for this is the peat environment. The guidance expands on the considerations/criteria set out within the Development Plan, including potential for development within the peat environment. If these matters can be satisfied then the application will accord with the Interim Supplementary Guidance.

Highland Renewable Energy Strategy (HRES)

8.12 The Development Plan references HRES, which was developed by the Council for a range of Renewable Energy technologies. In particular the additional benefits from such investment including for example 'Education and Training,' 'Community Benefit' and 'Local Content' which are important considerations when assessing individual project proposals. For the avoidance of any doubt only those parts of the Council's HRES which are compliant with Scottish Government SPP remain in force.

National Policy

8.13 There is strong support for renewable energy development in national policy. The Scottish Government has a target of 50% of Scotland's electricity demand generated from renewable resources by 2015 and 100% of demand by 2020. These targets are not a cap. As the technology is well developed it is expected that the majority of this energy will come from on-shore wind farms.

8.14 Notwithstanding the overarching context of support, SPP recognises that the need for energy and the need to protect and enhance Scotland's natural and historic environment must be regarded as compatible goals. The planning system has a

significant role in securing appropriate protection to the natural and historic environment without unreasonably restricting the potential for renewable energy. National policies highlight potential areas of conflict but also advise that detrimental effects can often be mitigated or effective planning conditions can be used to overcome potential objections to development.

8.15 Criteria outlined within SPP for the assessment of applications include landscape and visual impact; effects on heritage and historic environment; contribution to renewable energy targets; effect on the local and national economy and tourism and recreation interests; benefits and dis-benefits to communities; aviation and telecommunications; development with the peat environment, noise and shadow flicker; and cumulative impact.

8.16 The Council continues to respond positively to the Government's renewable energy agenda. The Scottish Government advised that operational onshore wind energy capacity at 30 December 2014 was 7,316MW; equating to ~50% of Scotland's gross electricity consumption. Highland onshore wind energy projects in operation/under construction as of June 2015 have a capacity to generate 1,162MW; approximately 16% of the national installed capacity. There is a further 772MW of consented on-shore wind and 1,866MW off-shore wind in Highland.

8.17 While the Council has effectively met its own 2015 target, it remains the case that there are areas of Highland capable of satisfactorily absorbing renewable developments without significant effects. However, equally the Council could take a more selective approach to determining which wind farm developments should be supported, consistent with national and local policy. This is not treating targets as a cap or suggesting that targets cannot be exceeded; simply recognition of the balance that is called for in both national and local policy.

8.18 Assuming that this revised scheme does not have any additional significant impact upon the landscape resource, amenity and heritage of the area then the development could be seen to be compatible with Scottish Government policy and guidance and increase its overall contribution to the Government, UK and European energy targets.

Roads and Transport

8.19 The site has good access which for the most part would utilise the trunk road network (A9(T) & A95(T)). Transport Scotland considers that there will be no significant environmental impacts on the trunk road and has no objection subject to conditions.

8.20 While abnormal loads will be routed via the A9(T) and A95(T) prior to utilising the local road network, and activity would increase on all routes to the site generally, it is likely that most construction traffic will opt to utilise the A938 between the A9(T) and B9007 through Carrbridge as this is the shortest, most direct, route for most suppliers. In the scenario where concrete production is not undertaken on site, the increase in traffic on this route would be ~10%.

8.21 Representations from the community have been made in respect of traffic and safety and while the ES considers the traffic volumes to have negligible impact on the road capacity it does recognise that there is scope for intimidation from traffic albeit that this too is regarded as negligible. While it has no objection to the proposal or the use of the A938 for abnormal loads, the Council's Transport Planning Team has advised the applicant that it would not support the use of the A938 (A9(T) - B9007 section) for general construction traffic. Having said that, to restrict the use of one route would place further pressure on other routes and communities. Mitigation in the form of a Construction Traffic Management Plan (CTMP) is therefore proposed to try and spread the activity more evenly.

8.22 Subject to this and other conditions relating to the movement of abnormal loads, details of accommodation works, works to mitigate the impacts on the B9007 public road and likely impacts arising from maintenance and decommissioning operations, the Council's Transport Planning Team has no objection. It has requested that should permission be granted that it is on the basis that the applicant enters into a 'wear and tear' agreement under Section 96 of the Roads (Scotland) Act.

Peat, Peat stability and Carbon Balance

8.23 Peat is found at all turbine locations and will underlay most of the access track construction. All turbines would be located within areas of peat greater than 1m in depth. SEPA comments that it is unlikely that *'a significant windfarm can be located in this area without impacting on deep peat and this should be taken into consideration when determining the application.'* While slightly less land take would be required to accommodate the proposed development than the consented scheme, the estimated worst case for peat excavation is still some 104,557m^3. However, this compares to 113,697m^3 for the consented scheme.

8.24 SEPA considers that generally the layout seems to have been designed to avoid the deepest areas of peat. Although, in order to further reduce the impact on peat SEPA wishes to secure further mitigation through use of floating roads wherever possible and that further opportunities are taken to improve the track layout. SEPA welcomes the inclusion of a Peat Management Plan to deal with the temporary storage of excavated peat and requests that this too is secured by condition.

8.25 In terms of peat stability, while naturally occurring peat slide events are relatively rare in Scotland, they are not unknown. A study of the site with regard to potential peat slide has been carried out. This has included a desk study, site visit and peat slide risk assessment. While not avoiding areas of deep peat, the applicant considers that the layout ensures that the proposal is generally located out with areas potentially at risk from peat slide. Careful construction methodology and sound management of stored peat is essential to minimising effects.

8.26 The applicant has assessed the potential impact on climate change, providing carbon balance calculations. This shows that annual carbon savings will be around 71,500 tonnes of CO_2 through the displacement of grid electricity. Losses, through the displacement of peat (59%) and manufacturing, are estimated at 152,974 tonnes. A carbon payback of 2.1 years is therefore estimated. This compares to 3.4 years for the consented scheme; i.e. 1.3 years less.

Construction impacts and pollution control

8.27 The most significant sensitive receptors during construction are the peat habitat within the site and the tributaries to the River Findhorn, an important fishing river. Care is therefore needed to avoid particulate or chemicals entering the groundwater which could affect the spawning grounds.

8.28 The applicant has committed to a number of mitigation measures relating to pollution prevention. These are set out within a draft Construction Environmental Management Plan (CEMP) and Outline Peat Management Plan. SEPA has no objection to the proposals subject to conditions to secure the mitigation proposed. This can be achieved by the submission of a comprehensive Construction Environmental Management Document (CEMD), to include proposals for effective monitoring, and individual Construction Environmental Management Plans (CEMPs) to be finalised and submitted prior to the commencement of work on site. This can be secured by condition. The River Findhorn District Salmon Fishery Board is content with the draft mitigation measures proposed.

8.29 In addition to the effect on watercourses and peat habitat, there is some potential for construction related noise and activity impacts that could affect near neighbours. The ES assesses the effect on neighbouring sensitive properties as not significant.

8.30 While it is no longer considered suitable to control construction hours through planning conditions, bespoke powers for regulating construction noise exist within the Control of Pollution Act 1974; powers which enable Environmental Health to specify working hours where problems exist. A condition can, however, be applied placing a restriction on vehicles entering/existing the development during certain times, as proposed in the ES, in order to reduce the potential for impact on residents. This, in conjunction with a construction traffic management plan, as requested by Transport Planning will assist in regulating activity on the public road network in the interests of amenity.

8.31 Noise impact mitigation measures (which may include workings hours) will also form part of a Construction Environmental Management Document (CEMD).

Natural Heritage

8.32 There are no natural heritage designations on the wind farm site. While there are nationally important natural heritage interests in the area associated with two geological Sites of Special Scientific Interest (SSSIs) SNH is of the view that these will not be affected by the proposal given careful construction and the mitigation proposed by the applicant. The site does however support a number of species of conservation importance and a wider range of species have been recorded within the wind farm study area.

8.33 With regard to ornithology, the site itself supports breeding populations of golden plover and merlin in addition to providing suitable foraging ground for hen harrier, merlin, red kite, golden eagle and peregrine which are all species listed under Annex 1 of the EC Wild Birds Directive. RSPB has objected on the basis of the impact on golden plover as a result of displacement. However, SNH consider that

while there will be displacement it mainly occurs during the construction phase, and is therefore of the opinion that the likely impacts on golden plover from this development are less than we thought probable for the consented scheme. SNH advises that overall this proposal will have no greater, and possibly a lesser impact, on the ornithological interests of the site and the wider Natural Heritage Zone than the currently consented scheme.

8.34 Turning to mammals, evidence provided by the applicant indicates that otter are likely to be present on the site and that part of the site provides suitable habitat for wildcat; species that are protected under the EC Habitats Directive. SNH is of the view that an appropriate range of protected species surveys have been completed and results presented in the ES. It advises that while not recorded during the surveys, it is possible that some of the protected species may still be present on the site and therefore SNH support the mitigation measures proposed in the ES. Provided the development is carried out strictly in accordance with the mitigation measures proposed, SNH is of the opinion that the proposal is unlikely to require a species licence under protected species legislation.

8.35 The primary habitat on the site is blanket bog. The site also contains pockets of dry heath and also wet heath, the latter habitat which is traversed by a considerable length of the proposed main access track from the B9007. These habitats are all contained within Annex 1 of the EC Habitats Directive. SNH has raised no objection to the proposal relating to the loss of these habitats but does consider that more could be done to mitigate the impacts on the peat environment. The applicant has proposed that a Habitat Management Plan is put in place and SNH supports this subject to further detailed discussion. This can be sought by condition. SNH considers that it should be possible to further avoid the most sensitive habitats through micro-siting and that this should be addressed in the Construction and Environmental Management Plan (CEMP). Subject to careful construction, SNH advise that the impact of this revised proposal on carbon rich soils, deep peat and priority peatland will be of a lesser degree than the currently consented scheme.

8.36 With regard to the impacts on groundwater dependant terrestrial ecosystem (GWDTE), which are distinct water based ecosystems protected under the EU's Water Framework Directive, SEPA is content that the information provided in the ES demonstrates that the habitats on this site are not significantly groundwater dependant. Having said that, it asks that the finalised Construction Environmental Management Plan (CEMP) includes the full range of measures to protect local hydrological pathways including measures such as the use of floating roads (as mainly proposed) and that where there are cut access tracks that these are made up of permeable material with cross drains and check dams, along with ensuring that materials used in their construction will not chemically alter habitats.

8.37 As with SNH, SEPA requests that within the CEMP it should be demonstrated how micro-siting has been used to minimise impacts on highly groundwater dependant flush and marsh/marshy habitats in particular.

8.38 SEPA is also of the view that the layout of the scheme minimises direct impacts on the water environment and is satisfied with the indicative design of the watercourse

crossings, of which there are now seven as opposed to the six within the consented scheme. It asks however that these crossing designs are controlled by condition.

Built and Cultural Heritage

8.39 According to the ZTV contained within the ES, the turbines will not be visible from any of the three inventory gardens and designed landscapes with the 35km of the site. It is therefore unlikely that the proposals will have any impact upon Leys Castle, Cawdor Castle and Castle Grant. No listed buildings will be affected.

8.40 The scheme will be visible from the five scheduled monuments within 10km of the development. It is however the impact on Lochindorb Castle, located approximately 8km to the south-east (~11km from the nearest turbine), that is most contentious for many who have made representations. The relationship of the castle, the loch and the wider landscape is seen as not just about built heritage and setting but also a matter of history, folklore and legend. Lochindorb was the stronghold of the infamous Wolf of Badenoch, Alexander Stewart, who in 1390 in an act of revenge against the church for supporting his estranged wife, ransacked Forres before burning Elgin cathedral to the ground. This drama provides more the sense of place and has a defining effect on the experience of Lochindorb.

8.41 Historic Environment Scotland does not object to the impact of the proposal on setting, on the basis that in its view the key setting of the castle is focussed on a topographical bowl bounded by higher ground to the north and south and the B9007 and A939 roads to the west and east. Having said that, Historic Environment Scotland recognises that the increase in height and extent of the scheme now proposed extends the impact of the development, particularly at VP15 on the shore of Lochindorb.

8.42 In its response, Historic Environment Scotland recommend that mitigation measures are explored to lessen the impact suggesting that turbine height and spread would help to lessen this impact. Given the reasons for the application, to increase productivity of a consented scheme, it is difficult to see how this scheme could be re-designed to achieve this aim without reverting back to the original layout.

8.43 Although not of national interest, 12 archaeological features were identified within the site boundary. An effort has been made to design the layout to avoid direct impact on archaeology. Having said that, there are a few post-medieval settlements and the remains of the 18th Century military road that underlies the B9007 that may be directly impacted by the development, but the significance of effect is judged to be low at worst.

8.44 The Historic Environment Team agrees with the assessment and mitigation contained within the ES. Subject to conditions, the Historic Environment Team has no objection.

Visual impact and impact on landscape resource; including cumulative effects

8.45 The form and layout of the development as presented in this application has been subject to an iterative design process. At one stage, in order to maximise the potential of the site, a 33 turbine development was proposed. However, this was dropped in favour of the current 13 turbine scheme which the applicant claims will have potential to deliver a 26% increase in energy yield. The applicant is of the view that this is a more appropriate response to the site that minimises, as far as possible, the landscape and visual effects.

8.46 Fundamental to assessing both landscape and visual impact of the proposed layout is Chapter 6 of the ES, Landscape and Visual Impact Assessment, along with the associated figures and appendices, which together comprise the Landscape and Visual Impact Assessment (LVIA) element of the ES. The purpose of LVIA is to identify and record the potential significant effects of the proposed development on the receiving environment, including the landscape, landscape character, special designations, views and amenity. Impacts are assessed both in terms of the proposal itself and cumulatively with other developments located within a 35km radius.

8.47 All of the turbines are located on a landscape character type described as 'open uplands' in the Moray and Nairn Landscape Character Assessment (SNH, 1998). The key characteristics of the open uplands landscape character is the openness of the hills which are generally of similar height with broad smooth ridges and expansive gently undulating plateaux. The Moray and Nairn Landscape Character Assessment identifies that there are few large tracts of open water within the open uplands landscape character which makes Lochindorb a unique feature in the landscape.

8.48 The Moray and Nairn Landscape Character Assessment considers that in *'the remoter regions of this Open Moorland landscape [which includes open upland], where there is often a feeling of 'wildness' away from linear patterns of commercial forest and settlement, the perception of wind turbines as an industrial element may conflict with this experience. As such, a wind farm may appear as a man-made intrusion and be an inappropriate element to introduce in these areas.'* It goes on to suggest that wind farm *'development could possibly be visually accommodated in the more accessible and human influenced parts of this landscape, providing the general openness of the landscape was not cluttered by a profusion of wind turbines and ancillary developments such as connecting power lines and access roads.'*

8.49 The consented Tom nan Clach scheme was apparently deliberately designed to minimise its impact on the landscape resource by virtue of its relatively compact layout; a factor that led to the Reporter coming to the decision that he did - a point picked up by many of those making representations. The revised scheme extends the footprint of the development from most perspectives, as a result of spacing, other than when viewed directly from the north. This is disappointing but is not considered to have any more a significant impact on the extent of the landscape character type than the consented scheme. There are no additional cumulative impacts arising.

8.50 The 'zone of theoretical visibility' (ZTV) submitted within the Environmental Statement (ES) indicates that, while visual influence will be relatively contained to the north-east/south-west, the development will be visible at higher elevation within the Black Isle and East Ross-shire Hills as well as the Cairngorm National Park. Neither SNH nor CNPA object to the proposal with regard to the impact on the Cairngorm National Park on the basis that the magnitude of change between the consented and proposed schemes is not significant.

8.51 While the influence of the development will extend to Nairn and the A96(T) corridor between Forres and Nairn, visibility and therefore the experience of the development will be most significant within 10km - 15km of the site, including the A939 tourist route, the A9(T) around Tomatin and on the Drynachan, Lochindorb and Dava Moors Special Landscape Area (SLA) within which it is located.

8.52 The key qualities of this SLA are considered to be the lonely open moorland, vast skies and ephemeral atmosphere. These, in combination with the uniqueness of the loch itself all come together at Lochindorb. Visibility of the wind farm would be extensive within this SLA. The proposed development would appear in the background of many views which exhibit the special qualities of the SLA. Having said that, it must be recognised that planning permission has already been granted for a wind farm on this site and therefore the protection to be afforded this designation has already been eroded.

8.53 The effects on visual amenity relate to changes to available views rather than perceived changes to whole areas of a distinctive landscape character. 17 viewpoints (VPs) were selected in order to assess visual and landscape impact, following discussion with the Council and SNH and the preparation of the ZTV diagram. Visualisations in line with Highland Council Standards have been produced for all viewpoints. These visualisations, with the exception of the some of the more distant views where the photography isn't so good, comply with the Standards and are suitable to use to aid assessment.

8.54 The conclusion in the ES is that there will be no significant effect from the majority of viewpoints, with significant adverse impact being experienced from the A939 (between Ferness and Grantown) and at six VP's; at Carn Glas-choire (VP2), Minor Road north of Drynachan (VP5), B9007 near Lochindorb (VP6), A9(T) River Findhorn Bridge (VP10), the A939 Milestone (VP13), and Lochindorb (VP15).

8.55 While it must be recognised that the visualisations do not provide the entire context when not viewed on site, they do however demonstrate the predicted effects well. The VPs where significant effects have been identified are considered further below.

VP2 – Carn Glas-choire

8.56 This view is chosen to represent the effect of the proposed development on walkers of the hills that form the northern edge of the Cairngorms National Park. It is also situated within the high ground of the Drynachan, Lochindorb and Dava Moors SLA. The nearest turbine is approximately 5.78km from the viewpoint.

8.57 All thirteen of the turbines would be visible but set into the landscape and back clothed to an extent by the hills behind. There would be cumulative visibility with a number of turbine schemes, most notably with Farr and Kyllachy to the west, Moy to the north, and to the north-east the operational Berry Burn wind farm and consented Hill of Glaschyle scheme. The proposed development does not significantly alter the cumulative position.

8.58 The proximity of the development to the summit, the location within the SLA and adjacent to the Park boundary along with the sensitivity of receptor indicates that there will be a significant and adverse impact. Having said that, the ES finds the magnitude of change to be Medium and therefore within the same scale of change and significance as the consented scheme. This is a reasonable conclusion.

VP5 – Minor Road north of Drynachan

8.59 This view is approximately 5.6km to the east of the proposed development on the minor road that leads from Cawdor to Drynachan. The view is representative of the experience of road users.

8.60 Again all thirteen of the turbines would be visible however in this view sit rather more prominently in the landscape than at VP2. The visualisations clearly show the scale of the substation building proposed albeit the effect of this is barely mentioned within the assessment. Further consideration will be required on the exact scale and location of this building.

8.61 The ES finds the magnitude of change to be Medium to High, compared with an assessment of High for the consented development, but also attributes a higher sensitivity to the viewer, resulting in an assessment of significant adverse impact. While this is the same outcome as for the consented scheme, the reduction in the number of turbines and changes to turbine locations result in a layout which appears to respond more logically to the local landform and create a marginally more cohesive composition than the consented scheme. At this viewpoint the attention to layout and design with the revised scheme is most evident.

VP6 – B9007 north of Lochindorb

8.62 This view is chosen to represent the effect of the proposed development on the experience of road users on what is a well used local road. The viewpoint, which lies within the SLA, is located approximately 8km from the development at the junction with the B9007 and the minor road that leads to Lochindorb.

8.63 In the ES the applicant describes the effect of a landscape which is vast in scale reducing the perceived scale of the proposed development. While the scale of the landscape character is not disputed, viewers understanding of scale in the landscape should not be underestimated. The distance from the viewpoint to development is around 8km and the view includes familiar elements such as muirburn and existing tracks which give a readable scale. Nevertheless, the ES acknowledges that the development would form a new focal feature, redefine the character of the view and cause a significant adverse effect.

8.64 The applicant's assessment is that the increase in horizontal and vertical extent from the consented scheme is discernible but insufficient in scale to change the level of impact, which is significantly adverse for both iterations. While there may be some issues with respect to viewer appreciation of scale, the conclusion that both developments would have significant impacts, and that the difference between the severity of impact is not significant, is reasonable.

VP10 – A9(T) Findhorn Bridge

8.65 Viewpoint 10 is located on the southbound carriageway of the A9(T) on the road bridge over the River Findhorn, downstream of Tomatin. The closest turbine is 7.21km. The view is representative of the experience one would have of the wind farm if travelling in both northerly and southerly directions on this route. A similar experience would be gained from the Inverness-Perth rail line that sits to the west.

8.66 It is perhaps worth noting that the applicant states that *'the view will be apparent to north-bound road-users, but will not be apparent to south-bound road-users, owing to the location of the Proposed Development relative to the orientation of the road.'* However, examination of the location and plans of the development orientation, in addition to recent use of the road, indicates that the view to the development is broadly perpendicular to the apex of the curved alignment of the road and therefore visible in side views to travellers in both directions. While southbound road users will progressively lose visibility as they pass the apex of the curve, the same will be true for northbound.

8.67 The ES also states *'Visibility of the Proposed Development will occur for only a short section and be experienced whilst in transit at 50-70 mph, at a direction oblique to the direction of travel. These factors will moderate the susceptibility of road-users.'* Views being available at a direction oblique to the direction of travel should not be used as a factor in downgrading receptor susceptibility. In cars, front seat passengers have oblique views available to them as well as forward views and rear seat passengers only have oblique views available. Likewise all passengers in buses and coaches primarily have oblique views, as do train passengers who will have a similar view from the viaduct.

8.68 While the information presented specifies that the proposed development is slightly more distant from the viewpoint than the consented scheme, the distance to nearest turbine being 7.21km rather than 7.14km, the effect of the change in turbine is to make the development appear closer to the saddle of the hills it appears behind. Nine of the 13 turbines would be apparent with this view with four of these tips only. While the remaining 5 will skyline, the development remains contained by the rising ground and does not result in any diminished perception of scale of the landform in the view.

8.69 The visual impact will be significant but of short duration on routes. Notwithstanding the underestimation of the visibility to travellers, the applicant's conclusion is that the magnitude of change for the currently proposed scheme is higher than the level assessed for the consented scheme. The difference between the schemes, with the proposed development having fewer but larger turbines evident in the view, although discernible, is considered not sufficient to change the

level of impact overall.

8.70 The Council did not refuse planning permission for the consented scheme on the basis of the impact on the A9(T). The impact was, nonetheless, recognised and SNH did raise concerns relating to the effects at Dalmagarry further to the north. Since the Reporters decision, two further wind farms have been granted on appeal - for Moy and Glen Kyllachy. Both will increase the sequential cumulative effect of wind farm development on the A9(T), particularly travelling north. The revised Tom nan Clach scheme will increase its visual influence as a result of increase in tip height for around a ~1km stretch of the A9(T) road south of Dalmagarry. However, this scale of change is not considered sufficient to significantly affect the cumulative impact of development on this route.

VP13 – A939 Milestone

8.71 This view is situated on the A939 just south of Ferness at a distance of 12.85km from then nearest turbine. It is representative of the views likely to be experienced by road users and of tourists in particular given that the road is a designated tourist route.

8.72 The Council had considerable concerns regarding the impact of the consented scheme on this view/route. In his decision the Reporter considered that the relatively compact design of the development meant that the impact of the development was acceptable and could be supported. The applicant's assessment in the ES finds the magnitude of change to be Medium and within the same scale of change and significance as the consented scheme. While this is a reasonable conclusion, the composition of the development when seen from this location and by receptors moving along the road can be perceived as less successfully resolved than the consented scheme; particularly with the two outliers to the south-west edge and the inconsistency of height throughout. It is disappointing that the attention to design given to VP5 did not extent to this view. Having said that, the consequence of any further changes would likely impact adversely in other views.

VP15 - Lochindorb

8.73 This viewpoint is located on the minor road that runs on the southern shore of Lochindorb. It is representative of the views experienced by road users, visitors and recreational users of the loch. It is located some 11km from the nearest turbine. This viewpoint is important to illustrate the effect of the development on what is arguably the most significant feature of the SLA, Lochindorb, as well as Lochindorb Castle. Of all representations received, it is the effect of the development on this view that has been most contentious.

8.74 The applicant's assessment in the ES attributes medium to high sensitivity to receptors and, medium to high value to the view. In addition the ES describes the view obtained at this location as being limited in availability and that Lochindorb Castle will remain the principal focus of the view with the development forming a secondary, competing focus. This assessment is reasonable, although this cannot be well illustrated with static imagery. In effect the number and duration of people

receiving the precise view whilst static is likely to be limited. The more common experience will be of travelling along the shore road where the relative positions of the development and Castle will tend to focus viewer attention on the closer feature, as their changing position in relation to the castle causes that view to vary more rapidly. This is a point recognised by Historic Environment Scotland.

8.75 As with VP13, the effect of the change in design of the scheme is to extend the visual influence horizontally to the point where in this static view it could be said that the landscape architect is trying to create a more balanced composition with the castle. While the proposed development is perceptibly different from the consented scheme, the difference is not of sufficient scale to change the level of impact.

8.76 In summary, at the time of determining the consented scheme the Council considered that the visual impact and impact on the special qualities of the Drynachan, Lochindorb and Dava Moors Special Landscape Area to be unacceptable, that the site was not suitable for wind farm development and that therefore it should be refused planning permission. However, a Scottish Government Reporter took a different view and granted consent for the scheme. What is presented here is an amended scheme with larger turbines and rotors with a wider swept path. Yet, when considering the landscape and visual effects of these changes they are not of a sufficient scale in themselves to warrant refusal. Although recognising the additional effect of the proposal against the consented scheme the responses from SNH and CNPA would seem to support this position. These responses also support the conclusions within the ES that there will be no significant effect on nearby wild land areas.

Turbine noise, including cumulative effects

8.77 The applicant has submitted a noise assessment which looks at three potential candidate wind turbines. Of these, only one turbine will result in noise levels exceeding the ETSU simplified condition of 35dB LA90 and then at only one noise sensitive property, Ballachrochin, and by less than 1dB.

8.78 Environmental Health recognises that the assessment with the ES demonstrates that background levels at Ballachrochin would allow higher limits which would accommodate the noisiest turbine. However, in its opinion Environmental Health considers that allowing higher noise limits for the sake of it is not necessarily appropriate and highlights that the general recommendation for all wind turbine developments is that limits should be capped at no more than 2dB above predicted. The suggestion is that if there are at least two candidate turbines which will comply with the simplified ETSU limit of 35dB LA90 then the applicant needs to provide some justification for choosing a noisier model even if it can comply with a limit referenced to background levels.

8.79 The assessment has also considered several other wind turbine developments in this location and has demonstrated that there to be no cumulative noise impact. Environmental Health has no objection subject to a noise condition restricting levels to 35dB LA90 at all properties, or if so minded, 35dB LA90 or 2dB above the predicted levels at Ballachrochin whichever is higher. If the simplified criterion is

achievable however it is not considered necessary in this instance to amend the condition that exists for the consented scheme. No significant effect shall arise.

8.80 With regard to construction noise Environmental Health considers that activity at the construction site is unlikely to be significant in terms of noise. If required, Environmental Health has powers under the Control of Pollution Act 1974 to control noise from construction activities, including traffic, therefore Environmental Health advise that the use of planning conditions to duplicate those controls is not considered necessary.

Aviation

8.81 The proposals will have no adverse impact on airport safeguarding or air safety. The MOD, HIAL, CAA and NATS do not object to the proposals but a request has been received for aviation lighting on some turbines. An appropriate lighting scheme, using infrared lighting where possible, to reduce the introduction of light within a largely undeveloped and light-free area, is a matter that can be addressed by planning condition.

Radio/TV and other Networks

8.82 The ES includes an assessment on local telecommunication services including TV and radio. No fixed link telecommunications systems are likely to be affected.

8.83 With regard to the impact on TV reception, the ES states that interference of digital transmission is unlikely, with no reported cases to date. The ES states that given the distance (5km) from the nearest television re-broadcast link that there will be no impact. The Council has a standard practice of requiring developers to address adverse impacts that may emerge during construction and over the initial year of operation when problems may be detected and/or experienced.

Decommissioning and Site Restoration

8.84 At this stage, the applicant proposes that all elements of the proposal will be decommissioned at the end of its operational life. The ES considers that site decommissioning is likely to take around 12 months.

8.85 The applicant proposes that a Decommissioning Environmental Management Plan will be produced to manage the decommissioning stage. It is standard practice for the Council to require a Decommissioning & Restoration Plan for this purpose which can be secured by condition.

8.86 In addition, the Council seeks a bond to cover the full costs of site restoration. While the mechanism for securing this has on occasion been secured through planning conditions, the applicant has agreed to enter into an agreement under S75 of the Act which is the preferred approach.

Access and Recreation

8.87 The Access Officer is not content with the Access Plan submitted in support of this application and has therefore raised an objection. The key reasons for this stance relate to the intention to exclude the public from the whole site for the duration of the construction period, a desire not to allow people to use the tracks once they have been built and a lack of clarity on how the estate will accommodate public access during the operational phase.

8.88 The Access Officer requires a plan that clearly indicates the minimum area that will be excluded from public access for the minimum period, for the majority of the lengths of tracks to accessible once they have been upgraded (even if they are being used for construction traffic) and for public access (walkers, cyclists and horse riders) to be accommodated with appropriate gates throughout. It is the opinion of the Access Officer that this could be resolved relatively easily with a change in approach to the Outdoor Access Plan and that this could be achieved through further discussion and agreement as part of pre-commencement condition on any grant of planning permission.

Socio-economic impact/tourism

8.89 Separate studies have been carried out by industry and the Scottish Government into the effects of wind farm developments on tourism and public acceptability respectively, for example; The Scottish Government commissioned report *Economic Impact of Wind Farms on Tourism in Scotland* (2008) undertaken by Glasgow Caledonia University/Cogent Si and more recently a questionnaire survey *Wind Farm Consumer Research* (2011) conducted by OnePoll for Visit Scotland. These studies have indicated both benign and positive effects.

8.90 Several representations received indicate that tourism will be adversely affected. It is however difficult to be certain that this would be the case. The issue is still very much a matter of subjective judgement given the range of individual responses to wind farm development. However, the quality of scenery is the most significant attraction of the Highlands, and the key reason that visitors return. Therefore any adverse visual impact created by a development is likely to result in the quality of visitor experience being diminished; possibly deterring repeat visits.

8.91 In their submission, the applicant acknowledges the importance of tourism to the Highland economy but does not consider that this area is one of the main tourism areas in the Highlands. While the Dava area is not an area promoted as such, it clearly is a well visited area.

8.92 A key reason for this may be that the A939 is a designated national tourist route between Inverness and Aberdeen; something that appears to have been overlooked within the section on tourism within the ES. Having said that, as expressed above, the magnitude of change between what is proposed now and the consented scheme is not so significant to suggest that the revised scheme on its own would impact adversely tourism.

8.93 The applicant refers to the positive socio economic impacts that the construction of a wind farm can have. Unless a viable turbine manufacturing base is established within the Highlands, it is unlikely that schemes will be capable of meeting with the agreed guideline levels for local content identified within HRES. However, the local economy will benefit directly during construction. The benefits derived from proposed scheme as opposed to the consented scheme are not however considered to be significantly different.

Other material considerations

8.94 There are no other material considerations.

9.0 CONCLUSION

9.1 The Development Plan and national policy support renewable energy development, with a range of differing technologies, where projects can be located without undue environmental or amenity impact. Despite the Council's decision to refuse planning permission, development in this location has been accepted and could be implemented any time soon. The context in which this application needs to be assessed is therefore different to that normally expected when considering any new wind farm development. The existing consented scheme will have significant and adverse impacts on the environment. The question is whether the proposed scheme will significantly alter this baseline and introduce additional unacceptable and detrimental effects.

9.2 Representations against the proposal, and responses from 5 neighbouring community councils, highlight the adverse impact that the proposal would have. However, as is evident from the assessment, many of the impacts of the proposed development, even those connected with protected habitat and species and designated sites, will not be significantly detrimental and could be adequately controlled through both the mitigation measures proposed or through conditions. Indeed there may be opportunities to improve habitat.

9.3 The major residual issues for the Council in this case relates to the impact on landscape and in particular visual amenity. The acceptability of a proposal with regard to its visual impact is largely a subjective matter. As set out within the assessment above, this is not considered to be the most sensitively located of wind farm developments. However, when comparing the scheme now proposed with what is consented it is clear that, while discernible, the change is not so significant that it would result in additional adverse impact. Neither would it alter the position with regard to cumulative impact.

9.4 The benefits of the proposal must be weighed against potential drawbacks and then considered in the round. The project carries considerable support in principle by virtue of the Government's policy and targets towards greater renewable energy production. With a generating capacity of up to 39MW the proposal would make a useful contribution to meeting both national and The Highland Council's own renewable energy targets and with higher energy yield makes good use of the resource. The proposal will create a number of construction jobs, albeit short term, as well as providing wider economic benefits to the local economy during the

construction of the wind farm. The applicant has been able to demonstrate that many of the potential adverse impacts can be adequately addressed.

9.5 In summary, the development will become a significant feature of the local area. While the development was not welcome in the first instance, and there clearly remains resistance to it from the wider community, this revised scheme overall will not significantly alter the impacts created by the already consented scheme and is therefore not considered to be significantly detrimental either on its own or when taken cumulatively with other developments in the area.

9.6 In view of this, it can be concluded that the proposals would comply with the Development Plan.

10.0 RECOMMENDATION

It is recommended the application be **GRANTED** subject to:

A. The prior conclusion of a legal agreement to secure;

i. A financial bond to address site restoration,
ii. A financial bond to address 'wear and tear' on the public road,
iii. A financial contribution to the NHZ10 Regional Eagle Management Plan; and

B. The following conditions and reasons:

1. For the avoidance of doubt, unless amended by the terms of this permission, the development shall be constructed and operated in accordance with the provisions of the application, the submitted plans, and the Environmental Statement. This permission shall be for 13 turbines, with a maximum height to tip of 125m, access tracks and crane hardstandings, met mast and three borrow workings to be sited as shown on the Proposed Development Site Layout Plan (ES Figure 1.3) dated 17.08.2015, with the turbines located at the co-ordinates specified within Table 3.1, Chapter 3, of the Environmental Statement unless otherwise agreed under Condition 14 of this permission.

Reason: In order to clarify the terms of permission.

2. This planning permission shall expire and cease to have effect after a period of 30 years from the date when electricity is first exported from any of the approved wind turbines to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 25 years from the First Export Date, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of Condition 3 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the Planning Authority within one month of the First Export Date.

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.

3. No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. Thereafter:

   i. No later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Wind Farm Operator and a copy submitted to the Planning Authority for their written approval, in consultation with SNH and SEPA; and

   ii. No later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft plan, shall be submitted to, and approved in writing by, the Planning Authority, in consultation with SNH and SEPA.

   For the avoidance of doubt, unless otherwise stated within this decision notice, the DRP shall include the removal of all aboveground elements of the development, all new access tracks, the treatment of disturbed 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 the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site, in the interests of safety, amenity and environmental protection.

4. The Wind Farm Operator shall, at all times after the First Export Date, record information regarding the monthly supply of electricity to the national grid from each turbine within the development 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 made by them. In the event that:

   i. any wind turbine installed and commissioned fails to supply electricity on a commercial basis to the grid 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 this condition; or

   ii. the wind farm fails to supply electricity on a commercial basis to the grid from 50% or more of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Wind Farm Operator must notify

the Planning Authority in writing immediately. Thereafter, the Planning Authority may direct in writing that the wind farm shall be decommissioned and the application site reinstated in accordance with this condition. For the avoidance of doubt, in making a direction under this condition, the Planning Authority shall have due regard to the circumstances surrounding the failure to generate and shall only do so following discussion with the Wind Farm Operator and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition shall be carried out in accordance with the approved detailed Decommissioning and Reinstatement Plan, or, should the detailed Decommissioning and Reinstatement Plan not have been approved at that stage, other decommissioning and reinstatement measures, based upon the principles of the approved draft DRP, as may be specified in writing by the Planning Authority.

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

5. No development shall commence until details of the proposed wind turbines have been submitted to, and approved in writing by, the Planning Authority.

These details shall include:

i. The make, model, design, power rating and sound power levels of the turbines to be used; and

ii. The external colour and/or finish of the turbines to be used (incl. towers, nacelles and blades) which should be non-reflective pale grey semi-matt.

Thereafter, development shall progress in accordance with these approved details and, with reference to part ii above, the turbines shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned. For the avoidance of doubt, all wind turbine blades shall rotate in the same direction.

Reason: To ensure that the turbines stated in the application are used in the development and are acceptable in terms of visual, landscape noise and environmental impact considerations.

6. No development shall commence until final details of the location, layout, external appearance, dimensions and surface materials of all substation buildings, welfare facilities, compounds and parking areas, as well as any fencing, walls, paths and any other ancillary elements of the development, have been submitted to, and approved in writing by, the Planning Authority (in consultation with SEPA and SNH, as necessary). Thereafter, development shall progress in accordance with these approved details. For the avoidance of doubt, details relating to the substation and welfare buildings shall include additional architectural design, LVIA and other relevant assessment work, carried out by suitably qualified and experienced people, to ensure that they are sensitively scaled, sited and designed.

Reason: To ensure that all ancillary elements of the development are acceptable in terms of visual, landscape noise and environmental impact considerations.

7. No development shall start on site until a Construction Environmental Management Document is submitted to, and approved in writing by, the Planning Authority in consultation with SNH and SEPA. The Document shall include:

- An updated Schedule of Mitigation (SM) including all mitigation proposed in support of the planning application, other relevant agreed mitigation (e.g. as required by agencies) and set out in the relevant planning conditions;

- Processes to control / action changes from the agreed Schedule of Mitigation;

- The following finalised specific Construction and Environmental Management Plans (CEMP):

    i. Peat management plan – to include details of all peat stripping, excavation, storage and reuse of material. This plan shall include a revised table confirming volumes of acrotelmic and catotelmic peat that will be disturbed and a table showing how much peat is estimated to be required for infrastructure reinstatement works (based on best practice and broken down into acrotelmic and catotelmic) and how much will be used for gully restoration works.
    ii. Pollution prevention plan
    iii. Chemical pollution plan
    iv. Site waste management plan
    v. Species protection plan, including specific measures to be taken to make site staff aware of species and minimise disturbance and/or capture
    vi. Plan for the avoidance of impact on H13 Calluna – Cladonia heath and areas supporting Sphagnum fuscum or S. austinii
    vii. Plan for minimisation of impacts on peat habitat and GWTDE habitats (through micro-siting and use of floating roads wherever possible) that includes the micro-sited layout, based on additional detailed peat probing to micro siting limits in all areas of deep peat (> 1m), which clearly demonstrates how finalised layout minimises impacts on peat habitat.
    viii. Borrow Pit working plan, including details of final restoration,
    ix. Plan for the mitigation of construction noise, vibration and, in the case of borrow workings, blasting,
    x. Construction Traffic Management Plan (CTMP)

- Details of the appointment of an appropriately qualified Environmental Clerk of Works with roles and responsibilities which shall include but not necessarily be limited to:

    i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;

ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;

iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;

iv. Directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and

v. The power to call a halt to development on site where environmental considerations warrant such action.

- Details of any other methods of monitoring, auditing, reporting and communication of environmental management on site and with the client, Planning Authority and other relevant parties.

- Statement of any additional persons responsible for 'stop the job / activity' if in potential breach of a mitigation or legislation occurs.

Unless otherwise agreed in writing by the Planning Authority the development shall proceed in accordance with the agreed Document.

Reason: To protect the environment from the construction and operation of the development.

8. No development shall commence until a Habitat Management Plan (HMP) has been submitted to, and approved in writing, by the Planning Authority in consultation with SNH and SEPA. The HMP, which shall be implemented in full and in accordance with any timescales outlined therein, unless otherwise agreed in writing, shall include the following elements:

- The improvement and future management of the blanket bog and other Annex 1 habitat on the site, including assurance that no muir burning takes place in any areas proposed for peatland restoration, and providing a clear methodology for gully restoration

Reason: To protect and enhance the nature conservation interests of the area, including the management of vegetation and peat land within the site.

9. No development shall commence until the applicant has provided the Ministry of Defence (Defence Estates - Safeguarding) with the following information; a copy of which shall be submitted to the Planning Authority:

- proposed date of commencement of the construction;
- estimated date of completion of the construction;

- height above ground level of the tallest structure;
- maximum extension height of any construction equipment;
- position of the turbines in latitude and longitude plus eastings and northings;

Reason: In order to ensure the safety of low flying military aircraft.

10. No development or work (including site clearance) shall commence until a detailed Outdoor Access Plan is submitted to, and approved in writing by, the Planning Authority. The purpose of the Outdoor Access Plan shall be to plan site tracks and paths to maintain public access routes throughout construction, and to enhance public outdoor access post-construction over the longer-term. The approved Outdoor Access Plan shall be implemented.

Reason: To safeguard and maximise the opportunities for continued public access to the countryside during the construction and operation of this wind farm.

11. No development shall commence until a TV and radio reception mitigation plan has been submitted to, and approved in writing by, the Planning Authority. The plan shall provide for a baseline TV reception survey to be carried out prior to the commencement of turbine installation, the results of which shall be submitted to the Planning Authority. Within 12 months of the Final Commissioning of the development, any claim by any individual person regarding TV picture loss or interference at their house, business premises or other building, shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the Planning Authority. Should any impairment to the TV signal be attributable to the development, the developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline TV reception.

Reason: To ensure local TV and Radio Services are sustained during the construction and operation of this development.

12. No development or work (including site clearance) shall commence until a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development/work, including a timetable for investigation, all in accordance with the attached specification, has been submitted to, and approved in writing by, the Planning Authority. The approved programme shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the archaeological and historic interest of the site.

13. Where ground conditions specifically require it, wind turbines, areas of hardstanding and tracks may be micro-sited within the application site boundary. However, unless otherwise approved in writing by the Planning Authority (in consultation with SEPA and SNH), micro-siting is subject to the following restrictions:

i. No wind turbine, hardstanding or track shall be moved:

a. more than 10m above the AOD height relative to the position shown on the approved plans and Table 3.1 of the ES;
b. more than 50m from the position shown on the approved plans and Table 3.1 of the ES; and
c. in any case to a position within 50m of any watercourse.

All micro-siting permissible under this condition without requiring the approval of the Planning Authority must be approved by the development's Environmental Clerk of Works (ECoW) identified under Condition 7. A written record must be kept of any such ECoW approval and shall be maintained for a period extending to no less than four years following the First Export Date.

Within one month of the wind farm being commissioned, the developer must submit an updated site plan to the Planning Authority showing the final position of all wind turbines, masts, areas of hardstanding, tracks and associated infrastructure within the site. The plan should also highlight areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or Planning Authority's approval, as applicable.

Reason: To minimise the effect of the development on the water environment and species and habitat contained therein.

14. The proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network

15. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the trunk road authority before delivery commences.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road

16. Before the delivery of any turbine components to the site via the local road network the applicant shall undertake a review of:

- the maximum axle loading on structures along the access route;
- overhead services along the access route;
- roadside vegetation, in summer conditions, along the access route and detail the clearance of any vegetation that may interfere with construction traffic;
- road works or road closures that could affect the movement of construction

traffic;
- new or diverted underground services that may be at risk from construction traffic.

This information, along with proposals for any mitigation required, shall be submitted to, and approved in writing by, the Planning Authority prior to the delivery of the first turbine to site.

Reason: In the interests of protecting the public road infrastructure and ensuring the safety and free flow of traffic on the public road.

17. No development or work shall commence on site until a scheme for the improvement of the B9007 to accommodate not only abnormal loads but to cater for the increase in heavy traffic likely to result from construction activities have been submitted to, and approved in writing by, the Planning Authority. Examples of mitigation considered appropriate include upgrading existing passing places, provision of new passing places, passing place signs, road widening and road strengthening. The approved mitigation shall be in place before the commencement of development on site.

Reason: In order to bring this route a standard acceptable to accommodate the increase in traffic and activity in the interest of road safety.

18. Before the erection of the first turbine on site, a scheme for the installation of appropriate aviation warning lights shall be submitted to, and approved in writing by, the Planning Authority in consultation with MoD and HIAL. Only the approved lighting scheme shall be implemented.

Reason: In the interests of air safety.

19. The rating level of noise immissions from the wind turbines hereby granted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed 35 $dB_{LA90,\ 10\text{-}min}$ at any wind speed up to 10m/s at any noise sensitive property existing or with the benefit of planning permission at the time of this permission and:

(A) Prior to the First Export Date, the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who may 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.

(B) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location to which the complaint relates. Within 14 days of receipt of a written request from

the Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Planning Authority in the format set out in Guidance Note 1(e).

(C) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits or approved by the Planning Authority pursuant to paragraph (B) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

(D) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (E) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

(i) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.

(ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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 information provided in the written request from the Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.

(E) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements shall be made available to the Planning Authority on the request of the Planning Authority. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(F) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance

Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (E) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

(G) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Planning Authority on its request, within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class 9 of the Use Classes Order which lawfully exists or had planning permission at the date of this permission.

Reason: To ensure that the noise impact of the as built turbines does not exceed the predicted noise levels in the interest of amenity, that the noise immissions will be monitored over time and that there is sufficient scrutiny and assessment in the event that a complaint is received.

20. A community liaison group shall be established by the developer prior to development commencing, in collaboration with The Highland Council and 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 coordinate deliveries and work to ensure no conflict between construction traffic and the increased traffic generated by such events/seasons. The liaison group, or element of any combined liaison group relating to this development, shall be maintained until wind farm has been completed and is operational.

Reason: To assist with the provision of mitigation measures to minimise the potential hazard to road users, including pedestrians, travelling on the road networks.

Designation: Head of Planning & Building Standards

Author: David Mudie (01463) 702255

Date: 13 March 2015

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

Appendix 2 – Abbreviations

CEMD – Construction Environmental Management Document
CEMP – Construction Environmental Management Plan
EIA – Environmental Impact Assessment
ES – Environmental Statement
EPS – European Protected Species
GWDTE - Ground Water Dependent Terrestrial Ecosystems
HRES – Highland Renewable Energy Strategy and Planning Guidelines
HMP – Habitat Management Plan
LCA – Landscape Character Assessment
LCT – Landscape Character Type
LVIA – Landscape and Visual Impact Assessment
MW – Megawatt
MOD – Ministry of Defence
NHZ – Natural Heritage Zone
NSA - National Scenic Area
SM – Schedule of Mitigation
SNH – Scottish Natural Heritage
SAWL – Search Area for Wild Land
SPP – Scottish Planning Policy
SSSI – Site of Special Scientific Interest
SAC – Special Area of Conservation
SLA – Special Landscape Areas
SPA – Special Protection Area
ZTV – Zone of Theoretical Visibility

INFINERGY

Legend:

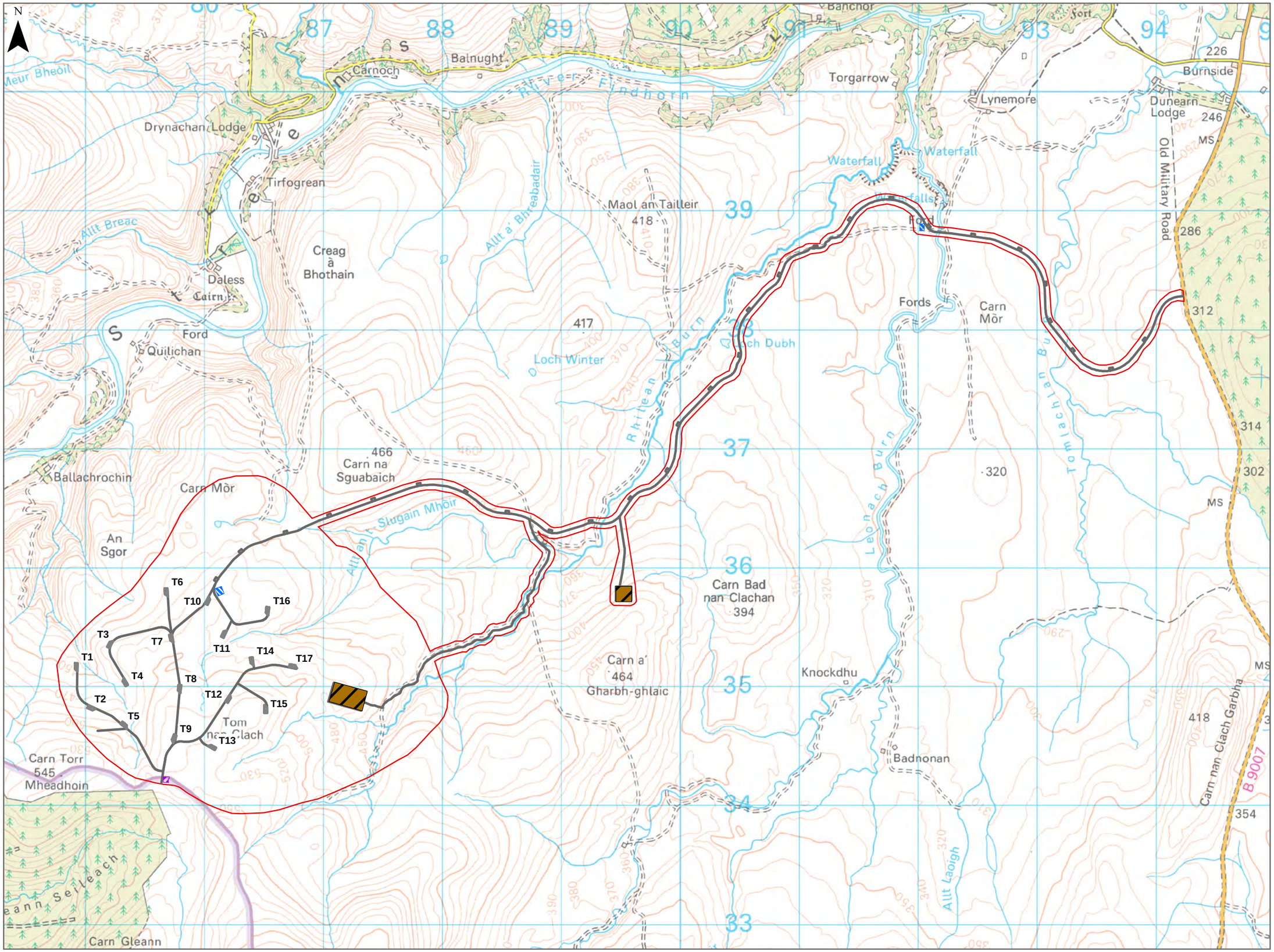
Site boundary

Note - when printed at A3 scale 1:50,000, (printed on OS 50,000 Landranger Map)

Title:	Site Location Plan
Project:	Tom nan Clach Wind Farm Repowering
Source:	
Client:	Infinergy
Drawn by: RT	Checked: AR
Date: 18/08/2015	Figure: 1
Scale: 0 0.5 1 km	Revision No: 1

INFINERGY

INFINERGY



Title: Permitted Scheme Site Layout

Project: Tom nan Clach Wind Farm Repowering

Source:

Client: Infinergy

Drawn by:	Checked:
RT	AR
Date: 23/07/2015	Figure: 1.2
Scale: 0 0.3 0.6 km	Revision No: 1

INFINERGY

INFINERGY

N

T1 T2 T3 T4 T5 T6 T7 T8 T9 T10 T11 T12 T13

A B C

Legend:

- Proposed Development site boundary
- Proposed Development access track & passing places
- Proposed Development construction hard standing
- Proposed Development extent of hardstanding during operational period (dark green area will be reinstated)
- Proposed Development substation
- Proposed Development borrow pit search area
- Proposed Development construction compound
- Proposed Development met mast location (not to scale)
- T1 Proposed Development turbine identifier
- A Proposed Development borrrow pit search area identifier

Note - when printed at A3 scale 1:50,000, (printed on OS 50,000 Explorer Map)

Title: Proposed Development Site Layout

Project: Tom nan Clach Wind Farm Repowering

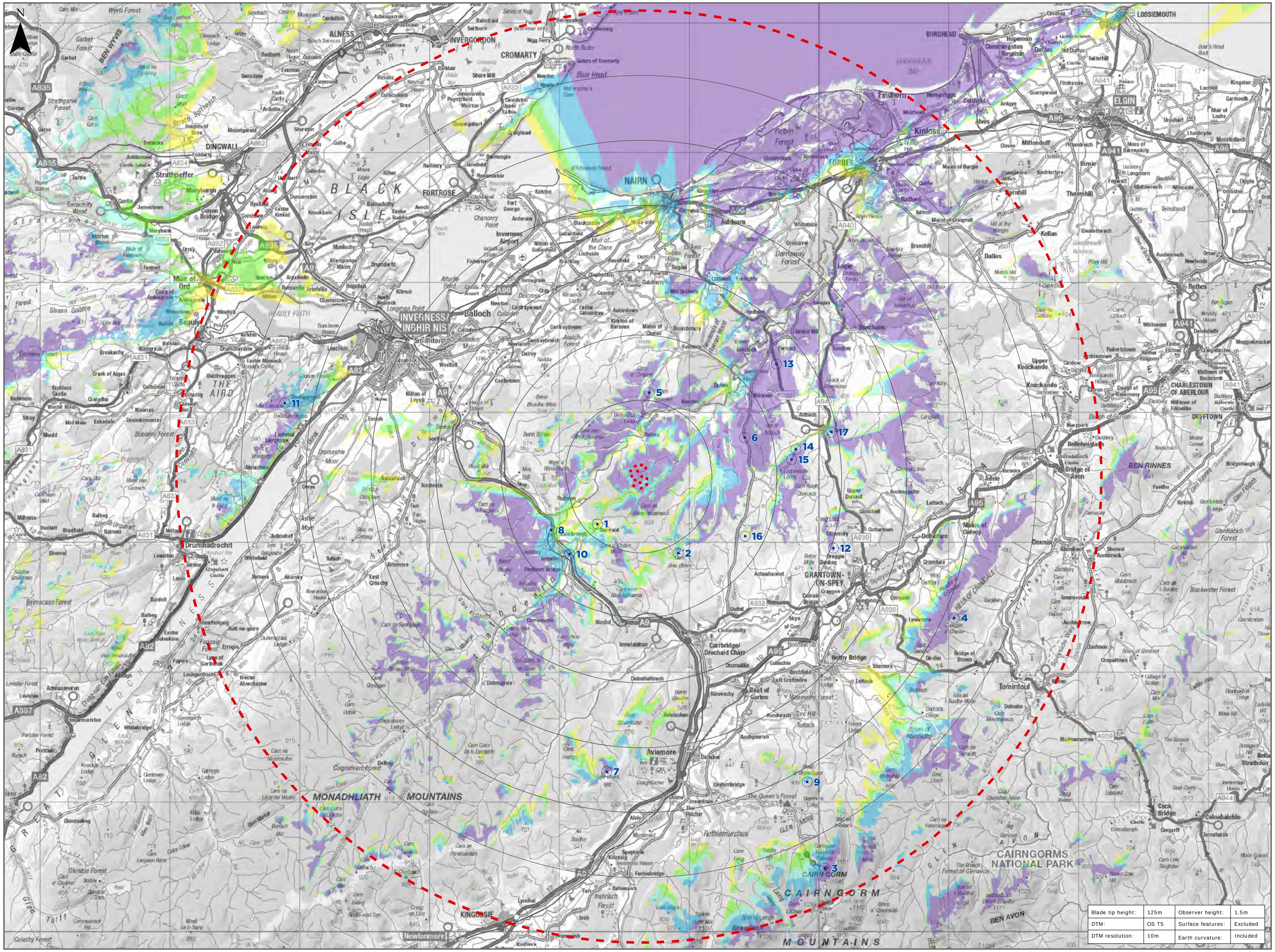
Source:

Client: Infinergy

Drawn by:	Checked:
RT	AR
Date: 26/08/2015	Figure: 2a
Scale: 0 0.5 1 km	Revision No: 1

INFINERGY

INFINERGY



Blade tip height:	125m	Observer height:	1.5m
DTM:	OS T5	Surface features:	Excluded
DTM resolution:	10m	Earth curvature:	Included

Legend:

- Proposed Development
- 5km Distance Radii
- 35km Study Area Boundary

Bare Ground Blade Tip ZTV (125m)
No. of Theoretically Visible Turbines

- 1 - 3
- 4 - 6
- 7 - 9
- 10 - 12
- 13

Viewpoint

1 Balvraid Lodge
2 Carn Glas-choire
3 Ptarmigan Lodge
4 Creagan a' Chaise, Hills of Cromdale
5 Minor Road north of Drynachan
6 B9007 near Lochindorb
7 Geal-charn Mor, Monadhliath
8 A9(T) north of Tomatin Junction
9 Meall a Bhuachaille
10 A9(T) River Findhorn Bridge
11 Blackfold, near Dochgarroch
12 Gorton Hill
13 A939 at Milestone
14 Shore Road Lochindorb 1
15 Shore Road Lochindorb 2
16 Creag Ealraich
17 Dava Way

Title: Blade Tip ZTV with Viewpoints

Tom nan Clach
Wind Farm Repowering

Client: Infinergy

Drawn by:	Checked:
LA	JP
Date: 15/07/2015	Figure: 6.7a
Scale: 0 2.5 5 km	Revision No: 2

INFINERGY

COMPARATIVE MONOCHROME IMAGE

Viewpoint 5: Minor Road north of Drynachan

Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 08:26

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.85a

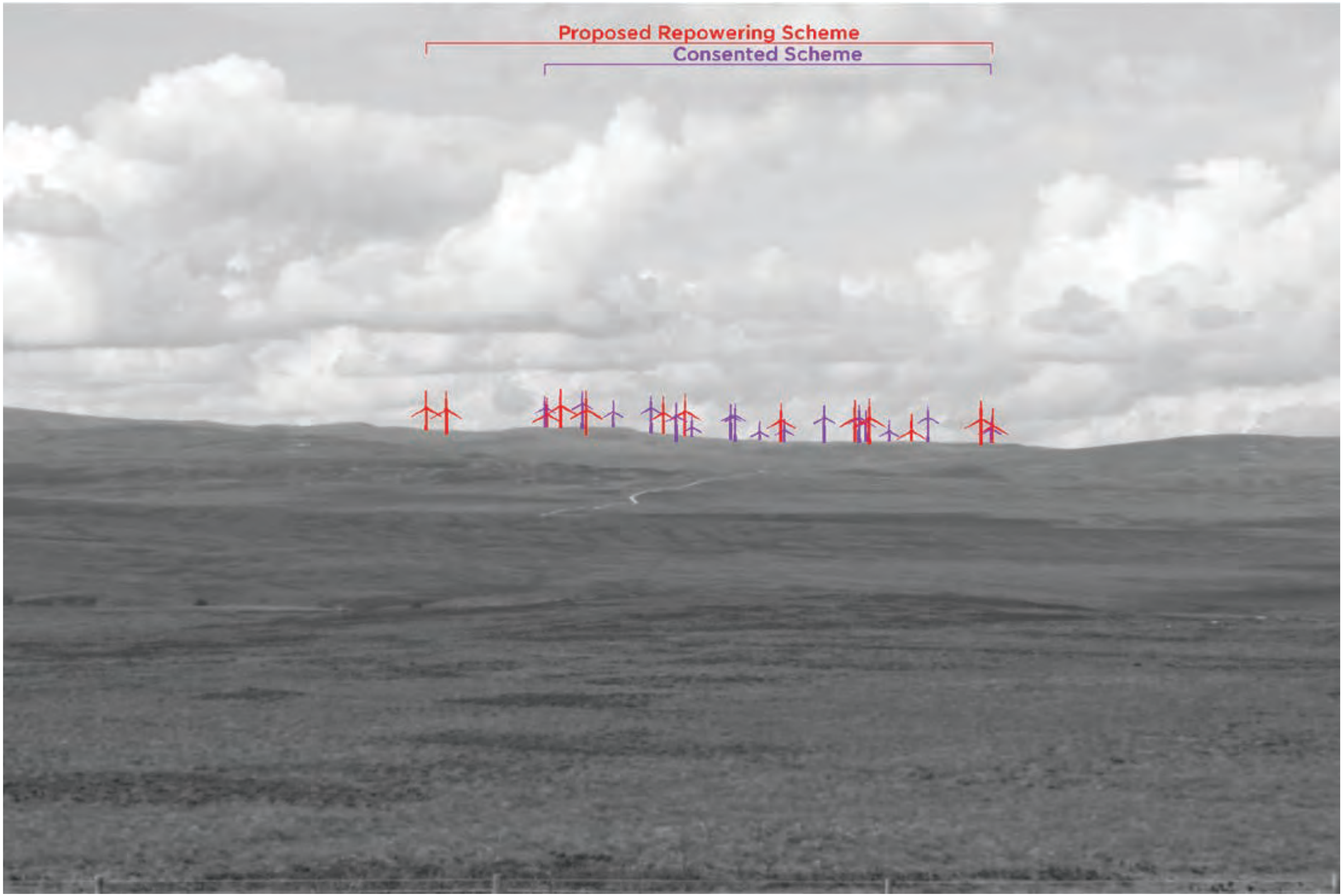
COMPARATIVE PHOTOMONTAGE - Proposed repowering scheme

Viewpoint 5: Minor Road north of Drynachan

Distance to nearest turbine: 5.61km Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 08:26

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.85c



Viewpoint 6: B9007 near Lochindorb

Camera: EOS 5D II Focal length: 75mm Camera height: 1.5 m Date/time: 05.07.2015 08:57

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.86a

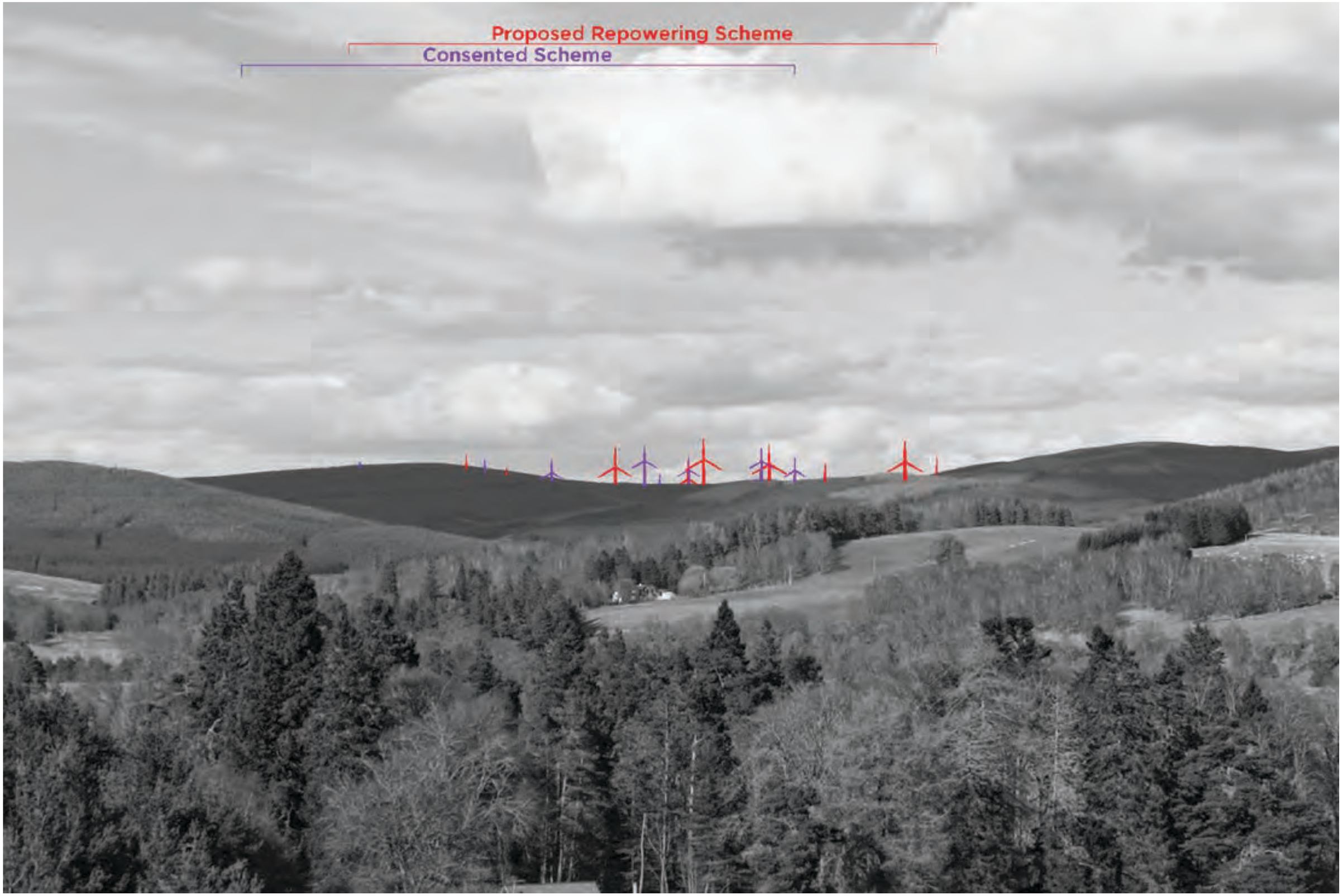
COMPARATIVE PHOTOMONTAGE - Proposed repowering scheme

Viewpoint 6: B9007 near Lochindorb

Distance to nearest turbine: 7.97km Camera: EOS 5D II Focal length: 75mm Camera height: 1.5 m Date/time: 05.07.2015 08:57

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.86c



Viewpoint 10: A9(T) River Findhorn Bridge

Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 16:29

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.88a

COMPARATIVE PHOTOMONTAGE - Proposed repowering scheme

Viewpoint 10: A9(T) River Findhorn Bridge

Distance to nearest turbine: 7.21km Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 16:29

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.88c

COMPARATIVE MONOCHROME IMAGE

Viewpoint 13: A939 at Milestone

Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 09:07

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.90a

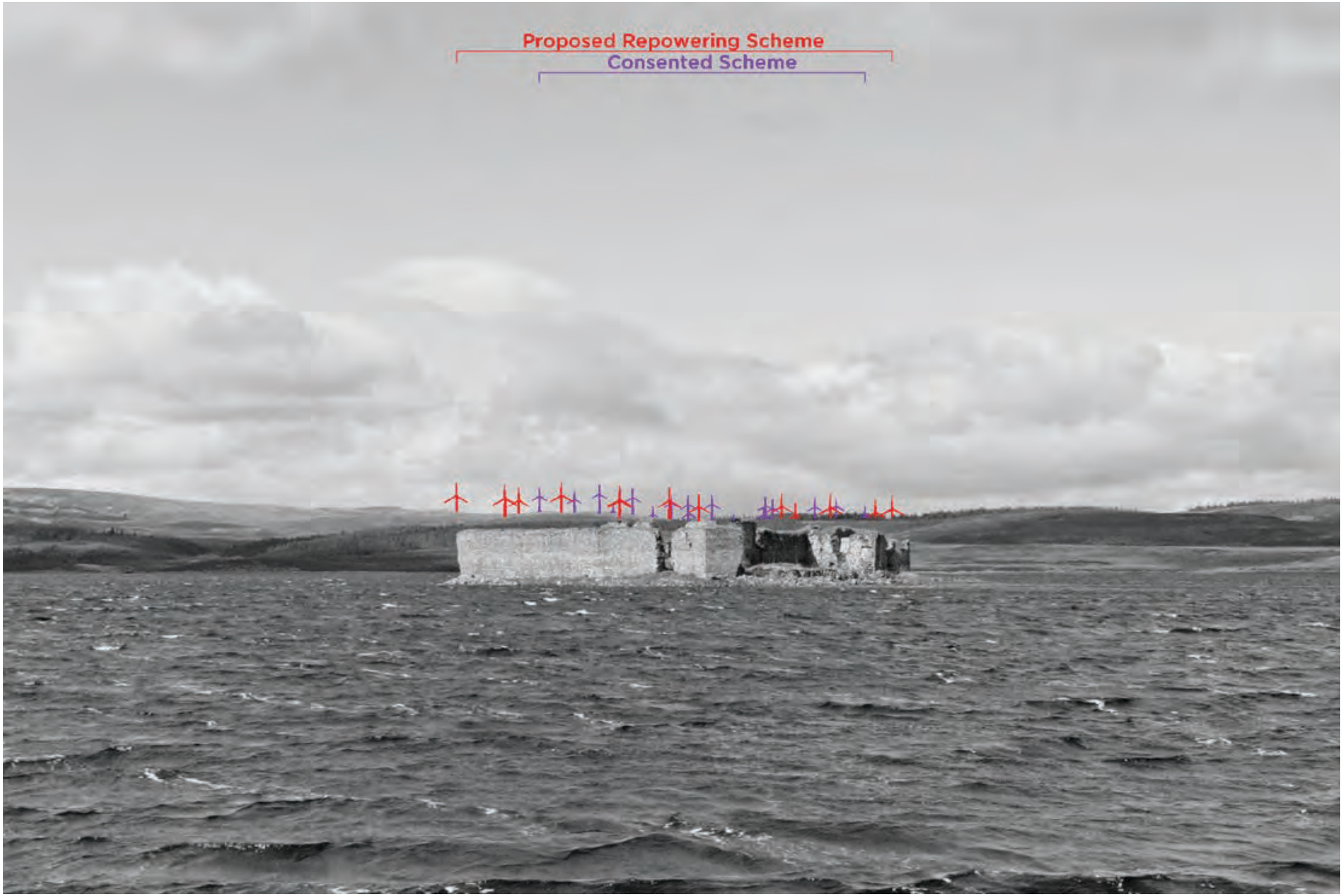
COMPARATIVE PHOTOMONTAGE - Proposed repowering scheme

Viewpoint 13: A939 at Milestone

Distance to nearest turbine: 12.85km Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 09:07

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.90c



Viewpoint 15: Shore Road Lochindorb 2

Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 09:56

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.92a

Viewpoint 15: Shore Road Lochindorb 2

Distance to nearest turbine: 11.23km Camera: EOS 6D Focal length: 75mm Camera height: 1.5 m Date/time: 04.05.2015 09:56

This image should be viewed at a comfortable arm's length (approx. 500mm).

Figure : 6.92c