

Agenda Item	6.4
Report No	PLN/054/23

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 09 August 2023
Report Title: 23/01517/S36: Creag Riabhach Wind Farm Limited
Creag Riabhach,
Lairg
Report By: Acting Head of Development Management

Purpose/Executive Summary

Description: Creag Riabhach Wind Farm - S36 Variation to extend operational life from 25 years to 40 years (14/00004/S36)
Ward: 01 – North, West and Central Sutherland
Development category: National Development
Reason referred to Committee: National Development

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

Recommendation

Members are asked to agree the recommendation to **RAISE NO OBJECTION** to the application as set out in section 11 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents Unit (ECU) on an application made under Section 36C of The Electricity Act 1989 (as amended) to vary the original consent (THC ref. 14/00004/S36) and extend the operational lifetime of the recently completed Creag Riabhach Wind Farm from 25 years to 40 years from the date of final commissioning, which was 01 February 2023. The variation request includes a request to vary conditions 22 and 23 of the deemed planning consent under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended), which refer to the 25 year duration of consent, and, impose a requirement for the site's decommissioning, restoration, and aftercare no later than the date following 25 years from the date of final commissioning respectively.
- 1.2 The Creag Riabhach Wind Farm was consented in October 2016 and comprises 22 turbines with tip heights of 125m, hub heights of 67m, and rotor diameters of 116m and a generating capacity of 92MW. Installed infrastructure includes site compound with substation and control room, access tracks, an access junction with the A836, and a new bridge over the River Vagastie. The wind farm is operational with the developer now implementing the approved Peat and Habitat Management Plans to remove temporary infrastructure and restore disturbed ground.
- 1.3 There is currently a separate Section 36 application (THC ref. 23/02936/S36) pending consideration for Creag Riabhach Extension Wind Farm comprising three turbines of tip height 149.9m, a battery energy storage system (BESS), and access tracks. It is anticipated that if consented, the existing and extension wind farms will operate as a single development.
- 1.4 Pre-Application Consultation: None
- 1.5 Supporting Information:
 - Supporting Statement;
 - Decision Notice - Scottish Ministers, 2016;
 - ERG Lifetime Extension Process (sets out how the operator expects to achieve a 40 year operational lifetime);
 - Landscape and Visual Technical Note; and
 - Non-aviation Ecology and Ornithology Assessment Note.
- 1.6 No amendments have been made since the consultation request was received.

2. SITE DESCRIPTION

- 2.1 The application site is the operational Creag Riabhach Wind Farm, which lies 6.5km south west of Altnaharra and 33.5km north of Lairg on the west side of the A836 and within the Altnaharra Estate. The site extends over 357ha, although the footprint of the development is significantly less, of undifferentiated moorland over blanket bog and peatland with some commercial forestry. Several watercourses cross the site flowing to the River Vagastie to the site's west. The majority of the site is within the Rounded Hills - Caithness and Sutherlands (LCT135) Landscape Character Type (LCT) with the southern extent being within the Sweeping Moorland and Flows LCT

(LCT134). The scheme is associated with the high ground of Meall An Fhuarain (472m), Ben Harrauld (400m), and Creag Riabhach (400m), while Ben Klibreck (962m) is approximately 4km to the east and Ben Hee (873m) is approximately 10km west.

- 2.2 There are no environmental designations within the site, immediately west and south however is the Cnoc an Alaskie Site of Special Scientific Interest (SSSI), which forms part of the Caithness and Sutherland Peatlands Special Area of Conservation (SAC), Special Protection Area (SPA), and Ramsar designations and now part of the candidate Flow Country World Heritage Site. Ben Klibreck SSSI lies to the immediate east of the River Vagastie. Other designations, ranging from local to international levels of protection, are contained in the wider area surrounding this site. There are no features recorded on the historic record within the site however the nearby Crask and Vagastie Bridges are Category C Listed.

3. PLANNING HISTORY

3.1	10 Sep 2012	12/03115/FUL: Erection of 60m Anemometer Mast	PERMISSION GRANTED
3.2	17 Dec 2012	12/04366/SCOP: Erection of 38 x Wind Turbines (Creag Riabhach Wind Farm)	SCOPING DECISION ISSUED
3.3	17 Oct 2016	14/00004/S36: Erection of 22 x Wind Turbines (max tip height 125m) (Creag Riabhach Wind Farm - 72.6MW)	APPROVED BY SCOTTISH MINISTERS
3.4	27 Nov 2015	15/03819/FUL: Erection of a 60m anemometer mast (36 month time extension)	PERMISSION GRANTED
3.5	03 Dec 2018	18/04520/FUL: Retention of 60m anemometer mast (36 month time extension)	PERMISSION GRANTED
3.6	05 Dec 2018	18/05384/SCRE: Proposed 132kV Overhead Line supported by double trident 'H' pole structures to provide a grid connection	EIA REQUIRED
3.7	06 Jun 2019	19/01713/SCOP: Creag Riabhach OHL grid connection	SCOPING DECISION ISSUED
3.8	19 May 2020	20/00774/FUL: Formation of borrow pit for use in the construction of Creag Riabhach Wind Farm	PERMISSION GRANTED
3.9	19 May 2020	20/00775/FUL: Formation of borrow pit for use in the construction of Creag Riabhach Wind Farm	PERMISSION GRANTED

3.10	23 Mar 2021	20/01014/S37: Installation and operation of 132 kV overhead electric line to connect Creag Riabhach Wind Farm to the grid	APPROVED BY SCOTTISH MINISTERS
3.11	14 Jun 2021	21/01648/FUL: Installation of three junction boxes to house electricity cables	PERMISSION GRANTED
3.12	N/A	N/A 23/02936/S36: Creag Riabhach Extension Wind Farm - erection and operation of 3 turbines with a maximum blade tip height of 149.9m, installation of Battery Energy Storage System, access tracks, and associated infrastructure	PENDING CONSIDERATION

4. PUBLIC PARTICIPATION

4.1 Advertised: S36 Application

Date Advertised: Northern Times – 24 and 31 March 2024; Edinburgh Gazette - 20 March 2023; and The Herald – 24 March 2023.

Representation Deadline: 5 May 2023

4.2 Representations Received by The Highland Council: 1 (1 objection)

Representations Received by The Energy Consents Unit: 1 (1 objection)

4.3 Material considerations raised are summarised as follows:

- a) Concerns regarding the management of peat on site.

4.4 All letters of representation received by the Council are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam . Those representations received by the Scottish Government's Energy Consents Unit can be accessed via www.energyconsents.scot It should be noted that the same representation has been submitted to both The Highland Council and Energy Consents Unit.

5. CONSULTATIONS

5.1 **Bettyhill, Strathnaver and Altnaharra Community Council (Host)** supports the application. It expects the community benefits arising from the extended life of the wind farm to continue.

5.2 **Durness Community Council** did not respond to the consultation request.

5.3 **Lairg Community Council** did not respond to the consultation request.

5.4 **Rogart Community Council** did not respond to the consultation request.

5.5 **Tongue, Melness and Skerry Community Council** supports the application.

- 5.6 **Development Plans Team** do not object to the application. They have no further comments.
- 5.7 **Ecology Officer** does not object to the application. They have no further comments.
- 5.8 **Flood Risk Management** do not object to the application. They have no further comments.
- 5.9 **Forestry Officer** does not object to the application. They have no further comments.
- 5.10 **Historic Environment Team (Archaeology)** do not object to the application. They have no further comments.
- 5.11 **Transport Planning** do not object to the application. They have no further comments.

Consultations Undertaken by the Energy Consents Unit

- 5.12 **British Telecom** does not object to the application. The scheme is not anticipated to interfere with BT's current and planned radio network.
- 5.13 **Defence Infrastructure Organisation** does not object to the application subject to the amended conditions being attached to any consent.
- 5.14 **Highlands and Islands Airport Ltd** does not object to the application. The site is out with its safeguarding consultation zone.
- 5.15 **John Muir Trust** objects to the application. The proposal may not conform with Scottish Land Use Priorities in 2063. Offshore wind may meet government Net Zero targets in 40 years. The application is an unnecessary use of Council resource. The development is against the peatland protection provisions of NPF4 Policy 5 (Soils).
- 5.16 **Joint Radio Company** do not object to the application. They have no further comments.
- 5.17 **NATS Safeguarding** does not object to the application. The development does not conflict with its safeguarding criteria.
- 5.18 **NatureScot** do not object to the application. They have no further comments.
- 5.19 **Scottish Water** do not object to the application. They have no further comments.
- 5.20 **Scottish Environmental Protection Agency** do not object to the application. They have no further comments.
- 5.21 **The Crown Estate** do not object to the application. They have no further comments.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

National Planning Framework 4 2023 (NPF4)

6.1 The policies most relevant to the consideration of this proposal are:

National Development 3 (NAD3) - Strategic Renewable Electricity Generation and Transmission Infrastructure

1 – Tackling the climate and nature crisis

2 – Climate mitigation and adaptation

3 – Biodiversity

4 – Natural places

5 – Soils

7 – Historic assets and places

11 – Energy

13 – Sustainable transport

22 – Flood risk and water management

23 – Health and safety

25 – Community wealth benefits

33 – Minerals

Highland Wide Local Development Plan 2012

6.2 28 - Sustainable Design

29 - Design Quality and Place-making

31 - Developer Contributions

53 - Minerals

55 - Peat and Soils

56 - Travel

57 - Natural, Built and Cultural Heritage

58 - Protected Species

59 - Other important Species

60 - Other Importance Habitats

61 - Landscape

63 - Water Environment

64 - Flood Risk

66 - Surface Water Drainage

67 - Renewable Energy Developments

68 - Community Renewable Energy Developments

72 - Pollution

73 - Air Quality

74 - Green Networks

77 - Public Access

Caithness and Sutherland Local Development Plan 2018 (CaSPlan)

6.3 The Plan confirms the boundaries of the Special landscape Areas. No site specific policies apply.

Onshore Wind Energy Supplementary Guidance (OWESG) (2016)

6.4 The Onshore Wind Energy Supplementary Guidance (OWESG) provides additional guidance on the principles set out in HwLDP Policy 67 for renewable energy developments. The Guidance sets out the Council's agreed position on onshore wind energy matters, and, although reflective of Scottish Planning Policy at the time of its

adoption prior to the adoption of NPF4, the document remains an extant part of the Development Plan and is therefore a material consideration in the determination of onshore wind energy planning applications. Nevertheless, the Spatial Framework included in the document is no longer relevant to the assessment of applications as in effect, the policies of NPF4 (specifically Policy 11, Energy) removes Group 2 Areas of significant protection from consideration by effectively making all land in Scotland either Group 1 Areas where wind farms will not be acceptable, or Group 3, Areas with potential for wind farm development.

- 6.5 The OWESG also contains the Loch Ness Landscape Sensitivity Study, the Black Isle, Surrounding Hills and Moray Firth Coast Sensitivity Study, and, the Caithness Sensitivity Study.

Other Highland Council Supplementary Guidance

- 6.6 Developer Contributions (Mar 2018)
Green Networks (Jan 2013)
Highland Historic Environment Strategy (Jan 2013)
Highland's Statutorily Protected Species (Mar 2013)
Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
Physical Constraints (Mar 2013)
Roads and Transport Guidelines for New Developments (May 2013)
Special Landscape Area Citations (Jun 2011)
Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

- 7.1 Onshore Wind Energy Policy Statement (2022)
Draft Energy Strategy and Just Transition Plan (2023)
Scottish Energy Strategy (2017)
2020 Routemap for Renewable Energy (2011)
Energy Efficient Scotland Route Map, Scottish Government (2018)

8. PLANNING APPRAISAL

- 8.1 This application has been submitted to the Scottish Government for approval under Section 36 of the Electricity Act 1989 (as amended). Should Ministers approve the development, it will receive deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). While not a planning application, the Council processes Section 36 applications in the same way as a planning application as a consent under the Electricity Act will carry with it deemed planning permission.
- 8.2 It should be noted that for applications under the Electricity Act 1989 that the Development Plan is just one of a number of considerations and Section 25 of the Town and Country Planning (Scotland) Act 1997 which requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise, is not engaged. That said, the application still requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:
- a) Compliance with the Development Plan / Other Planning Policy
 - b) Other material considerations

Development Plan / Other Planning Policy

- 8.4 The Development Plan comprises National Planning Framework 4 (NPF4), the adopted Highland-wide Local Development Plan (HwLDP), Caithness and Sutherland Local Development Plan, and all statutorily adopted supplementary guidance.
- 8.5 NPF4 forms part of the Development Plan and was adopted in February 2023. The Spatial Strategy sets out that we are facing unprecedented challenges and that we need to reduce greenhouse gas emissions and adapt to future impacts of climate change. NPF4 sets out that wind energy developments of over 50MW, such as that subject to this application, fall under the banner of 'Strategic Renewable Electricity Generation and Transmission Infrastructure' and are National Developments whereby the principle of the development is established. At the high level, the document considers that Strategic Renewable Electricity Generation and Transmission Infrastructure will assist in the delivery of the Spatial Strategy and Spatial Priorities for the north of Scotland, and that Highland can continue to make a strong contribution toward meeting Scotland's ambition for net zero. Alongside these ambitions, the strategy for Highland aims to protect environmental assets as well as to stimulate investment in natural and engineered solutions to address climate change (page 26). This aim, which may clearly require a balancing exercise, is not new but is reflected throughout NPF4.
- 8.6 NPF4 Policies 1, 2, and 3 apply to all development proposals Scotland-wide, which means that significant weight must be given to the global climate and nature crises when considering all development proposals, as required by NPF4 Policy 1. Specific to this proposal, as well as the support in Policy 1 (significant weight will be given to the global climate and nature crisis when considering development), NPF4 Policy 11 supports all forms of proposals for renewable, low-carbon and zero emission technologies including wind farms. Critical to the consideration of this proposal is NPF4 Policy 11, part f) which establishes that although consents for development proposals may be time limited, areas identified for wind farms are however to be suitable for use in perpetuity.
- 8.7 The principal HwLDP policy on which the application needs to be determined is Policy 67 - Renewable Energy. HwLDP Policy 67 sets out that renewable energy development should be well related to the source of the primary renewable resource needed for operation, the contribution of the proposed development in meeting renewable energy targets and positive/negative effects on the local and national economy as well as all other relevant policies of the Development Plan and other relevant guidance.
- 8.8 The Onshore Wind Energy Policy Statement supersedes the previously adopted Onshore Wind Energy Policy Statement which was published in 2017. The document

sets out a clear ambition for onshore wind in Scotland and for the first time sets a national target for a minimum level of installed capacity for onshore wind energy, 20GW. This is set against a currently installed capacity of 8.7GW. Therefore, a further 11.3GW of onshore wind requires to be installed to meet the target. It is however acknowledged that targets are not caps. In delivering such a target Scotland would play a significant role in meeting the requirement of 25-30GW of installed capacity across the UK identified by the Climate Change Committee.

- 8.9 The applicant is seeking to extend the operational lifetime of the wind farm by an additional 15 years, which is a change to the generating station as covered by the Section 36 condition 1. The continued operation of the wind farm will contribute towards meeting onshore renewable energy targets with NPF4 making it clear that wind farms are expected to be suitable for use in perpetuity. The principle of the development is in conformity with the Development Plan and other national guidance.
- 8.10 Nevertheless, it is necessary that any such approval gives proper regard to ensure that the turbines continue to operate effectively, that all mitigation is sustained for the full operational life of the wind farm, and that the provisions for turbine failures and final removal are continued. To that end, the submission includes detail of how the wind farm will be maintained and kept in favourable operational condition throughout its 40 year lifetime, so there are no Health and Safety concerns regarding turbine failure.

Other material considerations

- 8.11 There is no reason to suppose that turbines could not have a useful extended life beyond that originally consented through planning permission. Key is to ensure that in any approval for an extended period of planning permission, proper regard is taken to ensure that:
- the turbines continue to operate effectively;
 - that all mitigation is sustained for the full operational life of the wind farm; and
 - that the provisions for turbine failures and final removal are continued.
- 8.12 In addition to the four conditions attached to the Section 36 consent and specifically Condition 1, which is the focus of the current application, the operation of Creag Riabhach Wind Farm is subject to a number of planning conditions attached to the deemed planning permission that are relevant to the consideration of the extended operation period. The conditions below are particularly relevant in respect of the longer operational period:
- Condition 22 imposes a duty on the developer to decommission the turbines and remove them from site on the expiration of a 25 year period from the date of final commissioning, as well as to implement the restoration plan.
 - Condition 23 imposes a duty on the developer to ensure that works for the decommissioning, restoration, and aftercare of the site are undertaken in accordance with an approved plan.
 - Condition 24 provides for a financial guarantee for site decommissioning and restoration.

- Condition 25 provides for the removal of failed turbines, or the entirety of the wind farm, should it not supply energy to the grid from 50% or more if its turbines for a period of 12 consecutive months.

- 8.13 It is worth highlighting that the application provides an opportunity to amend any, or each of the original conditions previously applied considered necessary to regulate the development in order to ensure the wording is in line with current good practice. All of the original conditions have been reviewed given the scheme is now operational and where relevant, reworded to reflect the operational status of the scheme. While all suspensive planning conditions as previously applied have been satisfied, some of these require ongoing application of mitigation or are operational requirements. As this is the case these require to remain in force should the Section 36C application be granted.
- 8.14 Additionally, the original parent planning permission 14/00004/S36 was accompanied by a financial bond to secure decommissioning and restoration of the site at the end of the project's lifespan. As this application seeks to increase the wind farm's lifespan further, a condition requiring the review of the bond in light of the longer operational timeframe can be secured.
- 8.15 The extant consent was also the subject of an Environmental Impact Assessment (EIA). The application will not result in any changes to the wind farm's landscape and visual effects or result in additional amenity or transport impacts given that the operational wind farm now defines the current baseline position and noting that Vagastie Cottage has since been demolished. Similarly, the Ecology Report submitted in support of the application demonstrates that the proposal will not result in significant impacts on non-aviation ecological interests or ornithological interests. Having screened the proposed life extension of the wind farm, this is not considered by the Planning Authority to give rise to any new significant environmental effects over and above those previously assessed, and therefore is not regarded to constitute EIA Development. Note that any subsequent proposal for a revised scheme involving the repositioning or enlargement of any turbines on site would trigger the need for a new application with this S36C application only relating to the life extension of the existing wind farm.

Non-material considerations

- 8.16 The issues of Planning Authority resource and potential for offshore wind are not material to the assessment of this application.
- 8.17 Prior to the publication of NPF4, Council policy and practice was for community benefit to be considered separately and outwith the planning application determination process. NPF4 Policy 25 Community Wealth Building has however introduced an avenue for planning support to be given to proposals which either: a) contribute to local or regional community wealth building strategies and are consistent with local economic priorities; or b) are linked to community ownership and management of land. In the absence of the Council having a Community Wealth Building Strategy, and no community ownership being proposed, the proposal cannot receive additional weight NPF4 Policy 25. As such community benefit is not a material consideration in the determination of this application. That said, it is expected that the development shall continue to meet the Scottish Government's

recommended community benefit contribution of £5,000 per installed MW per annum.

Matters to be secured by Legal Agreement / Upfront Payment

8.18 None.

9. CONCLUSION

9.1 In essence this application seeks to extend of the existing wind farm from 25 years to 40 years. The principle of the wind farm at this location has already been established. The Council is supportive of renewable energy projects as is the Scottish Government which in particular has challenging targets for the country to meet in terms of electricity supply from renewable resources. Support is given on the basis of developments being in the right place and with appropriate protection for the environment. The impact of the wind farm has already been deemed to be acceptable in this location. The applicant has provided justification to extend the duration of consent while the wind farm will be maintained and kept in favourable operational condition throughout its 40 year lifetime and there are no health and safety concerns.

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

10. IMPLICATIONS

10.1 Resource: Not applicable

10.2 Legal: Not applicable

10.3 Community (Equality, Poverty and Rural): Not applicable

10.4 Climate Change/Carbon Clever: the proposal will contribute to national Net Zero targets

10.5 Risk: Not applicable

10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	Y
Notification to Scottish Ministers	Y
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above actions, it is recommended to **RAISE NO OBJECTION** to the application subject to the following conditions and reasons:

Part 1 – Conditions attached to the Section 36 Consent

1. **Duration of Consent**

- (1) This consent shall expire after a period of 40 years from the Date of Final Commissioning.
- (2) Written confirmation of the Date of First Commissioning must be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that date.

Reason: to define the duration of the consent and ensure that construction and first to final commissioning is completed within a reasonable period of time

2. **Non-assignment**

This consent may not be assigned without the written authorisation of the Scottish Ministers. The Scottish Ministers may grant authorisation with or without conditions. The Planning Authority must be notified in writing of the name of the assignee, principal named contact and contact details within 14 days of the date of the assignment taking place.

Reason: to safeguard the obligations of the consent if transferred to another person.

3. **Serious Incident Reporting**

In the event of any breach of health and safety or environmental obligations relating to the Development during the period of this consent, the Developer will, within 24 hours of the incident occurring, provide written notification of the nature and timing of the incident to the Scottish Ministers, including confirmation of remedial measures taken and/or to be taken to rectify the breach.

Reason: to keep the Scottish Ministers informed of any such incidents which may be in the public interest.

Part 2 – Conditions attached to the deemed Planning Permission

4. **Implementation in accordance with approved plans and requirements of this consent**

Except as otherwise required or authorised in terms of an approval required by the terms of the section 36 consent and deemed planning permission or as subsequently agreed in writing by the Planning Authority, the development must be undertaken in accordance with the approved plans and the original Environmental Statement lodged in support of the application.

Reason: to ensure that the Development is carried out in accordance with the approved details.

4. **Design and operation of wind turbines**

- (1) The wind turbines must be operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until the Development is decommissioned.
- (2) All wind turbine blades must rotate in the same direction.
- (3) All wind turbine transformers must be located within the tower of the wind turbine to which they relate.
- (4) None of the wind turbines, anemometers, power performance masts, switching stations, or transformer buildings/enclosures, ancillary buildings or above ground fixed plant may display any name, logo or other signage (other than health and safety signage) unless otherwise approved in advance in writing by the Planning Authority.

Reason: in the interests of the visual amenity of the area.

5. **Design of substation and ancillary development**

The substation building, associated compounds, fencing, external lighting and parking areas must be maintained in accordance with the approved details for the lifetime of the development.

Reason: in the interests of the visual amenity of the area.

6. **Planning Monitoring Officer**

The Planning Monitoring Officer (PMO) must remain appointed on the approved terms until completion of post construction restoration works.

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

7. **Borrow Pits – Scheme of Works**

The approved Borrow Pit Scheme of Works must be implemented in full.

Reason: to secure the restoration of borrow pits at the end of the construction period.

8. **Ecological Clerk of Works**

- (1) The Ecological Clerk of Works (ECoW) must remain appointed on the approved terms until completion of all post construction restoration works.
- (2) No later than 18 months prior to the decommissioning of the Development (as defined in condition 21 attached to this consent) or the expiration of the section 36 consent (whichever is the earlier), details of the terms of appointment of an independent ECoW through the decommissioning, restoration and aftercare phases of the Development must be submitted to the Planning Authority for approval in consultation

with NatureScot and SEPA. The ECoW must be appointed on the approved terms through the decommissioning, restoration and aftercare phases of the Development.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the decommissioning, restoration and aftercare phases.

9. **Environmental Management Plan**

Prior to any further development or works on the site, inclusive of decommissioning and any maintenance that requires provision of new or improved tracks, or replacement of any turbine components (defined as towers, blades or nacelles), an updated Environmental Management Plan (EMP) shall be submitted to and approved in writing by the Local Planning. Thereafter, the operation and decommissioning of the development shall proceed in accordance with the approved EMP, unless otherwise agreed in writing by the Planning Authority in consultation with NatureScot and SEPA. The EMP should include information on the following matters:

- (a) Peat/Soil Management Plan, to include details of all peat stripping, excavation, storage, and reuse of material in accordance with best practice advice published by SEPA and NatureScot.
- (b) Water Quality Management Plan, with details of drainage provisions including:
 - a. monitoring / maintenance regimes;
 - b. surface water drainage management;
 - c. integrated water quality, macroinvertebrate and fish monitoring programme to enable any changes to be detected and rapidly remedied.
- (c) Site Waste Management Plan;
- (d) A Peatland Habitat Restoration Plan including the total area (441ha) to be managed, the measures to be undertaken, timing of works and proposed monitoring of the measures undertaken for the duration of the consent.
- (e) Details of the Deer Management Plan, including measures to be undertaken, timing of works, and proposed monitoring the measures undertaken for the duration of the consent.

The approved EMP must be implemented throughout the operational lifetime of the development.

Reason: to protect the environment from the operation of the Development and to protect the integrity of nearby designated sites.

10. **Replanting of Forestry**

The approved Replanting Scheme must be implemented in full, unless otherwise agreed in writing by the planning Authority in consultation with Scottish Forestry.

Reason: to secure replanting in order to mitigate against the effects of deforestation arising from the development.

11. Noise

- (1) The rating level of noise immissions from the combined effects of the wind turbines forming part of the development (including the application of any tonal penalty) may not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of the original section 36 consent.
- (2) The wind turbines must permit individually controlled operation or shut down at specified wind speeds and directions in order to facilitate compliance with noise criteria.
- (3) Amendments to the list of approved independent noise consultants who may undertake compliance measurements in accordance with this condition may be made only with the written approval of the Planning Authority.
- (4) Subject to Paragraph (6), within 21 days of receipt of a written request of the Planning Authority, setting out the date, time, and location to which a complaint made to the Council alleging noise disturbance at a dwelling, an independent consultant on the list approved by the Planning Authority by virtue of Paragraph (3) must 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.
- (5) Within 21 days of receipt of such a request from the Planning Authority the information logged in accordance with Paragraph (12) must be submitted to the Planning Authority in the format set out in Guidance Note 1(e).
- (6) The noise limits are set for the residential property named in Tables 1 and 2 below. Where a dwelling to which a complaint relates is not identified in the Tables below, proposed noise limits must be selected from those listed in the Tables, to be adopted at the complainant's dwelling for the compliance checking purposes set out below, and must be submitted for the written approval of the Planning Authority. The proposed noise limits are to be those selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Planning Authority must include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Noise may not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.
- (7) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with this conditions the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes must be undertaken and must be submitted for the written approval of the Planning Authority. Measurement to assess compliance with the noise limits set out in the Tables below or approved by the Planning Authority by

virtue of Paragraph (6) must be undertaken at the measurement location approved in writing by the Planning Authority.

- (8) Prior to the submission of the independent consultant's assessment of the rating of noise immissions in accordance with Paragraph (4) a proposed assessment protocol setting out the following must be submitted for the written approval of the Planning Authority:
 - (a) The range of meteorological and operational conditions to be taken into account to determine the assessment of rating level of noise immissions.
 - (b) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.
- (9) The proposed range of conditions must 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 (4), to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions must be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the attached Guidance Notes.
- (10) The independent consultant's assessment of the rating level of noise immissions, undertaken in accordance with the Guidance Notes, must be submitted to the Planning Authority within 2 months of the date of the written request of the Planning Authority made under Paragraph ((4) unless the time limit is extended in writing by the Planning Authority. All data collected for the purposes of undertaking the compliance measurements must be made available to the Planning Authority on the request of the Planning Authority. The instrumentation used to undertake the measurements must be calibrated in accordance with Guidance Note 1(a) and certificates of calibration must be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (11) 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, a copy of the further assessment must be submitted to the Planning Authority within 21 days of submission to them of the independent consultant's assessment in accordance with Paragraph (10) unless that time limit is extended in writing by the Planning Authority.
- (12) Power production, wind speed and wind direction must be continuously logged, all in accordance with Guidance Note 1(d). These data must be retained for a period of not less than 23 months. This information must be submitted to the Planning Authority on their written request, in the format set out in Guidance Note 1(e), within 14 days of receipt of the 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 consent.

Table 1 – Between 07:00 and 23:00 hours (Noise Level in dB LA90, 10-min)

	Wind Speed at 10 meter height, m/s, within the site averaged over 10-minute periods.								
Location	4	5	6	7	8	9	10	11	>=1 2
Crask Inn	33	33	33	33	33	33	33	33	33

Table 2 - Between 23:00 and 07:00 hours (Noise Level in dB LA90, 10-min)

	Noise levels (dB LA90) at standardised 10 meter height wind speeds (m/s).								
Location	4	5	6	7	8	9	10	11	>=1 2
Crask Inn	33	33	33	33	33	33	33	33	33

Table 3 – Coordinate locations of the property listed in Tables 1 and 2.

Location	Easting	Northing
Crask Inn	252,416	924,723

Note to Tables 1 and 2: The geographical coordinate references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The wind speed at 10 metres height derived in accordance with the method given in the attached Guidance Notes.

Note to Table 3: The geographical coordinate references are provided for the purposes of identifying the general location of dwellings to which a given set of noise limits applies.

Reason: to ensure that the noise impact of the development can be assessed, if necessary following a complaint, in order to demonstrate that it does/does not exceed the predicted noise levels set out within the supporting noise assessment.

19. **Aviation Lighting**

The Developer shall install MOD accredited 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all turbines, and 25 candela and infrared lighting on all cardinal turbines at the highest practicable point. The turbines will be so installed with the lighting, which will remain operational throughout the duration of this consent.

Reason: to ensure that the appropriate aviation warning lighting is provided.

20. **Duration of Consent**

Upon the expiration of a period of 40 years from the Date of Final Commissioning, the wind turbines shall be decommissioned and removed from the site, with decommissioning and restoration works undertaken in accordance with the terms of condition 23 of this permission. Written confirmation of the Date of First Commissioning shall be submitted in writing to the Planning Authority no later than one calendar month after the Date of First Commissioning.

Reason: to define the duration of the consent. The 45 year cessation date allows for a 5 year period to complete the decommissioning and site restoration work.

21. **Decommissioning, Restoration, and Aftercare**

- (1) The Development will be decommissioned and will cease to generate electricity by no later than the date falling forty years from the date of Final Commissioning. The total period for restoration of the Site in accordance with this condition may not exceed the period of 5 years after that date without the written approval of the Planning Authority.
- (2) No later than 18 months prior to decommissioning of the Development or the expiration of the section 36 consent (whichever is the earlier) a detailed decommissioning, restoration and aftercare plan (DRP), based upon the principles of the approved decommissioning, restoration and aftercare strategy, must be submitted to the Planning Authority for written approval in consultation with NatureScot and SEPA. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which must include:
 - (a) A site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
 - (b) Details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
 - (c) The dust management plan;
 - (d) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities and measures to clean the site entrances and the adjacent local road network;
 - (e) A pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
 - (f) Soil storage and management;
 - (g) A surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains and location of settlement lagoons for silt laden water;
 - (h) Sewage disposal and treatment;

- (i) Temporary site illumination;
- (j) The construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) Details of watercourse crossings;
- (l) A species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development must be decommissioned, site restored and aftercare undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

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

22. **Financial Guarantee**

- (1) Within six months of the date of this Planning Permission details of a financial guarantee, bond or other financial provisions to cover the cost for any and all decommissioning and site restoration at the end of the operational life of the wind farm shall be submitted to and approved in writing to the Planning Authority, this shall include:
 - i. Full details of a guarantee, bond or other financial provision to be put in place to cover all of the decommissioning and Site restoration measures outlined in the Decommissioning and Restoration Plan approved under Condition 21 of this permission have been submitted to, and approved in writing by, the planning authority. For the avoidance of doubt the bond must be able to be called upon by The Highland Council and be enforceable against the operator and landowner and/ or leaseholder; and
 - ii. Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (i) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal, Site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the planning authority; and
 - iii. Documentary evidence that the guarantee, bond or other financial provision approved under parts (i) and (ii) above is in place has been submitted to, and confirmation in writing that the financial provision is satisfactory has been issued by, the planning authority.
- (2) Thereafter, the Operator, and Leaseholder and/or Landowner, shall:
 - i. Ensure that the guarantee, bond or other financial provision is maintained throughout the duration of this permission; and
 - ii. Pay for the guarantee, bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the wind farm is decommissioned and the Site restored.

- (3) Each review shall be:
- a) conducted by a suitably qualified independent professional; and
 - b) published within three months of each five year period ending, with a copy submitted upon its publication to both the landowner(s) and the Planning Authority; and
 - c) approved in writing by the planning authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.
- (4) Where a review approved under part (c) above recommends that the amount of the guarantee, bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, the Operator, and Leaseholder and/or Landowner shall do so within one month of receiving that written approval, or another timescale as may be agreed in writing by the planning authority, and in accordance with the recommendations contained therein.

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

25. **Redundant Turbines**

In the even that:

- (a) One or more wind turbine, installed and commissioned, fails to supply electricity on a commercial basis to the grid for a continuous period of 12 months then unless otherwise agreed by the Planning Authority, the wind turbine, along with any ancillary equipment, fixtures, and fittings not required in connection with retained wind turbines, must, within 3 months of the end of the said continuous 12 month period, be dismantled and removed from the site and the surrounding land fully reinstated;
- (b) The wind farm fails to supply electricity on a commercial basis to the grid from 50% of the wind turbines installed and commissioned and for a continuous period of 12 months, then the Developer must notify the Planning Authority, Scottish Ministers must immediately be informed in writing of that fact. Thereafter the Planning Authority may direct in writing that the wind farm must 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 Developer and such other parties as they consider appropriate.

All decommissioning and reinstatement work required by this condition must be carried out in accordance with the approved detailed Decommissioning and Restoration Plan (DRP), or should the detailed DRP 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: in order to ensure that any redundant wind turbines are removed from site, in the interests of safety, amenity, and environmental protection.

REASON FOR DECISION

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

INFORMATIVES

Initiation and Completion Notices

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

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.

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

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks and Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

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

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

Further information on the Council's roads standards can be found at: <http://www.highland.gov.uk/yourenvironment/roadsandtransport>

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

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud and Debris on Road

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

Construction Hours and Noise-Generating Activities

You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

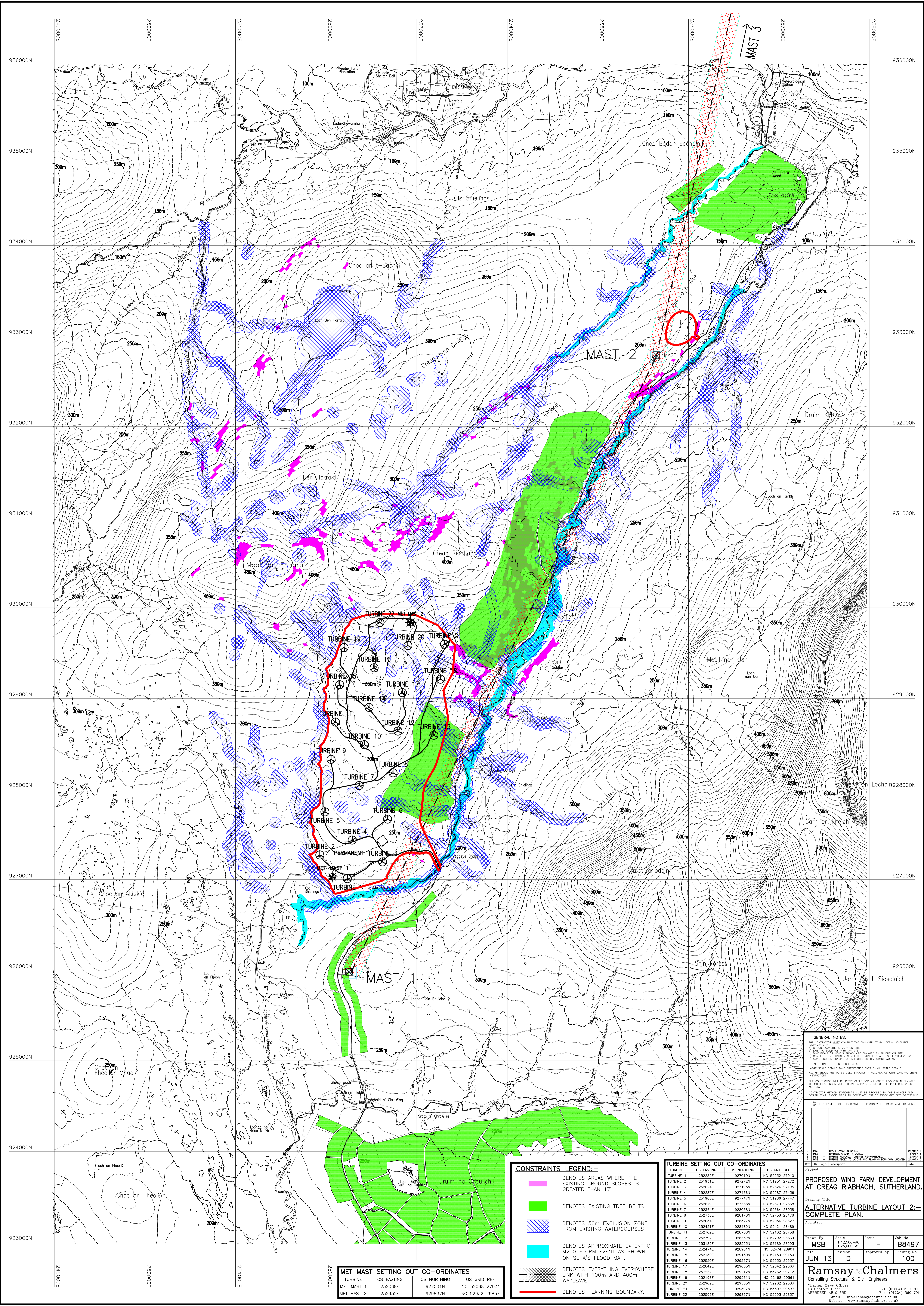
If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise

sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot: <https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: Dafydd Jones
Designation: Acting Head of Development Management
Author: Mark Fitzpatrick
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - Location/Site Layout Plan
Plan 2 - Site Layout Plan



MET MAST SETTING OUT CO-ORDINATES			
TURBINE	OS EASTING	OS NORTHING	OS GRID REF
MET MAST 1	252068E	927031N	NC 52068 27031
MET MAST 2	252932E	929837N	NC 52932 29837

TURBINE SETTING OUT CO-ORDINATES			
TURBINE	OS EASTING	OS NORTHING	OS GRID REF
TURBINE 1	252232E	927010N	NC 52232 27010
TURBINE 2	251931E	927272N	NC 52193 27272
TURBINE 3	252624E	927195N	NC 52624 27195
TURBINE 4	252287E	927436N	NC 52287 27436
TURBINE 5	251986E	927747N	NC 51986 27747
TURBINE 6	252679E	927668N	NC 52679 27668
TURBINE 7	252344E	928035N	NC 52344 28035
TURBINE 8	252738E	928178N	NC 52738 28178
TURBINE 9	252054E	928327N	NC 52054 28327
TURBINE 10	252421E	928489N	NC 52421 28489
TURBINE 11	251902E	928738N	NC 52190 28738
TURBINE 12	252792E	928639N	NC 52792 28639
TURBINE 13	25189E	928593N	NC 52189 28593
TURBINE 14	252474E	928901N	NC 52474 28901
TURBINE 15	252150E	929150N	NC 52150 29150
TURBINE 16	252520E	929376N	NC 52520 29376
TURBINE 17	252842E	929063N	NC 52842 29063
TURBINE 18	252822E	929212N	NC 52822 29212
TURBINE 19	252198E	929561N	NC 52198 29561
TURBINE 20	252902E	929583N	NC 52902 29583
TURBINE 21	253307E	929597N	NC 53307 29597
TURBINE 22	252593E	929837N	NC 52593 29837

CONSTRAINTS LEGEND:-			
	DENOTES AREAS WHERE THE EXISTING GROUND SLOPES IS GREATER THAN 17°		
	DENOTES EXISTING TREE BELTS		
	DENOTES 50m EXCLUSION ZONE FROM EXISTING WATERCOURSES		
	DENOTES APPROXIMATE EXTENT OF W200 STORM EVENT AS SHOWN ON SEPA'S FLOOD MAP.		
	DENOTES EVERYTHING EVERYWHERE LINK WITH 100m AND 400m WAYLEAVE.		
	DENOTES PLANNING BOUNDARY.		

GENERAL NOTES

THE DEVELOPER HAS COMPLETED THE CIVIL/STRUCTURAL DESIGN ENGINEER'S DESIGN AND CONSTRUCTION WAY ON SITE.

CONTRACTOR'S OR LEVELS SHOWN ARE CHANGED BY ANYONE ON SITE OR OTHERWISE BY ANYONE OTHER THAN THE DESIGNER AND TO BE SUBJECT TO THE CONTRACTOR'S RESPONSIBILITY AND APPROVAL.

DO NOT SCALE - IF IN DOUBT, ASK.

LARGE SCALE DETAILS TAKE PRECEDENCE OVER SMALL SCALE DETAILS.

ALL MATERIALS ARE TO BE USED STRICTLY IN ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COSTS INVOLVED IN OBTAINING OF APPROVALS REQUESTED AND APPROVED, TO SUIT HIS PREFERRED WORK METHOD.

CONTRACTOR METHOD STATEMENTS MUST BE PROVIDED TO THE ENGINEER AND DESIGN TEAM LEADER PRIOR TO COMMENCEMENT OF ASSOCIATED SITE OPERATIONS.

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2	MSB	TRUCK LAYOUT UPDATED	28/08/12
1	MSB	TURBINE REARRANGEMENTS	15/07/12
1	MSB	TURBINE REARRANGEMENTS	15/07/12
1	MSB	TURBINE REARRANGEMENTS	15/07/12

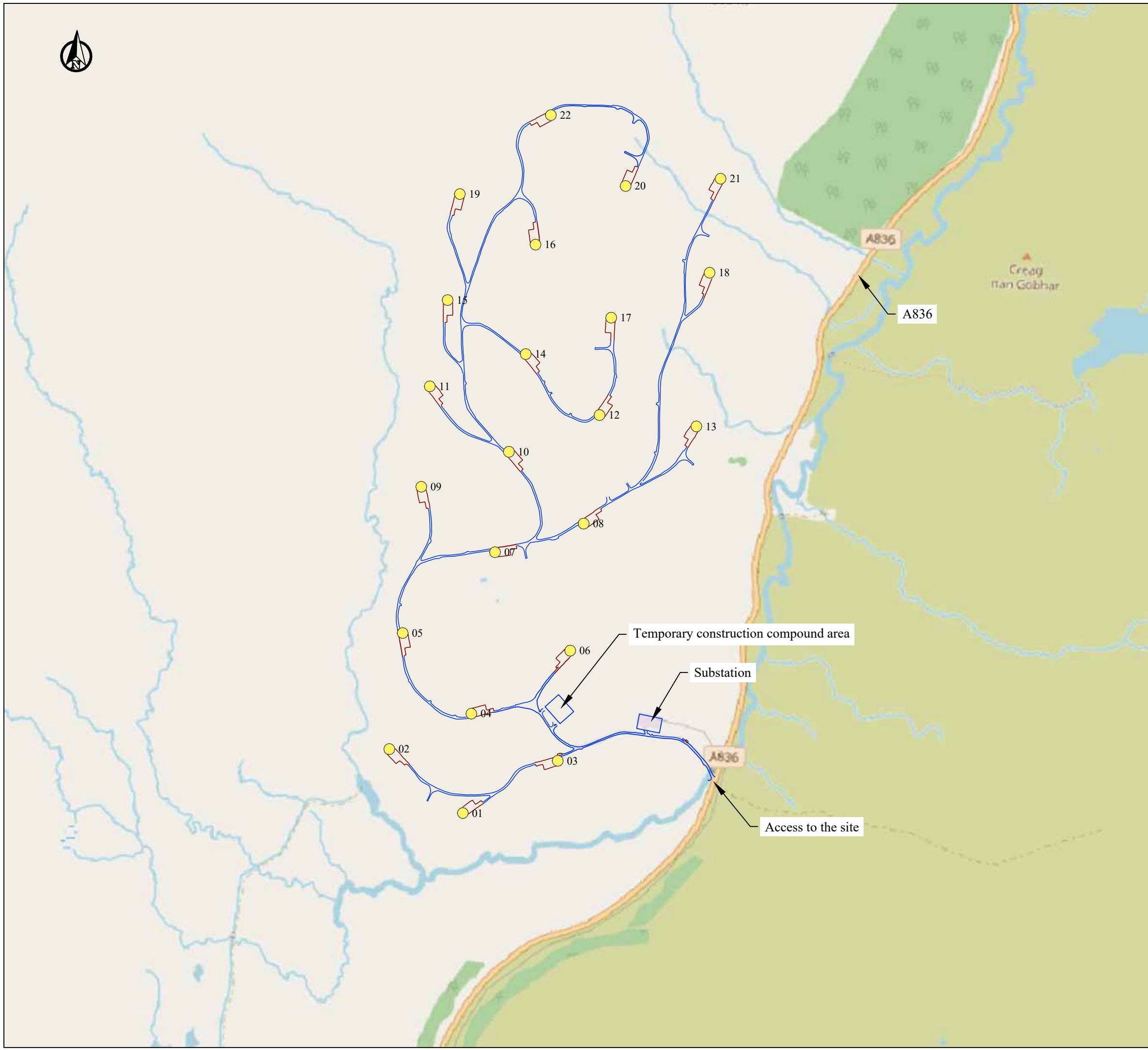
Project: **PROPOSED WIND FARM DEVELOPMENT AT CREAQ RIABHACH, SUTHERLAND.**




Drawing Title: **ALTERNATIVE TURBINE LAYOUT 2:- COMPLETE PLAN.**

Architect: **Ramsay & Chalmers**

Drawn By: MSB	Scale: 1:10,000-AG	Issue: D	Job No: B8497
Date: JUN 13	Revision: D	Approved: [Signature]	Drawing No: 100

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-  Crane pads
-  Roads
-  Wind Turbines

Revision 1	Date: 2023.02.15 - adjustments on layout
Revision 2	Date: 2023.02.22 - title adjustment



Creag Riabhach Wind Farm

As-built (June 2022) Creag Riabhach Wind Farm

Drawing number CRE-ENG-MAP-002-01	Imp. CRE	Dsc. ENG	Type. MAP	Prog. 002	Rev. 02
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Date: 2023/02/23	Map Scale: 1:15,000
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Prepared by: FR	Checked by: MP	Approved by: FC
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Page size: ISO full bleed A3 (420.00 x 297.00 MM)

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